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**LEGISLATIVE**

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*March 14, 1832*

**DOCUMENTARY HISTORY**

*W. J. Raymond M.C.*  
*44<sup>th</sup> Congress*  
*1876.*

OF THE

**BANK OF THE UNITED STATES:**

INCLUDING THE ORIGINAL

**BANK OF NORTH AMERICA.**

COMPILED

**BY M. ST. CLAIR CLARKE & D. A. HALL.**

WASHINGTON:

PRINTED BY GALES AND SEATON.

1832



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BANK OF THE UNITED STATES

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WASHINGTON



## PREFACE.

THE Editors present to the public the following pages, with the hope that they may impart useful knowledge in regard to the past legislation of Congress, upon the highly important subject of which they treat. It has been their design to collect and embody, in as brief compass as possible, the entire proceedings, debates, and resolutions, of Congress, upon the various bills and projects for a National Bank, which, at any time during the existence of the Federal Government, have been brought forward or discussed. In their proper connexion, they have also embraced such reports of committees and public officers, as had relation to the establishment, constitutionality, or public uses of a bank. The Debates, which form the great body of the collection, will be found to contain the opinions and elaborate arguments of the most distinguished men of our country, both for, and against, the establishment of such an institution. For current reference, or preservation of speeches, in convenient form, this part of the work is calculated to be permanently useful. In the statement of the decision of important questions, the journals of Congress have, as far as possible, been relied on; it will occur, however, to those familiar with the proceedings of Congress, that very much of the action of that body, on all bills of public interest, finds no place in their daily record. All proceedings in Committee of the Whole are excluded from the journals of the House; and, if they become matter of record at all, it is in the pages of the gazettes of the day.

For the history of the proceedings and the debates in Committee of the Whole, the files of the National Intelligencer have been consulted: these furnish, during a considerable period of our legislative history, the most correct sources of information. It has been a leading object with the editors, to collect with accuracy, and state with fidelity, the acts that have been done, and the opinions which have been uttered in Congress, and the Executive Departments, on the establishment and perpetuation of a National Bank. Errors and unimportant omissions may, perhaps, be detected; but none, it is hoped, which can detract from the merit, which the editors claim, of general accuracy.

## CONTENTS.

### CHAPTER I.

The institution of the Bank of North America, page 9: Proposition in the old Congress, for a bank, 10: Resolution in favor of establishing a bank, *ibid*: Ayes and noes on resolution, 11: Plan of the bank, *ibid*: Ordinance incorporating Bank of North America, 12.

### CHAPTER II.

Bank of the United States projected—Hamilton's report, 15: Hamilton's plan of bank, 31: Bill introduced into Senate—proceedings thereon, 35: Debates in the House, on the bill, 37—84: Vote on the passage of the bill, 85: Opinion of Edmund Randolph, attorney general, given to the President, against the constitutionality of the bill, 86—89: Of Thomas Jefferson, Secretary of State, on the same subject, 91: Of Alexander Hamilton, Secretary of the Treasury, in favor of the bill, 95: Supplementary acts, 114.

### CHAPTER III.

Memorials presented for the renewal of the charter of bank, 115: Gallatin's report, of March 2, 1809, 116: Dividends of old bank, 120: Bill to establish a National Bank, reported by Mr. Love, from select committee, 122: Bill to renew the old charter, reported by Mr. Taylor, of S. C., 133: Bill for the same purpose, reported 4th of January, 1811, by Mr. Burwell, 137: Debates in the House, on this bill, 139—299: Ayes and noes on postponement of bill, 274: Memorial in Senate for renewal—bill reported—letter of Mr. Gallatin, 300: Debates in Senate on bill to renew charter, 302—446: Bill rejected, by the casting vote of Vice President, 446: Debate in House, on Mr. Taylor's bill, 449—471.

### CHAPTER IV.

Various propositions for the establishment of a National Bank, and proceedings thereon, 472—480: Letter of Secretary Dallas, to Committee of Ways and Means, on a bank 481: Mr. Fisk, of N. Y. reports a bill, 487: Proceedings and debates thereon, 488—518: Same bill, as amended, 519: Bill rejected—ayes and noes, 534: Secretary Dallas to Mr. Lowndes, 535: Bill reported in Senate, by Mr. King, 539: Passed, ayes and noes, 549: Reported to the House, with amendments, and debated, 549—559: Ordered to a third reading, 560: Recommitted, 561: *Again* ordered to a third reading, 562: Mr. Webster's motion to recommit, and speech, 562—3: Bill rejected, by casting vote of Speaker, 571: Vote reconsidered, 574: Passed the House, 579: Amendments in House and Senate, 580—585: Bill as it passed both

Houses, 585: President's *veto*, 594: Bill reported in Senate, by Mr. Barbour, 596: Passed the Senate, 605: Indefinitely postponed in the House, 13th February, 1815, 608.

#### CHAPTER V.

On the grant of the charter of 1816—Mr. Madison, on the defects of the currency, 609: Mr. Dallas proposes a bank to remedy these defects, 612: His letter on currency, and a bank, 613—619: Bill reported by Mr. Calhoun, 621: Mr. Calhoun's speech on bill, 630: Mr. Sergeant moves to reduce capital of bank, 635: Mr. Smith's speech on said motion, 636: Messrs. Sergeant, Randolph, Ward, and Tucker, of Virginia, speak on the motion, 640—646: Further debates on motion, by Mr. Webster, Mr. Cuthbert, Mr. Hopkinson, Mr. Sharp, and Mr. Calhoun, 646—653: Motion overruled, 653: Motion to dispense with Government subscription of seven millions, and debate on said motion, 653—658: On the appointment of five directors by the Government—debate in committee thereon, 661—666: Same in the House, with vote, 672—679: Speech of Mr. Clay, 669: Various amendments proposed, 672—676: Motion to locate bank at New York, carried, 676: This vote reversed, 677: Bill ordered to be engrossed, 680: Passed the House, 681: Considered and debated in the Senate, 683—692: Speech of Mr. Wells, 694: Passed the Senate, with amendments, 706: Amendments considered in the House, 707—712: Agreed to, 713: Bill approved by the President, 713.

#### CHAPTER VI.

Certain proceedings after the bank went into operation—Mr. Spencer's resolution for appointing a committee to inspect bank books, &c., 714: Committee appointed—their report, 714—732: Mr. Trimble's motion for a *scire facias*, 732: Mr. Spencer's resolutions for withdrawing Government deposits, for *scire facias*, &c. 732: Mr. Johnson's resolution for a repeal of the charter, 734: President Jackson's suggestions in regard to the bank, 734: Mr. McDuffie's report in 1830, 735: Mr. Smith's report in Senate, 772: Letters of Mr. Madison, in 1831, to C. J. Ingersoll, 778: Judicial decisions on bank charter, 781: Justice Marshall's opinion, 782.



LEGISLATIVE  
AND  
DOCUMENTARY HISTORY  
OF THE  
UNITED STATES BANK.

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CHAPTER I.

BANK OF NORTH AMERICA:

PROCEEDINGS IN CONGRESS ON ITS ORIGINAL INSTITUTION.

In tracing the history of the Bank of the United States, it seems proper to give some account of that moneyed institution, which, deriving its incipient powers from the General Government, may be considered as the prototype of the corporations which have more recently borne that name. The Bank of North America, which was the precursor of that of the United States, was first incorporated in 1781, by an ordinance of the American Congress. Its dependence, however, upon this creating power, was of short continuance: for, in the next year, it accepted of a charter from the State of Pennsylvania, and has since been content to derive its powers from that source. All that is attempted here, in relation to it, is to give the proceedings of Congress, on its original institution, from the first introduction of the plan of the bank, to its final consummation, in the grant of the ordinance; and these are given in the order of their dates, and chiefly in the words of the Journals of Congress, from which they are taken.

The proceedings on the enactment of this ordinance, together with those given in the subsequent chapters, will place the reader in possession of the entire legislation of Congress, both before and since the adoption of the constitution, upon the subject of a bank.

*Proposition for the establishment of a Bank.*

IN CONGRESS, June 21, 1780.

A letter of this day, from the Board of War, was read, informing "that a number of patriotic persons, having formed a plan for the establishment of a bank, whose object is the public service; that the directors have applied to that Board, to represent to Congress the desire of the company that a committee of this body may be appointed to confer with the inspectors and directors on the subject, to-morrow morning:" Whereupon,

*Ordered,* That a committee of three be appointed, for the purpose above mentioned. The members chosen were, Mr. Ellsworth, Mr. Duane, and Mr. Scott.

JUNE 22, 1780.

The committee appointed to confer with the inspectors and directors of the proposed bank, brought in a report, which was read.

The committee also laid before Congress, the plan of the bank, communicated to them at the said conference, which being read, Congress, thereupon, came to the following resolutions:

Whereas a number of the patriotic citizens of Pennsylvania have communicated to Congress a liberal offer, on their own credit, and by their own exertions, to supply and transport three millions of rations, and 300 hogsheads of rum, for the use of the army, and have established a bank, for the sole purpose of obtaining and transporting the said supplies, with the greater facility and despatch: And whereas, on the one hand, the associators, animated to this laudable exertion by a desire to relieve the public necessities, mean not to derive from it the least pecuniary advantage; so, on the other, it is just and reasonable, that they should be fully reimbursed and indemnified: Therefore,

*Resolved, unanimously,* That Congress entertain a high sense of the liberal offer of the said associators to raise and transport the beforementioned supplies for the army, and do accept the same as a distinguished proof of their patriotism.

*Resolved,* That the faith of the United States be, and the same hereby is, pledged, to the subscribers to the said bank, for their effectual reimbursement in the premises.

*Resolved,* That the Board of Treasury be directed to deposit, in the said bank, bills of exchange in favor of the directors thereof, on the ministers of these United States in Europe, or any of them, and in such sums as shall be thought convenient, but not to exceed, in the whole, £150,000 sterling; that the said bills are to be considered, not only as a support of the credit of the said bank, but as an indemnity to the subscribers for all deficiencies of losses and expenses which they may sustain, on account of their said engagements, and which shall not, within six months from the date hereof, be made good to them out of the public treasury; and, in case of failure, such a proportion of said bills as shall be requisite to make good the deficiency, shall be negotiated for that purpose, by the said directors, and the residue returned into the treasury.

*Resolved,* That, upon representation made, that the bank stands in need of occasional assistance, Congress will advance as much of their current money as can be spared from other services.

*Resolved,* That a standing committee of Congress be appointed, to confer with the officers of the said bank, as occasion may require. The members chosen are Mr. Ellsworth, Mr. Duane, and Mr. Scott.

JUNE 23, 1780.

*Ordered,* That two members be added to the committee appointed to confer with the directors and inspectors of the proposed bank, in the room of Mr. Duane and Mr. Ellsworth, who are absent. The members chosen are Mr. Livingston and Mr. Adams.

Whether the preceding proposition and resolutions had any immediate connexion with the plan that was subsequently submitted, as hereafter exhibited, by Robert Morris, and adopted by Congress, does not appear.

*Proceedings on the incorporation of the Bank of North America.*

MAY 26, 1781.

On the report of a committee, consisting of Messrs. Witherspoon, Sullivan, M. Smith, and Clymer, to whom was referred a letter from Mr. R. Morris, with the plan of a bank:

*Resolved,* That Congress do approve of the plan for establishing a national bank, in these United States, submitted to their consideration by R. Morris, on the 17th May, 1781, and that they will promote and support the same, by



such ways and means, from time to time, as may appear necessary for the institution, and consistent with the public good.

That the subscribers to the said bank shall be incorporated agreeably to the principles and terms of the plan, under the name of the "President, Directors, and Company of the Bank of North America," so soon as the subscription shall be filled, the directors and president chosen, and application for that purpose made to Congress, by the president and directors elected.

On the question to agree to this paragraph, the yeas and nays being required by Mr. T. Smith, were as follows:

<i>New Hampshire,</i>	- - - -	Mr. Sullivan,	ay. } ay.
		Livermore,	ay. }
<i>Massachusetts,</i>	- - - -	Mr. Lovell,	no. } no.
		Ward,	no. }
<i>Rhode Island,</i>	- - - -	Mr. Varnum,	ay.
<i>Connecticut,</i>	- - - -	Mr. Huntington,	ay.
<i>New Jersey,</i>	- - - -	Mr. Witherspoon,	ay. } ay.
		Houston,	ay. }
<i>Pennsylvania,</i>	- - - -	Mr. Clymer,	ay. } divided.
		T. Smith,	no. }
<i>Maryland,</i>	- - - -	Mr. Jenifer,	ay. } ay.
		Carroll,	ay. }
<i>Virginia,</i>	- - - -	Mr. Jones,	ay.
		Madison,	no. } ay.
		Bland,	ay. }
		M. Smith,	ay. }
<i>North Carolina,</i>	- - - -	Mr. Sharp,	ay. } ay.
		Johnson,	ay. }
<i>South Carolina,</i>	- - - -	Mr. Matthews,	ay.
		Bee,	ay. } ay.
		Motte,	ay. }
<i>Georgia,</i>	- - - -	Mr. Walton,	ay.
		Few,	ay. } ay.
		Howly,	ay. }

So it was resolved in the affirmative.

*Resolved,* That it be recommended to the several States, by proper laws for that purpose, to provide that no other bank or bankers shall be established or permitted within the said States, respectively, during the war.

*Resolved,* That the notes hereafter to be issued by the said bank, payable on demand, shall be receivable in payment of all taxes, duties, and debts, due, or that may become due or payable to the United States.

*Resolved,* That Congress will recommend to the several Legislatures to pass laws, making it felony, without benefit of clergy, for any person to counterfeit bank notes, or to pass such notes, knowing them to be counterfeit; also, making it felony, without benefit of clergy, for any president, inspector, director, officer, or servant of the bank, to convert any of the property, money, or credit, of the said bank, to his own use, or in any other way to be guilty of fraud or embezzlement, as an officer or servant of the said bank.

The plan of the bank above referred to is as follows:

1st. That a subscription be opened for 400,000 dollars, in shares of 400 dollars each, to be paid in gold or silver.

2d. That the subscription be paid into the hands of George Clymer and John Nixon, Esquires, or their agents.

3d. That every subscriber of less than five shares shall pay the whole sum on the day of his subscription.

4th. That every subscriber of five shares or upwards pay one half of the sum on the day of his subscription, and the other half within three months of that day.

5th. That every holder of a share shall be entitled to vote by himself, his agent, or proxy, properly appointed, at all elections of directors, and that he

have as many votes as he holds shares; and that every subscriber may sell or transfer his share or shares at pleasure, the transfer being made in the bank books, in presence and with the approbation of the proprietor, or his lawful attorney, the purchaser then to become entitled to the right of voting, &c.

6th. That there be twelve directors chosen from among those entitled to vote, who, at their first meeting, shall choose one as president.

7th. That there be a meeting of directors quarterly, for the purpose of regulating the affairs of the bank, and seven of the directors to make a Board, and that the Board have power to adjourn from time to time.

8th. That the Board of Directors determine the manner of doing business, and the rules and forms to be pursued, appoint the various officers which they may find necessary, and dispose of the money and credit of the bank, for the interest and benefit of the proprietors, and make, from time to time, such dividends out of the profits, as they may think proper.

9th. That the Board be empowered, from time to time, to open new subscriptions for the purpose of increasing the capital of the bank, on such terms and conditions as they shall think proper.

10th. That the Board, at every quarterly meeting, shall choose two directors to inspect and control the business of the bank for the ensuing three months.

11th. That the inspectors, so chosen, shall, on the evening of every day, Sundays excepted, deliver to the superintendent of the finances of America, a state of the cash account, and of the notes issued and received.

12th. That the bank notes, payable on demand, shall, by law, be made receivable in the duties and taxes of every State in the Union, and from the respective States, by the treasury of the United States, as specie.

13th. That the superintendent of the finances of America shall have a right, at all times, to examine into the affairs of the bank, and for that purpose shall have access to all the books and papers.

14th. That any director or officer of the bank, who shall convert any of the property, moneys, or credits thereof, to his own use, or shall, any other way, be guilty of fraud, or embezzlement, shall forfeit all his share or stock to the company.

15th. That laws shall be passed, making it felony, without benefit of clergy, to commit such fraud or embezzlement.

16th. That the subscribers shall be incorporated under the name of "the President, Directors, and Company, of the Bank of North America."

17th. That none of the directors shall be entitled to any pecuniary advantage for his attendance on the duties of his office as director, or as president or inspector, unless an alteration, in this respect, shall hereafter be made, by the consent of a majority of the stockholders, at a general election.

18th. That, as soon as the subscription shall be filled, George Clymer and John Nixon, Esquires, shall publish a list of the names and sums respectively subscribed, with the place of abode of the subscribers, and appoint a day for the choice of directors, to whom, when chosen, they shall deliver over the money by them received.

DECEMBER 29, 1781.

An ordinance for incorporating the subscribers to the national bank was read a first time.

*Ordered*, That Monday next be assigned for a second reading.

MONDAY, December 31st.

The said ordinance was read a second and third time, and agreed to, as follows:

*An Ordinance to incorporate the subscribers to the Bank of North America.*

Whereas Congress, on the 26th day of May last, did, from a conviction of the support which the finances of the United States would receive from the establishment of a National Bank, approve a plan for such an institution, submitted to their consideration by Robert Morris, Esq. and now lodged among

the archives of Congress, and did engage to promote the same by the most effectual means: And whereas the subscription thereto is now filled, from an expectation of a charter of incorporation from Congress, the directors and president are chosen, and application hath been made to Congress, by the said president and directors, for an act of incorporation: And whereas the exigencies of the United States render it indispensably necessary that such an act be immediately passed:

*Be it therefore ordained and it is hereby ordained by the United States in Congress assembled,* That those who are, and those who shall become, subscribers to the said bank, be, and forever after shall be, a corporation and body politic, to all intents and purposes, by the name and style of "*The President, Directors, and Company, of the Bank of North America.*"

*And be it further ordained,* That the said corporation are hereby declared and made able and capable, in law, to have, purchase, receive, possess, enjoy, and retain, lands, rents, tenements, hereditaments, goods, chattels, and effects, of what kind, nature, or quality, soever, to the amount of ten millions of Spanish silver milled dollars, and no more; and, also, to sell, grant, demise, alien, or dispose of, the same lands, rents, tenements, hereditaments, goods, chattels, and effects.

*And be it further ordained,* That the said corporation be, and shall be, for ever, hereafter, able and capable, in law, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in courts of record, or any other place whatsoever, and to do and execute all and singular other matters and things that to them shall or may appertain to do.

*And be it further ordained,* That, for the well governing of the said corporation and the ordering of their affairs, they shall have such officers as they shall hereafter direct or appoint. *Provided, nevertheless,* That twelve directors, one of whom shall be the president of the corporation, be of the number of their officers.

*And be it further ordained,* That Thomas Willing be the present president, and that the said Thomas Willing and Thomas Fitzsimmons, John Maxwell Nesbit, James Wilson, Henry Hill, Samuel Osgood, Cadwallader Morris, Andrew Caldwell, Samuel Inglis, Samuel Meredith, William Bingham, Timothy Matlack, be the present directors of the said corporation; and shall so continue until another president and other directors shall be chosen, according to the laws and regulations of the said corporation.

*And be it further ordained,* That the president and directors of the said corporation shall be capable of exercising such power for the well governing and ordering of the affairs of the said corporation, and of holding such occasional meetings for that purpose, as shall be described, fixed, and determined, by the laws, regulations, and ordinances, of the said corporation.

*And be it further ordained,* That the said corporation may make, ordain, establish, and put in execution, such laws, ordinances, and regulations, as shall seem necessary and convenient to the government of the said corporation.

*Provided, always,* That nothing herein before contained shall be construed to authorize the said corporation to exercise any powers, in any of the United States, repugnant to the laws or constitution of such State.

*And be it further ordained,* That the said corporation shall have full power and authority to make, have, and use, a common seal, with such device and inscription as they shall think proper, and the same to break, alter, and renew, at their pleasure.

*And be it further ordained,* That this ordinance shall be construed and taken most favorably and beneficially for the said corporation.

Done by the United States in Congress assembled, &c.

*Resolved,* That it be recommended to the Legislature of each State to pass such laws as they may judge necessary, for giving the foregoing ordinance its full operation, agreeably to the true intent and meaning thereof, and accord-

ing to the recommendations contained in the resolutions of the 26th day of May last.

NOTE.—By the kindness of the author, the editors are enabled to lay before their readers the following interesting extract in relation to this bank, from the life of Gouverneur Morris, recently published.

“One of the first acts of the Superintendent of Finance was to propose the plan of a bank, which was incorporated by Congress, under the name of *the Bank of North America*. Mr. Gouverneur Morris says, in a letter to a friend, written not long before his death, ‘the first bank in this country was planned by your humble servant.’ By this, he probably meant, that he drew up the plan of the bank, and the observations accompanying it, which were presented to Congress, and not, that he, individually, originated the scheme. This was doubtless matured in conjunction with the superintendent. A warm friendship had subsisted between them for some time, which, it may be presumed, was increased by a similarity in their turn of mind for financial pursuits. To Hamilton, also, may properly be ascribed a portion of the merit in forming this bank. About two weeks before the plan was sent to Congress, Hamilton wrote a letter to Robert Morris, enclosing an elaborate project for a bank. In a letter acknowledging the reception of this paper, the financier speaks of it with commendation. He says, ‘I have read your performance with that attention which it justly deserves, and finding many parts of it to coincide with my own opinions on the subject, it naturally strengthened that confidence, which every man ought to possess, to a certain degree, in his own judgment.’ He then tells him that he shall communicate it to the directors of the bank, to aid them in their deliberation on certain points, which it was not thought expedient to embrace in the plan itself, particularly that of interweaving a security with the capital.

“This bank had an extraordinary effect in restoring public and private credit in the country, and was of immense utility in aiding the future operations of the financier, although it was begun with the small capital of \$400,000. Hamilton’s project contemplated a vastly larger sum, in which Mr. Morris agreed with him, but its immediate success, on so large a scale, was doubtful, and if it failed in the outset, it could not be revived; whereas, by beginning with a small capital, and establishing a credit with the public, gradually, it would be easy afterwards to increase the amount, and, in the end, all needful advantages would be derived, to the utmost extent of banking facilities.”  
—See *Sparks’ Life of Gouverneur Morris*, vol. 1, page 235.

In the same valuable work will be found, also, an address of Mr. Morris to the General Assembly of Pennsylvania, in behalf of the said bank, in 1785, on an occasion when a proposition had been made to abolish its charter. It is written with uncommon ability and knowledge of the subject, considering the infancy, at that period, of banking operations in this country.—See vol. III, page 437.

## CHAPTER II.

### BANK OF THE UNITED STATES.

PROCEEDINGS ON THE GRANT OF THE FIRST CHARTER, IN 1791.

HOUSE OF REPRESENTATIVES, }  
*First Congress, Third Session.* }

ON the 14th December, 1790, as appears by the Journals of the House of Representatives of that date, (see vol. 1, page 336) the Secretary of the Treasury, Alexander Hamilton, transmitted to the House a letter, accompanying his Report, No. 2, of a plan for the institution of a National Bank; which was read and ordered to be referred to a Committee of the Whole House, on that day se'night.

On the 23d of December, it was

*Ordered*, That the Clerk of the House do communicate to the Senate that this House has received a report from the Secretary of the Treasury, containing a plan for a National Bank, and that he carry an attested copy of the said report to the Senate. The report was as follows:

In obedience to the order of the House of Representatives, of the ninth day of August last, requiring the Secretary of the Treasury to prepare and report, on this day, such further provision as may, in his opinion, be necessary for establishing the public credit, the said Secretary further respectfully reports:

That, from a conviction that a National Bank is an institution of primary importance to the prosperous administration of the finances, and would be of the greatest utility in the operations connected with the support of the public credit, his attention has been drawn to devising the plan of such an institution, upon a scale which will entitle it to the confidence, and be likely to render it equal to the exigencies of the public.

Previously to entering upon the detail of this plan, he intreats the indulgence of the House towards some preliminary reflections naturally arising out of the subject, which he hopes will be deemed neither useless nor out of place. Public opinion being the ultimate arbiter of every measure of government, it can scarcely appear improper, in deference to that, to accompany the origination of any new proposition with explanations, which the superior information of those to whom it is immediately addressed, would render superfluous.

It is a fact, well understood, that public banks have found admission and patronage among the principal and most enlightened commercial nations. They have successively obtained in Italy, Germany, Holland, England, and France, as well as in the United States. And it is a circumstance which cannot but have considerable weight, in a candid estimate of their tendency, that, after an experience of centuries, there exists not a question about their utility, in the countries in which they have been so long established. Theorists and men of business unite in the acknowledgment of it.

Trade and industry, wherever they have been tried, have been indebted to them for important aid. And government has been repeatedly under the greatest obligations to them in dangerous and distressing emergencies. That

of the United States, as well in some of the most critical conjunctures of the late war, as since the peace, has received assistance from those established among us, with which it could not have dispensed.

With this twofold evidence before us, it might be expected that there would be a perfect union of opinions in their favor. Yet doubts have been entertained; jealousies and prejudices have circulated; and, though the experiment is every day dissipating them, within the spheres in which effects are best known, yet there are still persons by whom they have not been entirely renounced. To give a full and accurate view of the subject, would be to make a treatise of a report; but there are certain aspects in which it may be cursorily exhibited, which may perhaps conduce to a just impression of its merits. These will involve a comparison of the advantages with the disadvantages, real or supposed, of such institutions.

The following are among the principal advantages of a bank:

First. The augmentation of the active or productive capital of a country. Gold and silver, when they are employed merely as the instruments of exchange and alienation, have been, not improperly, denominated dead stock; but when deposited in banks, to become the basis of a paper circulation, which takes their character and place, as the signs or representatives of value, they then acquire life, or, in other words, an active and productive quality. This idea, which appears rather subtle and abstract, in a general form, may be made obvious and palpable, by entering into a few particulars. It is evident, for instance, that the money which a merchant keeps in his chest, waiting for a favorable opportunity to employ it, produces nothing till that opportunity arrives. But if, instead of locking it up in this manner, he either deposits it in a bank, or invests it in the stock of a bank, it yields a profit during the interval, in which he partakes, or not, according to the choice he may have made of being a depositor or a proprietor; and when any advantageous speculation offers, in order to be able to embrace it, he has only to withdraw his money, if a depositor, or, if a proprietor, to obtain a loan from the bank, or to dispose of his stock—an alternative seldom or never attended with difficulty, when the affairs of the institution are in a prosperous train. His money, thus deposited or invested, is a fund upon which himself and others can borrow to a much larger amount. It is a well established fact, that banks in good credit can circulate a far greater sum than the actual quantum of their capital in gold and silver. The extent of the possible excess seems indeterminate; though it has been conjecturally stated at the proportions of two and three to one. This faculty is produced in various ways. *1st.* A great proportion of the notes which are issued, and pass current as cash, are indefinitely suspended in circulation, from the confidence which each holder has, that he can, at any moment, turn them into gold and silver. *2dly.* Every loan which a bank makes, is, in its first shape, a credit given to the borrower on its books, the amount of which it stands ready to pay, either in its own notes, or in gold or silver, at his option. But, in a great number of cases, no actual payment is made in either. The borrower frequently, by a check or order, transfers his credit to some other person, to whom he has a payment to make; who, in his turn, is as often content with a similar credit, because he is satisfied that he can, whenever he pleases, either convert it into cash, or pass it to some other hand, as an equivalent for it. And in this manner the credit keeps circulating, performing in every stage the office of money, till it is extinguished by a discount with some person who has a payment to make to the bank, to an equal or greater amount. Thus large sums are lent and paid, frequently through a variety of hands, without the intervention of a single piece of coin. *3dly.* There is always a large quantity of gold and silver in the repositories of the bank, besides its own stock, which is placed there, with a view partly to its safe keeping, and partly to the accommodation of an institution, which is itself a source of general accommodation. These deposits are of immense consequence in the operations of a bank. Though liable to be redrawn at any moment, experience proves that



the money so much oftener changes proprietors than place, and that what is drawn out is generally so speedily replaced, as to authorize the counting upon the sums deposited, as an *effective fund*, which, concurring with the stock of the bank, enables it to extend its loans, and to answer all the demands for coin, whether in consequence of those loans, or arising from the occasional return of its notes.

These different circumstances explain the manner in which the ability of a bank to circulate a greater sum than its actual capital in coin, is acquired. This, however, must be gradual, and must be preceded by a firm establishment of confidence—a confidence which may be bestowed on the most rational grounds, since the excess in question will always be bottomed on good security of one kind or another. This, every well conducted bank carefully requires, before it will consent to advance either its money or its credit, and where there is an auxiliary capital, (as will be the case in the plan hereafter submitted) which, together with the capital in coin, define the boundary that shall not be exceeded by the engagements of the bank, the security may, consistently with all the maxims of a reasonable circumspection, be regarded as complete.

The same circumstances illustrate the truth of the position, that it is one of the properties of banks to increase the active capital of a country. This, in other words, is the sum of them: the money of one individual, while he is waiting for an opportunity to employ it, by being either deposited in the bank for safe keeping, or invested in its stock, is in a condition to administer to the wants of others, without being put out of his own reach when occasion presents. This yields an extra profit, arising from what is paid for the use of his money by others, when he could not himself make use of it, and keeps the money itself in a state of incessant activity. In the almost infinite vicissitudes and competitions of mercantile enterprise, there never can be danger of an intermission of demand, or that the money will remain for a moment idle in the vaults of the bank. This additional employment given to money, and the faculty of a bank to lend and circulate a greater sum than the amount of its stock in coin, are, to all the purposes of trade and industry, an absolute increase of capital. Purchases and undertakings, in general, can be carried on by any given sum of bank paper or credit, as effectually as by an equal sum of gold and silver. And thus, by contributing to enlarge the mass of industrious and commercial enterprise, banks become nurseries of national wealth—a consequence as satisfactorily verified by experience, as it is clearly deducible in theory.

Secondly. Greater facility to the government, in obtaining pecuniary aids, especially in sudden emergencies. This is another, and an undisputed advantage of public banks—one which, as already remarked, has been realized in signal instances among ourselves. The reason is obvious; the capitals of a great number of individuals are, by this operation, collected to a point, and placed under one direction. The mass formed by this union, is, in a certain sense, magnified by the credit attached to it; and while this mass is always ready, and can at once be put in motion, in aid of the government, the interest of the bank to afford that aid, independent of regard to the public safety and welfare, is a sure pledge for its disposition to go as far in its compliances as can in prudence be desired. There is, in the nature of things, as will be more particularly noticed in another place, an intimate connexion of interest between the government and the bank of a nation.

Thirdly. The facilitating of the payment of taxes. This advantage is produced in two ways. Those who are in a situation to have access to the bank, can have the assistance of loans, to answer, with punctuality, the public calls upon them. This accommodation has been sensibly felt in the payment of the duties heretofore laid by those who reside where establishments of this nature exist. This, however, though an extensive, is not an universal benefit. The other way in which the effect here contemplated is produced, and in which the benefit is general, is the increasing of the quantity of circulating medium, and the quickening of circulation. The manner in which the first happens,

has already been traced. The last may require some illustration. When payments are to be made between different places, having an intercourse of business with each other, if there happen to be no private bills at market, and there are no bank notes which have a currency in both, the consequence is, that coin must be remitted. This is attended with trouble, delay, expense, and risk. If, on the contrary, there are bank notes current in both places, the transmission of these by the post, or any other speedy or convenient conveyance, answers the purpose; and these again, in the alternations of demand, are frequently returned, very soon after, to the place from whence they were first sent: whence the transportation and re-transportation of the metals are obviated, and a more convenient and more expeditious medium of payment is substituted. Nor is this all: the metals, instead of being suspended from their usual functions during this process of vibration from place to place, continue in activity, and administer still to the ordinary circulation, which, of course, is prevented from suffering either diminution or stagnation. These circumstances are additional causes of what, in a practical sense, or to the purposes of business, may be called greater plenty of money. And it is evident, that whatever enhances the quantity of circulating money, adds to the ease with which every industrious member of the community may acquire that portion of it of which he stands in need, and enables him the better to pay his taxes, as well as to supply his other wants. Even where the circulation of the bank paper is not general, it must still have the same effect, though in a less degree: for, whatever furnishes additional supplies to the channels of circulation, in one quarter, naturally contributes to keep the streams fuller elsewhere. This last view of the subject serves both to illustrate the position that banks tend to facilitate the payment of taxes, and to exemplify their utility to business of every kind in which money is an agent.

It would be to intrude too much on the patience of the House, to prolong the details of the advantages of banks; especially, as all those which might still be particularized, are readily to be inferred as consequences from those which have been enumerated. Their disadvantages, real or supposed, are now to be reviewed. The most serious of the charges which have been brought against them, are,

- That they serve to increase usury;
- That they tend to prevent other kinds of lending;
- That they furnish temptations to overtrading;
- That they afford aid to ignorant adventurers, who disturb the natural and beneficial course of trade;
- That they give to bankrupt and fraudulent traders a fictitious credit, which enables them to maintain false appearances, and to extend their impositions; and, lastly,
- That they have a tendency to banish gold and silver from the country.

There is great reason to believe that, on a close and candid survey, it will be discovered that these charges are either destitute of foundation, or that, as far as the evils they suggest have been found to exist, they have proceeded from other, or partial, or temporary causes; are not inherent in the nature and permanent tendency of such institutions; or are more than counterbalanced by opposite advantages. This survey shall be had, in the order in which the charges have been stated. The first of them is—

That banks serve to increase usury.

It is a truth, which ought not to be denied, that the method of conducting business, which is essential to bank operations, has, among us, in particular instances, given occasion to usurious transactions. The punctuality in payments, which they necessarily exact, has sometimes obliged those who have adventured beyond both their capital and their *credit*, to procure money at any price, and, consequently, to resort to usurers for aid.

But experience and practice gradually bring a cure to this evil. A general habit of punctuality among traders is the natural consequence of the neces-



sity of observing it with the bank; a circumstance which, itself, more than compensates for any occasional ill which may have sprung from that necessity, in the particular under consideration. As far, therefore, as traders depend on each other for pecuniary supplies, they can calculate their expectations with greater certainty; and are in proportionably less danger of disappointments, which might compel them to have recourse to so pernicious an expedient as that of borrowing at usury; the mischiefs of which, after a few examples, naturally inspire great care in all but men of desperate circumstances, to avoid the possibility of being subjected to them. One, and not the least of these evils incident to the use of that expedient, if the fact be known, or even strongly suspected, is loss of credit with the bank itself.

The directors of a bank, too, though, in order to extend its business and its popularity, in the infancy of an institution, they may be tempted to go further in accommodation than the strict rules of prudence will warrant, grow more circumspect, of course, as its affairs become better established, and as evils of too great facility are experimentally demonstrated. They become more attentive to the situation and conduct of those with whom they deal; they observe more narrowly their operations and pursuits; they economize the credit they give to those of suspicious solidity; they refuse it to those whose career is more manifestly hazardous. In a word, in the course of practice, from the very nature of things, the *interest* will make it the *policy* of a bank to succor the wary and industrious; to discredit the rash and unthrifty; to discountenance both usurious lenders and usurious borrowers.

There is a leading view, in which the tendency of banks will be seen to be, to abridge rather than to promote usury. This relates to their property of increasing the quantity and quickening the circulation of money. If it be evident that usury will prevail or diminish, according to the proportion which the demand for borrowing bears to the quantity of money at market to be lent; whatever has the property just mentioned, whether it be in the shape of paper or coin, by contributing to render the supply more equal to the demand, must tend to counteract the progress of usury.

But bank lending, it is pretended, is an impediment to other kinds of lending; which, by confining the resource of borrowing to a particular class, leaves the rest of the community more destitute, and, therefore, more exposed to the extortions of usurers. As the profits of bank stock exceed the legal rate of interest, the possessors of money, it is urged, prefer investing it in that article to lending it at this rate; to which there are the additional motives of a more prompt command of the capital, and of more frequent and exact returns, without trouble or perplexity in the collection. This constitutes the second charge which has been enumerated.

The fact on which this charge rests is not to be admitted without several qualifications; particularly in reference to the state of things in this country. *First.* The great bulk of the stock of a bank will consist of the funds of men in trade, among ourselves, and moneyed foreigners; the former of whom could not spare their capitals out of their reach, to be invested in loans for long periods, on mortgages or personal security; and the latter of whom would not be willing to be subjected to the casualties, delays, and embarrassments, of such a disposition of their money, in a distant country. *Secondly.* There will always be a considerable proportion of those who are properly the money lenders of a country, who, from that spirit of caution which usually characterizes this description of men, will incline rather to vest their funds in mortgages on real estate, than in the stock of a bank, which they are apt to consider as a more precarious security.

These considerations serve, in a material degree, to narrow the foundation of the objection, as to the point of fact. But there is a more satisfactory answer to it. The effect supposed, as far as it has existence, is temporary. The reverse of it takes place in the general and permanent operation of the thing. The capital of every public bank will, of course, be restricted within a certain defined limit. It is the province of legislative prudence so to adjust this limit, that, while it will not be too contracted for the demand which the course

of business may create, and for the security which the public ought to have for the solidity of the paper which may be issued by the bank, it will still be within the compass of the pecuniary resources of the community; so that there may be an easy practicability of completing the subscriptions to it. When this is once done, the supposed effect of necessity ceases. There is then no longer room for the investment of any additional capital. Stock may indeed change hands by one person selling and another buying; but the money which the buyer takes out of the common mass to purchase the stock, the seller receives and restores to it. Hence, the future surplusses which may accumulate must take their natural course, and lending at interest must go on as if there were no such institution.

It must, indeed, flow in a more copious stream. The bank furnishes an extraordinary supply for borrowers, within its immediate sphere. A larger supply consequently remains for borrowers elsewhere. In proportion as the circulation of the bank is extended, there is an augmentation of the aggregate mass of money for answering the aggregate mass of demand. Hence, greater facility in obtaining it for every purpose.

It ought not to escape without a remark, that, as far as the citizens of other countries become adventurers in the bank, there is a positive increase of the gold and silver of the country. It is true, that from this, a half yearly rent is drawn back, accruing from the dividends upon the stock. But as this rent arises from the employment of the capital by our own citizens, it is probable that it is more than replaced by the profits of that employment. It is also likely that a part of it is, in the course of trade, converted into the products of our country; and it may even prove an incentive, in some cases, to emigration to a country, in which the character of citizen is as easy to be acquired as it is estimable and important. This view of the subject furnishes an answer to an objection which has been deduced from the circumstance here taken notice of, namely, the income resulting to foreigners from the part of the stock owned by them, which has been represented as tending to drain the country of its specie. In this objection, the original investment of the capital, and the constant use of it afterwards, seem both to have been overlooked.

That banks furnish temptations to overtrading, is the third of the enumerated objections. This must mean, that, by affording additional aids to mercantile enterprise, they induce the merchant sometimes to adventure beyond the prudent or salutary point. But the very statement of the thing shows that the subject of the charge is an occasional ill, incident to a general good. Credit of every kind, (as a species of which only, can bank lending have the effect supposed) must be, in different degrees, chargeable with the same inconvenience. It is even applicable to gold and silver, when they abound in circulation. But would it be wise, on this account, to decry the precious metals, to root out credit, or to proscribe the means of that enterprise which is the main-spring of trade, and a principal source of national wealth, because it now and then runs into excesses, of which overtrading is one?

If the abuses of a beneficial thing are to determine its condemnation, there is scarcely a source of public prosperity which will not speedily be closed. In every case the evil is to be compared with the good; and in the present case, such a comparison will issue in this, that the new and increased energies derived to commercial enterprise, from the aid of banks, are a source of general profit and advantage, which greatly outweigh the partial ills, the overtrading of a few individuals at particular times, or of numbers in particular conjunctures.

The fourth and fifth charges may be considered together. These relate to the aid which is sometimes afforded by banks to unskilful adventurers and fraudulent traders. These charges also have some degree of foundation, though far less than has been pretended; and they add to the instances of partial ills, connected with more extensive and overbalancing benefits.

The practice of giving fictitious credit to improper persons, is one of those evils which experience, guided by interest, speedily corrects. The bank itself

is in so much jeopardy of being a sufferer by it, that it has the strongest of all inducements to be on its guard. It may not only be injured immediately by the delinquencies of the persons to whom such credit is given, but eventually by the incapacities of others, whom their impositions or failures may have ruined.

Nor is there much danger of a bank's being betrayed into this error from want of information. The directors themselves being, for the most part, selected from the class of traders, are to be expected to possess individually an accurate knowledge of the characters and situations of those who come within that description. And they have, in addition to this, the course of dealing of the persons themselves with the bank, to assist their judgment, which is in most cases a good index of the state in which those persons are. The artifices and shifts which those in desperate or declining circumstances are obliged to employ, to keep up the countenance which the rules of the bank require, and the train of their connexions, are so many prognostics, not difficult to be interpreted, of the fate which awaits them. Hence, it not unfrequently happens, that banks are the first to discover the unsoundness of such characters, and, by withholding credit, to announce to the public that they are not entitled to it.

If banks, in spite of every precaution, are sometimes betrayed into giving a false credit to the persons described, they more frequently enable honest and industrious men, of small, or, perhaps, of no capital, to undertake and prosecute business with advantage to themselves and to the community; and assist merchants, of both capital and credit, who meet with fortuitous and unforeseen shocks, which might, without such helps, prove fatal to them and to others, to make head against their misfortunes, and finally to retrieve their affairs—circumstances which form no inconsiderable encomium on the utility of banks.

But the last and heaviest charge is still to be examined: this is, that banks tend to banish the gold and silver of the country.

The force of this objection rests upon their being an engine of paper credit, which, by furnishing a substitute for the metals, is supposed to promote their exportation. It is an objection, which, if it has any foundation, lies not against banks peculiarly, but against every species of paper credit.

The most common answer given to it is, that the thing supposed is of little or no consequence; that it is immaterial what serves the purpose of money, whether paper or gold and silver; that the effect of both upon industry is the same; and that the intrinsic wealth of a nation is to be measured, not by the abundance of the precious metals contained in it, but by the quantity of the productions of its labor and industry.

This answer is not destitute of solidity, though not entirely satisfactory. It is certain, that the vivification of industry, by a full circulation, with the aid of a proper and well regulated paper credit, may more than compensate for the loss of a part of the gold and silver of a nation, if the consequence of avoiding that loss should be a scanty or defective circulation.

But the positive and permanent increase or decrease of the precious metals in a country can hardly ever be a matter of indifference. As the commodity taken in lieu of every other, it is a species of the most effective wealth; and as the money of the world, it is of great concern to the State, that it possess a sufficiency of it to face any demands which the protection of its external interests may create.

The objection seems to admit of another and more conclusive answer, which controverts the fact itself. A nation that has no mines of its own, must derive the precious metals from others; generally speaking, in exchange for the products of its labor and industry. The quantity it will possess, will, therefore, in the ordinary course of things, be regulated by the favorable or unfavorable balance of its trade; that is, by the proportion between its abilities to supply foreigners, and its wants of them; between the amount of its exportations and that of its importations. Hence, the state of its agriculture and manufactures, the quantity and quality of its labor and industry, must, in the

main, influence and determine the increase or decrease of its gold and silver. If this be true, the inference seems to be, that well constituted banks favor the increase of the precious metals. It has been shown that they augment, in different ways, the active capital of a country. This it is which generates employment; which animates and expands labor and industry. Every addition which is made to it, by contributing to put in motion a greater quantity of both, tends to create a greater quantity of the products of both; and, by furnishing more materials for exportation, conduces to a favorable balance of trade, and, consequently, to the introduction and increase of gold and silver.

This conclusion appears to be drawn from solid premises. There are, however, objections to be made to it.

It may be said that, as bank paper affords a substitute for specie, it serves to counteract that rigorous necessity for the metals, as a medium of circulation, which, in the case of a wrong balance, might restrain, in some degree, their exportation; and it may be added, that, from the same cause, in the same case, it would retard those economical and parsimonious reforms in the manner of living, which the scarcity of money is calculated to produce, and which might be necessary to rectify such wrong balance.

There is, perhaps, some truth in both these observations; but they appear to be of a nature rather to form exceptions to the generality of the conclusion, than to overthrow it. The state of things in which the *absolute exigencies* of circulation can be supposed to resist, with any effect, the urgent demands for specie which a wrong balance of trade may occasion, presents an *extreme case*. And a situation in which a too expensive manner of living of a community, compared with its means, can stand in need of a corrective, from distress or necessity, is one which, perhaps, rarely results but from extraordinary and adventitious causes: such, for example, as a national revolution; which unsettles all the established habits of the people, and inflames the appetite for extravagance, by the illusions of an ideal wealth, engendered by the continual multiplication of a depreciating currency, or some similar cause. There is a good reason to believe, that, where the laws are wise and well executed, and the inviolability of property and contracts maintained, the economy of a people will, in the general course of things, correspond with its means.

The support of industry is, probably, in every case, of more consequence towards correcting a wrong balance of trade, than any practicable retrenchments in the expenses of families or individuals; and the stagnation of it would be likely to have more effect in prolonging, than any such savings in shortening, its continuance. That stagnation is a natural consequence of an inadequate medium, which, without the aid of bank circulation, would, in the cases supposed, be severely felt.

It also deserves notice, that, as the circulation is always in a compound ratio to the fund upon which it depends, and to the demand for it, and as that fund is itself affected by the exportation of the metals, there is no danger of its being overstocked, as in the case of paper issued at the pleasure of the government, or of its preventing the consequences of any unfavorable balance from being sufficiently felt to produce the reforms alluded to, as far as circumstances may require and admit.

Nothing can be more fallible than the comparisons which have been made between different countries, to illustrate the truth of the position under consideration. The comparative quantity of gold and silver, in different countries depends upon an infinite variety of facts and combinations, all of which ought to be known in order to judge whether the existence or non-existence of paper currencies has any share in the relative proportions they contain: the *mass* and *value* of the productions of the labor and industry of each, compared with its wants; the nature of its establishments abroad; the kind of wars in which it is usually engaged; the relations it bears to the countries which are the original possessors of those metals; the privileges it enjoys in their trade;—these, and a number of other circumstances, are all to be taken into the account, and render the investigation too complex to justify any reliance on the vague and general surmises which have been hitherto hazarded on the point.

In the foregoing discussion, the objection has been considered as applying to the permanent expulsion and diminution of the metals. Their temporary exportation, for particular purposes, has not been contemplated. This, it must be confessed, is facilitated by banks, from the faculty they possess of supplying their place. But their utility is in nothing more conspicuous than in these very cases. They enable the government to pay its foreign debts, and to answer any exigencies which the external concerns of the community may have produced. They enable the merchant to support his credit, (on which the prosperity of trade depends) when special circumstances prevent remittances in other modes. They enable him also to prosecute enterprises which ultimately tend to an augmentation of the species of wealth in question. It is evident that gold and silver may often be employed in procuring commodities abroad, which, in a circuitous commerce, replace the original fund, with considerable addition. But it is not to be inferred, from this facility given to temporary exportation, that banks, which are so friendly to trade and industry, are, in their general tendency, inimical to the increase of the precious metals.

These several views of the subject appear sufficient to impress a full conviction of the utility of banks, and to demonstrate that they are of great importance, not only in relation to the administration of the finances, but in the general system of the political economy.

The judgment of many concerning them has, no doubt, been perplexed, by the misinterpretation of appearances which were to be ascribed to other causes. The general devastation of personal property, occasioned by the late war, naturally produced, on the one hand, a great demand for money, and, on the other, a great deficiency of it to answer the demand. Some injudicious laws, which grew out of the public distresses, by impairing confidence, and causing a part of the inadequate sum in the country to be locked up, aggravated the evil. The dissipated habits contracted by many individuals, during the war, which, after the peace, plunged them into expenses beyond their incomes; the number of adventurers without capital, and, in many instances, without information, who at that epoch rushed into trade, and were obliged to make any sacrifices to support a transient credit; the employment of considerable sums in speculations upon the public debt, which, from its unsettled state, was incapable of becoming itself a substitute: all these circumstances concurring, necessarily led to usurious borrowing, produced most of the inconveniences, and were the true causes of most of the appearances, which, where banks were established, have been by some erroneously placed to their account—a mistake which they might easily have avoided by turning their eyes towards places where there were none, and where, nevertheless, the same evils would have been perceived to exist, even in a greater degree than where those institutions had obtained.

These evils have either ceased or been greatly mitigated. Their more complete extinction may be looked for from that additional security to property which the constitution of the United States happily gives; (a circumstance of prodigious moment in the scale, both of public and private prosperity) from the attraction of foreign capital, under the auspices of that security, to be employed upon objects, and in enterprises, for which the state of this country opens a wide and inviting field; from the consistency and stability which the public debt is fast acquiring, as well in the public opinion at home and abroad, as, in fact, from the augmentation of capital which that circumstance and the quarterly payment of interest will afford; and from the more copious circulation which will be likely to be created by a well constituted national bank.

The establishment of banks in this country seems to be recommended by reasons of a peculiar nature. Previously to the Revolution, circulation was in a great measure carried on by paper emitted by the several local governments. In Pennsylvania alone, the quantity of it was near a million and a half of dollars. This auxiliary may be said to be now at an end. And it is generally supposed that there has been, for some time past, a deficiency of circulating medium. How far that deficiency is to be considered as real or imaginary, is not susceptible of demonstration; but there are circumstances and appear-

ances, which, in relation to the country at large, countenance the supposition of its reality.

The circumstances are, besides the fact just mentioned respecting paper emissions, the vast tracts of waste land, and the little advanced state of manufactures. The progressive settlement of the former, while it promises ample retribution, in the generation of future resources, diminishes or obstructs, in the mean time, the *active* wealth of the country. It not only draws off a part of the circulating money, and places it in a more passive state, but it diverts, into its own channels, a portion of that species of labor and industry which would otherwise be employed in furnishing materials for foreign trade, and which, by contributing to a favorable balance, would assist the introduction of specie. In the early periods of new settlements, the settlers not only furnish no surplus for exportation, but they consume a part of that which is produced by the labor of others. The same thing is a cause that manufactures do not advance, or advance slowly. And, notwithstanding some hypotheses to the contrary, there are many things to induce a suspicion, that the precious metals will not abound in any country which has not mines, or variety of manufactures. They have been sometimes acquired by the sword; but the modern system of war has expelled this resource, and it is one upon which it is to be hoped the United States will never be inclined to rely.

The appearances alluded to are, greater prevalence of direct barter in the more interior districts of the country which, however, has been for some time past gradually lessening, and greater difficulty, generally, in the advantageous alienation of improved real estate, which, also, has of late diminished, but is still seriously felt in different parts of the Union. The difficulty of getting money, which has been a general complaint, is not added to the number, because it is the complaint of all times, and one in which imagination must ever have too great scope to permit an appeal to it.

If the supposition of such a deficiency be in any degree founded, and some aid to circulation be desirable, it remains to inquire what ought to be the nature of that aid.

The emitting of paper money by the authority of Government is wisely prohibited to the individual States by the national constitution, and the spirit of that prohibition ought not to be disregarded by the Government of the United States. Though paper emissions, under a general authority, might have some advantages not applicable, and be free from some disadvantages which are applicable to the like emissions by the States, separately, yet they are of a nature so liable to abuse—and, it may even be affirmed, so certain of being abused—that the wisdom of the Government will be shown, in never trusting itself with the use of so seducing and dangerous an expedient. In times of tranquillity, it might have no ill consequence; it might even perhaps be managed in a way to be productive of good; but, in great and trying emergencies, there is almost a moral certainty of its becoming mischievous. The stamping of paper is an operation so much easier than the laying of taxes, that a government in the practice of paper emissions, would rarely fail, in any such emergency, to indulge itself too far in the employment of that resource, to avoid as much as possible one less auspicious to present popularity. If it should not even be carried so far as to be rendered an absolute bubble, it would at least be likely to be extended to a degree which would occasion an inflated and artificial state of things, incompatible with the regular and prosperous course of the political economy.

Among other material differences between a paper currency, issued by the mere authority of government, and one issued by a bank, payable in coin, is this: that, in the first case, there is no standard to which an appeal can be made, as to the quantity which will only satisfy, or which will surcharge the circulation; in the last, that standard results from the demand. If more should be issued than is necessary, it will return upon the bank. Its emissions, as elsewhere intimated, must always be in a compound ratio to the fund and the demand; whence it is evident, that there is a limitation in the nature of the



thing; while the discretion of the government is the only measure of the extent of the emissions, by its own authority.

This consideration further illustrates the danger of emissions of that sort, and the preference which is due to bank paper.

The payment of the interest of the public debt, at thirteen different places, is a weighty reason, peculiar to our immediate situation, for desiring a bank circulation. Without a paper in general currency, equivalent to gold and silver, a considerable proportion of the specie of the country must always be suspended from circulation, and left to accumulate, preparatory to each day of payment; and as often as one approaches, there must in several cases be an actual transportation of the metals, at both expense and risk, from their natural and proper reservoirs, to distant places. This necessity will be felt very injuriously to the trade of some of the States; and will embarrass, not a little, the operations of the treasury in those States. It will also obstruct those negotiations, between different parts of the Union, by the instrumentality of treasury bills, which have already afforded valuable accommodations to trade in general.

Assuming it, then, as a consequence, from what has been said, that a national bank is a desirable institution, two inquiries emerge: Is there no such institution, already in being, which has a claim to that character, and which supersedes the propriety or necessity of another? If there be none, what are the principles upon which one ought to be established?

There are at present three banks in the United States: that of North America, established in the city of Philadelphia; that of New York, established in the city of New York; that of Massachusetts, established in the town of Boston. Of these three, the first is the only one which has at any time had a direct relation to the Government of the United States.

The Bank of North America originated in a resolution of Congress of the 26th of May, 1781, founded upon a proposition of the Superintendent of Finance, which was afterwards carried into execution by an ordinance of the 31st of December following, entitled "An ordinance to incorporate the subscribers to the Bank of North America."

The aid afforded to the United States by this institution, during the remaining period of the war, was of essential consequence; and its conduct towards them since the peace, has not weakened its title to their patronage and favor. So far, its pretensions to the character in question are respectable; but there are circumstances which militate against them, and considerations which indicate the propriety of an establishment on different principles.

The directors of this bank, on behalf of their constituents, have since *accepted* and *acted* under a new charter from the State of Pennsylvania, materially variant from their original one, and which so narrows the foundation of the institution, as to render it an incompetent basis for the extensive purposes of a national bank.

The limit assigned by the ordinance of Congress to the stock of the bank, is ten millions of dollars. The last charter of Pennsylvania confines it to two millions. Questions naturally arise, whether there be not a direct repugnancy between two charters so differently circumstanced? and whether the acceptance of the one is not to be deemed a virtual surrender of the other? But, perhaps it is neither advisable nor necessary to attempt a solution of them.

There is nothing in the acts of Congress which imply an exclusive right, in the institution to which they relate, except during the term of the war. There is, therefore, nothing, if the public good require it, which prevents the establishment of another. It may, however, be incidentally remarked, that, in the general opinion of the citizens of the United States, the Bank of North America has taken the station of a bank of Pennsylvania only. This is a strong argument for a new institution, or for a renovation of the old, to restore it to the situation in which it originally stood in the view of the United States.

But, though the ordinance of Congress contains no grant of exclusive privileges, there may be room to allege that the Government of the United States ought not, in point of candor and equity, to establish any rival or interfering institution, in prejudice of the one already established; especially as this has, from services rendered, well founded claims to protection and regard.

The justice of such an observation, ought, within proper bounds, to be admitted. A new establishment of the sort, ought not to be made without cogent and sincere reasons of public good. And in the manner of doing it, every facility should be given to a consolidation of the old with the new, upon terms not injurious to the parties concerned. But there is no ground to maintain, that, in a case in which the Government has made no condition restricting its authority, it ought voluntarily to restrict it, through regard to the interests of a particular institution, when those of the State dictate a different course; especially, too, after such circumstances have intervened, as characterise the actual situation of the Bank of North America.

The inducements to a new disposition of the thing are now to be considered. The first of them which occurs is, the at least ambiguous situation in which the Bank of North America has placed itself, by the acceptance of its last charter. If this has rendered it the mere bank of a particular State, liable to dissolution at the expiration of fourteen years, to which term the act of that State has restricted its duration, it would be neither fit nor expedient to accept it as an equivalent for a bank of the United States.

The restriction of its capital, also, which, according to the same supposition, cannot be extended beyond two millions of dollars, is a conclusive reason for a different establishment. So small a capital promises neither the requisite aid to Government, nor the requisite security to the community. It may answer very well the purposes of local accommodation, but is an inadequate foundation for a circulation co-extensive with the United States, embracing the whole of their revenues, and effecting every individual into whose hands the paper may come.

And, inadequate as such a capital would be to the essential ends of a national bank, it is liable to be rendered still more so, by that principle of the constitution of the Bank of North America, contained equally in its old and in its new charter, which leaves the increase of the *actual* capital at any time (now far short of the allowed extent) to the discretion of the directors or stockholders. It is naturally to be expected, that the allurements of an advanced price of stock, and of large dividends, may disincline those who are interested to an extension of capital, from which they will be apt to fear a diminution of profits. And from this circumstance, the interest and accommodation of the public, (as well individually as collectively) are made more subordinate to the interest, real or imagined, of the stockholders, than they ought to be. It is true, that, unless the latter be consulted, there can be no bank, (in the sense at least in which institutions of this kind, worthy of confidence, can be established in this country.) But, it does not follow that this is alone to be consulted, or that it even ought to be paramount. Public utility is more truly the object of public banks than private profit. And it is the business of Government to constitute them on such principles, that, while the latter will result in a sufficient degree to afford competent motives to engage in them, the former be not made subservient to it. To effect this, a principal object of attention ought to be to give free scope to the creation of an ample capital, and with this view, fixing the bounds which are deemed safe and convenient, to leave no discretion either to stop short of them, or to overpass them. The want of this precaution, in the establishment of the Bank of North America, is a further and an important reason for desiring one differently constituted.

There may be room at first sight for a supposition, that, as the profits of a bank will bear a proportion to the extent of its operations, and as, for this reason, the interest of the stockholders will not be disadvantageously affected by any necessary augmentations of capital, there is no cause to apprehend that



they will be indisposed to such augmentations. But most men, in matters of this nature, prefer the certainties they enjoy, to probabilities depending on untried experiments, especially when these promise rather that they will not be injured than that they will be benefitted.

From the influence of this principle, and a desire of enhancing its profits, the directors of a bank will be more apt to overstrain its faculties, in an attempt to face the additional demands which the course of business may create, than to set on foot new subscriptions, which may hazard a diminution of the profits, and even a temporary reduction of the price of stock.

Banks are among the best expedients for lowering the rate of interest in a country; but, to have this effect, their capitals must be completely equal to all the demands of business, and such as will tend to remove the idea, that the accommodations they afford are in any degree favors—an idea very apt to accompany the parsimonious dispensation of contracted funds. In this, as in every other case, the plenty of the commodity ought to beget a moderation of the price.

The want of a principle of rotation in the constitution of the Bank of North America is another argument for a variation of the establishment. Scarcely one of the reasons which militate against this principle in the constitution of a country, is applicable to that of a bank; while there are strong reasons in favor of it, in relation to the one, which do not apply to the other. The knowledge to be derived from experience is the only circumstance common to both, which pleads against rotation in the directing officers of a bank.

But the objects of the government of a nation, and those of the government of a bank, are so widely different, as greatly to weaken the force of that consideration in reference to the latter. Almost every important case of legislation requires, towards a right decision, a general and accurate acquaintance with the affairs of the State, and habits of thinking, seldom acquired but from a familiarity with public concerns. The administration of a bank, on the contrary, is regulated by a few simple fixed maxims, the application of which is not difficult to any man of judgment, especially if instructed in the principles of trade. It is, in general, a constant succession of the same details.

But, though this be the case, the idea of the advantages of experience is not to be slighted. Room ought to be left for the regular transmission of official information; and, for this purpose, the head of the direction ought to be excepted from the principle of rotation. With this exception, and with the aid of the information of the subordinate officers, there can be no danger of any ill effects from want of experience or knowledge; especially as the periodical exclusion ought not to reach the whole of the directors at one time.

The argument in favor of the principle of rotation is this: that, by lessening the danger of combinations among the directors, to make the institution subservient to party views, or to the accommodation, preferably, of any particular set of men, it will render the public confidence more firm, stable, and unqualified.

When it is considered that the directors of a bank are not elected by the great body of the community, in which a diversity of views will naturally prevail at different conjunctures, but by a small and select class of men, among whom it is far more easy to cultivate a steady adherence to the same persons and objects, and that those directors have it in their power so immediately to conciliate, by obliging the most influential of this class, it is easy to perceive that, without the principle of rotation, changes in that body can rarely happen, but as a concession which they may themselves think it expedient to make to public opinion.

The continual administration of an institution of this kind, by the same persons, will never fail, with or without cause, from their conduct, to excite distrust and discontent. The necessary secrecy of their transactions gives unlimited scope to imagination to infer that something is or may be wrong. And this inevitable mystery is a solid reason for inserting in the constitution of a bank the necessity of a change of men. As neither the mass of the parties interested, nor the public in general, can be permitted to be witnesses of

the interior management of the directors, it is reasonable that both should have that check upon their conduct, and that security against the prevalence of a partial or pernicious system, which will be produced by the certainty of periodical changes. Such, too, is the delicacy of the credit of a bank, that every thing which can fortify confidence and repel suspicion, without injuring its operations, ought carefully to be sought after in its formation.

A further consideration in favor of a change, is the improper rule by which the right of voting for directors is regulated in the plan upon which the Bank of North America was originally constituted, namely, a vote for each share, and the want of a rule in the last charter; unless the silence of it, on that point, may signify that every stockholder is to have an equal and a single vote; which would be a rule in a different extreme, not less erroneous. It is of importance that a rule should be established on this head, as it is one of those things which ought not to be left to discretion; and it is, consequently, of equal importance that the rule should be a proper one.

A vote for each share renders a combination between a few principal stockholders, to monopolize the power and benefits of the bank, too easy. An equal vote to each stockholder, however great or small his interest in the institution, allows not that degree of weight to large stockholders which it is reasonable they should have, and which, perhaps, their security, and that of the bank, require. A prudent mean is to be preferred. A conviction of this has produced a by-law of the corporation of the Bank of North America, which evidently aims at such a mean. But a reflection arises here, that a like majority with that which enacted this law, may, at any moment, repeal it.

The last inducement which shall be mentioned, is the want of precautions to guard against a foreign influence insinuating itself into the direction of the bank. It seems scarcely reconcileable with a due caution, to permit that any but citizens should be eligible, as directors of a national bank, or that non-resident foreigners should be able to influence the appointment of directors by the votes of their proxies. In the event, however, of an incorporation of the Bank of North America, in the plan it may be necessary to qualify this principle, so as to leave the right of foreigners, who now hold shares of its stock, unimpaired; but without the power of transmitting the privilege in question to foreign aliens.

It is to be considered that such a bank is not a mere matter of private property, but a political machine of the greatest importance to the State.

There are other variations from the constitution of the Bank of North America, not of inconsiderable moment, which appear desirable, but which are not of magnitude enough to claim a preliminary discussion. These will be seen in the plan which will be submitted in the sequel.

If the objections which have been stated, to the constitution of the Bank of North America, are admitted to be well founded, they will, nevertheless, not derogate from the merit of the main design, or of the services which that bank has rendered, or of the benefits which it has produced. The creation of such an institution, at the time it took place, was a measure dictated by wisdom. Its utility has been amply evinced by its fruits—American independence owes much to it; and it is very conceivable, that reasons of the moment may have rendered those features in it inexpedient, which a revision, with a permanent view, suggests as desirable.

The order of the subject leads next to an inquiry into the principles upon which a national bank ought to be organized.

The situation of the United States naturally inspires a wish that the form of the institution could admit of a plurality of branches. But various considerations discourage from pursuing this idea. The complexity of such a plan would be apt to inspire doubts, which might deter from adventuring in it. And the practicability of a safe and orderly administration, though not to be abandoned as desperate, cannot be made so manifest in perspective, as to promise the removal of those doubts, or to justify the Government in adopting the idea as an original experiment. The most that would seem advisable, on this point, is to insert a provision which may lead to it hereafter, if

experience shall more clearly demonstrate its utility, and satisfy those who may have the direction, that it may be adopted with safety. It is certain that it would have some advantages, both peculiar and important. Besides more general accommodation, it would lessen the danger of a run upon the bank.

The argument against it is, that each branch must be under a distinct, though subordinate direction, to which a considerable latitude of discretion must of necessity be entrusted. And as the property of the whole institution would be liable for the engagements of each part, that and its credit would be at stake, upon the prudence of the directors of every part. The mismanagement of either branch might hazard serious disorder in the whole.

Another wish, dictated by the particular situation of the country, is, that the bank could be so constituted as to be made an immediate instrument of loans to the proprietors of land; but this wish also yields to the difficulty of accomplishing it. Land is alone an unfit fund for a bank circulation. If the notes issued upon it were not to be payable in coin, on demand, or at a short date, this would amount to nothing more than a repetition of the paper emissions, which are now exploded by the general voice. If the notes are to be payable in coin, the land must first be converted into it by sale, or mortgage. The difficulty of effecting the latter, is the very thing which begets the desire of finding another resource, and the former would not be practicable on a sudden emergency, but with sacrifices which would make the cure worse than the disease. Neither is the idea of constituting the fund partly of coin and partly of land, free from impediments. These two species of property do not, for the most part, unite in the same hands. Will the moneyed man consent to enter into a partnership with the land holder, by which *the latter* will share in the profits *which will be made by the money of the former*? The money, it is evident, will be the agent or efficient cause of the profits—the land can only be regarded as an additional security. It is not difficult to foresee, that an union, on such terms, will not readily be formed. If the landholders are to procure the money by sale or mortgage of a part of their lands, this they can as well do when the stock consists wholly of money, as if it were to be compounded of money and land.

To procure for the landholders the assistance of loans, is the great desideratum. Supposing other difficulties surmounted, and a fund created, composed partly of coin and partly of land, yet the benefit contemplated could only then be obtained, by the bank's advancing them its notes for the whole, or part, of the value of the lands they had subscribed to the stock. If this advance was small, the relief aimed at would not be given; if it was large, the quantity of notes issued would be a cause of *distrust*; and, if received at all, they would be likely to return speedily upon the bank for payment; which, after exhausting its coin, might be under a necessity of turning its lands into money, at any price that could be obtained for them, to the irreparable prejudice of the proprietors.

Considerations of public advantage suggest a further wish, which is, that the bank could be established upon principles that would cause the profits of it to redound to the immediate benefit of the State. This is contemplated by many who speak of a national bank, but the idea seems liable to insuperable objections. To attach full confidence to an institution of this nature, it appears to be an essential ingredient in its structure, that it shall be under a *private* not a *public* direction—under the guidance of *individual interest*, not of *public policy*; which would be supposed to be, and, in certain emergencies, under a feeble or too sanguine administration, would really be, liable to being too much influenced by *public necessity*. The suspicion of this would most probably be a canker that would continually corrode the vitals of the credit of the bank, and would be most likely to prove fatal in those situations in which the public good would require that they should be most sound and vigorous. It would, indeed, be little less than a miracle, should the credit of the bank be at the disposal of the Government, if, in a long series of time, there was not experienced a calamitous abuse of it. It is true, that it would

be the real interest of the Government not to abuse it; its genuine policy, to husband and cherish it with the most guarded circumspection, as an inestimable treasure. But what government ever uniformly consulted its true interests in opposition to the temptations of momentary exigencies? What nation was ever blessed with a constant succession of upright and wise administrators?

The keen, steady, and, as it were, magnetic sense of their own interest, as proprietors, in the directors of a bank, pointing invariably to its true pole, the prosperity of the institution, is the only security that can always be relied upon for a careful and prudent administration. It is, therefore, the only basis on which an enlightened, unqualified, and permanent confidence can be expected to be erected and maintained.

The precedents of the banks established in several cities of Europe, Amsterdam, Hamburg, and others, may seem to militate against this position. Without a precise knowledge of all the peculiarities of their respective constitutions, it is difficult to pronounce how far this may be the case. That of Amsterdam, however, which we best know, is rather under a municipal than a governmental direction. Particular magistrates of the city, not officers of the republic, have the management of it. It is also a bank of deposit, not of loan, or circulation; consequently less liable to abuse, as well as less useful. Its general business consists in receiving money for safe keeping, which, if not called for within a certain time, becomes a part of its stock, and irreclaimable. But a credit is given for it on the books of the bank, which, being transferable, answers all the purposes of money.

The directors being magistrates of the city, and the stockholders in general its most influential citizens, it is evident that the principle of private interest must be prevalent in the management of the bank. And it is equally evident, that, from the nature of its operations, that principle is less essential to it than to an institution constituted with a view to the accommodation of the public and individuals, by direct loans and a paper circulation.

As far as may concern the aid of the bank, within the proper limits, a good government has nothing more to wish for than it will always possess, though the management be in the hands of private individuals. As the institution, if rightly constituted, must depend for its renovation, from time to time, on the pleasure of the government, it will not be likely to feel a disposition to render itself, by its conduct, unworthy of public patronage. The government, too, in the administration of its finances, has it in its power to reciprocate benefits to the bank, of not less importance than those which the bank affords to the government, and which, besides, are never unattended with an immediate and adequate compensation. Independent of these more particular considerations, the natural weight and influence of a good government will always go far towards procuring a compliance with its desires; and, as the directors will usually be composed of some of the most discreet, respectable, and well informed citizens, it can hardly ever be difficult to make them sensible of the force of the inducements which ought to stimulate their exertions.

It will not follow, from what has been said, that the State may not be the holder of a part of the stock of a bank, and consequently a sharer in the profits of it. It will only follow that it ought not to desire any participation in the direction of it, and therefore ought not to own the whole or a principal part of the stock: for, if the mass of the property should belong to the public, and if the direction of it should be in private hands, this would be to commit the interests of the State to persons not interested, or not enough interested in their proper management.

There is one thing, however, which the Government owes to itself and to the community, at least to all that part of it who are not stockholders, which is, to reserve to itself a right of ascertaining, as often as may be necessary, the state of the bank—excluding, however, all pretension to control. This right forms an article in the primitive constitution of the Bank of North America, and its propriety stands upon the clearest reasons. If the paper of a bank is to be permitted to insinuate itself into all the revenues and re-

ceipts of a country; if it is even to be tolerated as the substitute for gold and silver, in all the transactions of business; it becomes, in either view, a national concern of the first magnitude. As such, the ordinary rules of prudence require that the government should possess the means of ascertaining, whenever it thinks fit, that so delicate a trust is executed with fidelity and care. A right of this nature is not only desirable, as it respects the government, but it ought to be equally so to all those concerned in the institution, as an additional title to public and private confidence, and as a thing which can only be formidable to practices that imply mismanagement. The presumption must always be, that the characters who would be entrusted with the exercise of this right, on behalf of the government, will not be deficient in the discretion which it may require; at least, the admitting of this presumption cannot be deemed too great a return of confidence for that very large portion of it which the government is required to place in the bank.

Abandoning, therefore, ideas which, however agreeable or desirable, are neither practicable nor safe, the following plan, for the constitution of a national bank, is respectfully submitted to the consideration of the House.

1. The capital stock of the bank shall not exceed ten millions of dollars, divided into twenty-five thousand shares, each share being four hundred dollars; to raise which sum, subscriptions shall be opened on the first Monday of April next, and shall continue open until the whole shall be subscribed. Bodies politic as well as individuals may subscribe.

2. The amount of each share shall be payable, one-fourth in gold and silver coin, and three-fourths in that part of the public debt which, according to the loan proposed by the act making provision for the debt of the United States, shall bear an accruing interest, at the time of payment, of six per cent. per annum.

3. The respective sums subscribed shall be payable in four equal parts, as well specie as debt, in succession, and at the distance of six calendar months from each other; the first payment to be made at the time of subscription. If there shall be a failure in any subsequent payment, the party failing shall lose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

4. The subscribers to the bank, and their successors, shall be incorporated, and shall so continue, until the final redemption of that part of its stock which shall consist of the public debt.

5. The capacity of the corporation to hold real and personal estate, shall be limited to fifteen millions of dollars, including the amount of its capital or original stock. The lands and tenements which it shall be permitted to hold, shall be only such as shall be requisite for the immediate accommodation of the institution; and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted, in the usual course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

6. The totality of the debts of the company, whether by bond, bill, note, or other contract, (credits for deposits excepted) shall never exceed the amount of its capital stock. In case of excess, the directors, under whose administration it shall happen, shall be liable for it in their private or separate capacities. Those who may have dissented, may excuse themselves from this responsibility, by immediately giving notice of the fact, and their dissent, to the President of the United States, and to the stockholders, at a general meeting, to be called by the President of the Bank, at their request.

7. The company may sell or demise its lands and tenements, or may sell the whole or any part of the public debt, whereof its stock shall consist; but shall *trade* in nothing except bills of exchange, gold and silver bullion, or in the sale of goods pledged for money lent; nor shall take more than at the rate of six per centum per annum, upon its loans or discounts.

8. No loan shall be made by the bank for the use, or on account of, the Government of the United States, or of either of them, to an amount exceed-

ing fifty thousand dollars, or of any foreign Prince or State, unless previously authorized by a law of the United States.

9. The stock of the bank shall be transferable, according to such rules as shall be instituted by the company in that behalf.

10. The affairs of the bank shall be under the management of twenty-five directors, one of whom shall be the president; and there shall be, on the first Monday of January, in each year, a choice of directors, by a plurality of suffrages of the stockholders, to serve for a year. The directors, at their first meeting after each election, shall choose one of their number as president.

11. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the proportions following, that is to say: For one share, and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote; but no person, co-partnership, or body politic, shall be entitled to a greater number than thirty votes. And, after the first election, no share or shares shall confer a right of suffrage, which shall not have been holden three calendar months previous to the day of election. Stockholders actually resident within the United States, and none other, may vote in the elections by proxy.

12. Not more than three-fourths of the directors in office, exclusive of the president, shall be eligible for the next succeeding year. But the director who shall be president at the time of an election, may always be re-elected.

13. None but a stockholder, being a citizen of the United States, shall be eligible as a director.

14. Any number of stockholders, not less than sixty, who, together, shall be proprietors of two hundred shares or upwards, shall have power, at any time, to call a general meeting of the stockholders, for purposes relative to the institution; giving at least six weeks' notice, in two public gazettes, of the place where the bank is kept, and specifying in such notice the object of the meeting.

15. In case of the death, resignation, absence from the United States, or removal of a director by the stockholders, his place may be filled by a new choice for the remainder of the year.

16. No director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting. The stockholders shall make such compensation to the president, for his extraordinary attendance at the bank, as shall appear to them reasonable.

17. Not less than seven directors shall constitute a board for the transaction of business.

18. Every cashier or treasurer, before he enters on the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than twenty thousand dollars, with condition for his good behavior.

19. Half-yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors advisable; and, once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid, after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of profit, if any, after deducting losses and dividends.

20. The bills and notes of the bank originally made payable, or which shall have become payable, on demand, in gold and silver coin, shall be receivable in all payments to the United States.

21. The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the bank, and of the debts due to the same, of the moneys deposited therein,



of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank, as shall relate to the said statements; provided that this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

22. No similar institution shall be established by any future act of the United States, during the continuance of the one hereby proposed to be established.

23. It shall be lawful for the directors of the bank to establish offices wheresoever they shall think fit, within the United States, for the purposes of discount and deposit, only, and upon the same terms, and in the same manner, as shall be practised at the bank, and to commit the management of the said offices, and the making of the said discounts, either to agents specially appointed by them, or to such persons as may be chosen by the stockholders residing at the place where any such office shall be, under such agreements, and subject to such regulations, as they shall deem proper, not being contrary to law, or to the constitution of the bank.

24. And lastly, the President of the United States shall be authorized to cause a subscription to be made to the stock of the said company, on behalf of the United States, to an amount not exceeding two millions of dollars, to be paid out of the moneys which shall be borrowed by virtue of either of the acts, the one, entitled "An act making provision for the debt of the United States," and the other, entitled "An act making provision for the reduction of the public debt;" borrowing of the bank an equal sum, to be applied to the purposes for which the said moneys shall have been procured, reimbursable in ten years, by equal annual instalments; or at any time sooner, or in any greater proportions, that the Government may think fit.

The reasons for the several provisions contained in the foregoing plan, have been so far anticipated, and will, for the most part, be so readily suggested by the nature of those provisions, that any comments which need further be made, will be both few and concise.

The combination of a portion of the public debt, in the formation of the capital, is the principal thing of which an explanation is requisite. The chief object of this is to enable the creation of a capital sufficiently large to be the basis of an extensive circulation, and an adequate security for it. As has been elsewhere remarked, the original plan of the Bank of North America contemplated a capital of ten millions of dollars, which is certainly not too broad a foundation for the extensive operations to which a national bank is destined. But, to collect such a sum in this country, in gold and silver, into one depository, may, without hesitation, be pronounced impracticable. Hence the necessity of an auxiliary, which the public debt at once presents.

This part of the fund will be always ready to come in aid of the specie; it will more and more command a ready sale; and can therefore expeditiously be turned into coin, if an exigency of the bank should at any time require it. This quality of prompt convertibility into coin, renders it an equivalent for that necessary agent of bank circulation, and distinguishes it from a fund in land, of which the sale would generally be far less expeditious, and at great disadvantage. The quarter yearly receipts of interest will also be an actual addition to the specie fund, during the intervals between them, and the half yearly dividends of profits. The objection to combining land with specie, resulting from their not being generally in possession of the same persons, does not apply to the debt, which will always be found in considerable quantity among the moneyed and trading people.

The debt composing part of the capital, besides its collateral effect in enabling the bank to extend its operations, and consequently to enlarge its profits, will produce a direct annual revenue of six per centum from the Government, which will enter into the half yearly dividends received by the stockholders.

When the present price of the public debt is considered, and the effect which its conversion into bank stock, incorporated with a specie fund, would, in all probability, have to accelerate its rise to the proper point, it will easily

be discovered that the operation presents, in its outset, a very considerable advantage to those who may become subscribers; and from the influence which that rise would have on the general mass of the debt, a proportional benefit to all the public creditors, and, in a sense which has been more than once adverted to, to the community at large.

There is an important fact which exemplifies the fitness of the public debt for a bank fund, and which may serve to remove doubts in some minds on this point: it is this, that the Bank of England, in its first erection, rested wholly on that foundation. The subscribers to a loan to Government of one million two hundred thousand pounds sterling, were incorporated as a bank, of which the debt created by the loan, and the interest upon it, were the sole fund. The subsequent augmentations of its capital, which now amounts to between eleven and twelve millions of pounds sterling, have been of the same nature.

The confining of the right of the bank to contract debts to the amount of its capital, is an important precaution, which is not to be found in the constitution of the Bank of North America, and which, while the fund consists wholly of coin, would be a restriction attended with inconveniences, but would be free from any, if the composition of it should be such as is now proposed. The restriction exists in the establishment of the Bank of England, and, as a source of security, is worthy of imitation. The consequence of exceeding the limit, there, is, that each stockholder is liable for the excess, in proportion to his interest in the bank. When it is considered that the directors owe their appointments to the choice of the stockholders, a responsibility of this kind, on the part of the latter, does not appear unreasonable; but, on the other hand, it may be deemed a hardship upon those who may have dissented from the choice. And there are many among us whom it might perhaps discourage from becoming concerned in the institution. These reasons have induced the placing of the responsibility upon the directors by whom the limit prescribed should be transgressed.

The interdiction of loans on account of the United States, or of any particular State, beyond the moderate sum specified, or of any foreign Power, will serve as a barrier to Executive encroachments, and to combinations inauspicious to the safety, or contrary to the policy of the Union.

The limitation of the rate of interest is dictated by the consideration, that different rates prevail in different parts of the Union; and as the operations of the bank may extend through the whole, some rule seems to be necessary. There is room for a question, whether the limitation ought not rather to be to five than to six per cent., as proposed. It may, with safety, be taken for granted, that the former rate would yield an ample dividend, perhaps as much as the latter, by the extension which it would give to business. The natural effect of low interest is to increase trade and industry; because undertakings of every kind can be prosecuted with greater advantage. This is a truth generally admitted; but it is requisite to have analyzed the subject in all its relations, to be able to form a just conception of the extent of that effect. Such an analysis cannot but satisfy an intelligent mind, that the difference of one per cent. in the rate at which money may be had, is often capable of making an essential change for the better in the situation of any country or place.

Every thing, therefore, which tends to lower the rate of interest, is peculiarly worthy of the cares of legislators. And though laws, which violently sink the legal rate of interest greatly below the market level are not to be commended, because they are not calculated to answer their aim, yet, whatever has a tendency to effect a reduction, without violence to the natural course of things, ought to be attended to and pursued. Banks are among the means most proper to accomplish this end; and the moderation of the rate at which their discounts are made, is a material ingredient towards it; with which their own interest, viewed on an enlarged and permanent scale, does not appear to clash.

But, as the most obvious ideas are apt to have greater force than those which depend on complex and remote combinations, there would be danger



that the persons, whose funds must constitute the stock of the bank, would be diffident of the sufficiency of the profits to be expected, if the rate of loans and discounts were to be placed below the point to which they have been accustomed; and might, on this account, be indisposed to embarking in the plan. There is, it is true, one reflection, which, in regard to men actively engaged in trade, ought to be a security against this danger; it is this: that the accommodations which they might derive in the way of their business, at a low rate, would more than indemnify them for any difference in the dividend, supposing even that some diminution of it were to be the consequence. But, upon the whole, the hazard of contrary reasoning among the mass of moneyed men, is a powerful argument against the experiment. The institutions of the kind already existing add to the difficulty of making it. Mature reflection, and a large capital, may, of themselves, lead to the desired end.

The last thing which requires any explanatory remark is the authority proposed to be given to the President to subscribe the amount of two millions of dollars on account of the public. The main design of this is to enlarge the specie fund of the bank, and to enable it to give a more early extension to its operations. Though it is proposed to borrow with one hand what is lent with the other, yet the disbursement of what is borrowed will be progressive, and bank notes may be thrown into circulation instead of the gold and silver. Besides, there is to be an annual reimbursement of a part of the sum borrowed, which will finally operate as an actual investment of so much specie. In addition to the inducements to this measure, which result from the general interest of the Government to enlarge the sphere of the utility of the bank, there is this more particular consideration, to wit: that, as far as the dividend on the stock shall exceed the interest paid on the loan, there is a positive profit.

The Secretary begs leave to conclude with this general observation: That, if the Bank of North America shall come forward with any propositions which have for their object the engrafting upon that institution, the characteristics which shall appear to the Legislature necessary to the due extent and safety of a national bank, there are, in his judgment, weighty inducements to giving every reasonable facility to the measure. Not only the pretensions of that institution, from its original relation to the Government of the United States, and from the services it has rendered, are such as to claim a disposition favorable to it, if those who are interested in it are willing, on their part, to place it on a footing satisfactory to the Government, and equal to the purposes of a Bank of the United States, but its co-operation would materially accelerate the accomplishment of the great object; and the collision, which might otherwise arise, might, in a variety of ways, prove equally disagreeable and injurious. The incorporation or union here contemplated, may be effected in different modes, under the auspices of an act of the United States, if it shall be desired by the Bank of North America, upon terms which shall appear expedient to the Government.

All which is humbly submitted.

ALEXANDER HAMILTON,  
*Secretary of the Treasury.*

TREASURY DEPARTMENT, *December 13, 1790.*

IN SENATE, *December 23, 1790.*

On the reception of the copy of the said report, in the Senate, it was, on motion,

*Ordered*, That Messrs. Strong, of Massachusetts, Morris, of Pennsylvania, Schuyler, of New York, Butler, of South Carolina, and Ellsworth, of Connecticut, be a committee to take into consideration the report of the Secretary of the Treasury, upon the plan of a national bank, and to prepare a bill upon that subject.

On the 3d of January, 1791, Mr. Strong, from the said committee, reported a bill "to incorporate the subscribers to the bank of \_\_\_\_\_."

The history of this bill, on its passage through the Senate, is to be learnt from one source only—the journals of that body. Its debates and proceedings were not then, as now, open to the public.

From the journals, however, we learn that, on the 6th, 10th, 11th, and 12th days of January, 1791, the bill was under consideration, and on the 13th of January it was agreed to fill the blank in the title with these words: “the United States of America.”

A motion was made to limit the term of incorporation to seven years, and another to extend it to March 4th, 1815. On this latter motion, the yeas and nays were:

YEAS—Messrs. Bassett, Dickinson, Ellsworth, Elmer, Johnson, King, Langdon, Morris, Read, Schuyler, and Strong—11.

NAYS—Messrs. Butler, Few, Foster, Hawkins, Henry, Johnston, Izard, Maclay, Monroe, and Wingate—10.

So it passed in the affirmative.

A motion was made to subjoin to the last clause agreed to, as follows: “*Provided, nevertheless, that nothing herein contained shall be construed to exclude the right of amending the same, on giving twelve months’ notice, from and after the first of January, 1800.*”

On the 14th of January, the question being taken on this amendment, it passed in the negative.

On motion, it was agreed to reconsider the term of incorporation agreed to yesterday, and to limit it to the 4th of March, 1811.

On the 18th of January, the bill being under consideration, it was ordered that it be recommitted for further amendments; and Mr. Strong, from the committee to whom it was referred, reported sundry amendments; which were agreed to.

On the 19th, a motion being made to expunge the 12th section, to wit: “*And be it further enacted, That no other bank shall be established, by any future law of the United States, during the continuance of the corporation hereby created, for which the faith of the United States is hereby pledged,*” it passed in the negative.

20th January, 1791. “On motion to reconsider the term of incorporation, and limit it to the year 1801, instead of 1811,” the vote was as follows:

YEAS—Messrs. Butler, Few, Gunn, Hawkins, Izard, and Monroe—6.

NAYS—Messrs. Bassett, Dalton, Dickinson, Ellsworth, Elmer, Foster, Johnson, King, Langdon, Maclay, Morris, Read, Schuyler, Stanton, Strong, and Wingate—16.

On motion to expunge the twelfth section, quoted above, it passed in the negative.

Whereupon,

*Resolved,* That this bill do pass; that the title of it be, “An act to incorporate the subscribers to the Bank of the United States.”

The bill was then transmitted to the House of Representatives for concurrence.

#### HOUSE OF REPRESENTATIVES.

The bill to incorporate the subscribers to the Bank of the United States was, on the 21st of January, read a first and second time, and committed to a Committee of the Whole House.

On the 31st, the House resolved itself into a Committee of the Whole, (Mr. Boudinot in the chair) and the bill was read by paragraphs; and no amendments being offered, the chairman reported it to the House, which voted that it should be read the third time on the succeeding day.

FEBRUARY 1, 1791.

After the bill was read the third time, Mr. Smith, of South Carolina, having moved that the bill be recommitted to a Committee of the Whole House, it was determined by yeas and noes, in the negative, and it was

*Ordered,* That the bill do lie on the table.

## DEBATE ON THE MOTION OF MR. SMITH, OF SOUTH CAROLINA, TO RECOMMIT THE BILL.

FEBRUARY 1, 1791.

Mr. SMITH, of South Carolina, observed, that the bill being taken up rather unexpectedly yesterday, gentlemen did not appear prepared to discuss the subject; it, therefore, was suffered to be read in Committee of the Whole, and passed to the third reading, in his opinion rather informally, as the members were, thereby, deprived of giving their sentiments in the usual manner, on a bill of the greatest importance.

He thought it susceptible of various amendments. [The SPEAKER having observed that the bill, agreeable to the rules of the House, could not be amended without being recommitted,] Mr. Smith moved that the bill should be recommitted for the purpose of making sundry alterations and removing objections which he thought the bill liable to. He then enumerated several objections. Those who are to receive the subscriptions, he said, are not obliged to give any bonds for their fidelity. He thought the clause which excluded foreigners from voting by proxy exceptionable. And the time in which subscriptions are to be received, he thought too contracted.

Mr. JACKSON said he was in favor of the motion for a recommitment, but not for the reasons offered by the gentleman from South Carolina. He was, he said, opposed to the principles of the bill altogether. He then adverted to the situation of the United States, and observed that it was so different from that of Great Britain, at the time the bank was established in that country, that no reason in favor of the institution could be deduced from thence. He adverted to the argument arising from the facility which banks afford, of anticipating the public resources in cases of emergency. This idea of anticipations he reprobated, as tending to involve the country in debt, and an endless labyrinth of perplexities. This plan of a National Bank, said he, is calculated to benefit a small part of the United States—the mercantile interest only; the farmers, the yeomanry of the country, will derive no advantage from it, as the bank bills will not circulate to the extremities of the Union. He said he had never seen a bank bill in the State of Georgia; nor will they ever benefit the farmers of that State, or of New Hampshire. He urged that there was no necessity for instituting a new bank; there is one already established in this city, under the style of the Bank of North America. This proposed institution is an infringement of the charter of that bank, which cannot be justified. He urged the unconstitutionality of the plan; called it a monopoly, such an one as contravenes the spirit of the constitution—a monopoly of a very extraordinary nature—a monopoly of the public moneys for the benefit of the corporations to be created. He then read several passages from the Federalist, which, he said, were directly contrary to the assumptions of the power proposed by the bill. He hoped, therefore, it would be recommitted, and he could not help hoping, also, that it would be deferred to the next session.

Mr. LAWRENCE observed, that the friends of the institution proposed, had been unjustly charged with precipitating the bill; but, he said, it had long been in the hands of the members; they have had time to consider it; the usual forms have been observed in its progress, thus far, and if those who are opposed to the bill did not see proper to come forward with their objections, it surely is their own fault, and the advocates of the bill are not justly chargeable with precipitancy. He then particularly replied to the objections offered by Mr. Smith, of South Carolina, and after considering them, said that those objections did not, in his opinion, constitute sufficient reasons to induce a recommitment of the bill. He then noticed the constitutional objections of Mr. Jackson, and said the Government of the United States is vested, by the constitution, with the power of borrowing money, and, in pursuance of this

idea, they have a right to create a capital by which they may, with greater facility, carry the powers of borrowing, on any emergency, into effect. Under the late confederation, the Pennsylvania bank, called the Bank of North America, was instituted. He presumed that it would not be controverted, that the present Government is vested with powers equal to those of the late confederation. He said that he had no doubt its operations would benefit, not only the centre, but the extremities also, of the Union. The commercial, mechanical, and agricultural interests of the United States, are so combined, that one cannot be benefitted without benefitting the other. He concluded by observing that he thought the Legislature of the United States could not better answer the purposes of their appointment, than by passing this bill. He hoped, therefore, it would not be recommitted, but that it would now pass.

Mr. LEE observed, that, having been confined by sickness, he was precluded from attending the House yesterday; but, sick as he was, had he supposed there was a prospect of a bill of such magnitude and importance passing, without a discussion of its principles, he certainly would have attended, and offered his objections to various parts of it, which he thought very exceptionable. He hoped, therefore, it would now be recommitted, that a bill which is so unequal and so partial may undergo a thorough discussion.

Mr. TUCKER was in favor of recommitment. He acknowledged that those who had their objections to the bill were certainly blameable for not coming forward with them yesterday. He then stated sundry objections to the bill. The time allowed to receive the subscriptions, he said, is too short, and will benefit those only in the vicinity of the bank. The clause which authorizes the loaning \$100,000 to the Government, without express provision by law, he thought exceptionable, as the Executive will be able, by this means, to borrow, at any time, without being authorized, to almost any amount, of the bank. The loan of \$2,000,000, by the United States, to the bank, he objected to, as diverting that sum from the particular object for which it was borrowed. There is no appropriation, said he, of the half yearly dividend of profits accruing to the United States, which, he observed, was a very essential defect. Mr. Tucker stated other objections as reasons for a recommitment.

Mr. WILLIAMSON was in favor of the recommitment, to give those who say they have not had an opportunity of offering their objections, time to do it; and if the motion is not agreed to, he should not give his vote for the bill. He then adverted to the objections deduced from the constitution, and explained the clause respecting monopolies, as referring altogether to commercial monopolies.

Mr. SHERMAN objected to the recommitment. He said, that, though the bill could not be amended without its being recommitted, yet it was open to discussion and objection, previous to taking a vote on its passing. He did not think the objections offered, afforded sufficient reasons for a recommitment. He replied to the observations offered by several gentlemen who had spoken in favor of the motion.

Mr. GERRY expressed his surprise at the observations of the gentlemen who had neglected to offer their objections to the bill before, and said it could only be imputed to their own neglect, and not to any precipitancy on the part of the friends of the bill. Mr. Gerry noticed the several objections which had been offered, and said, if nothing more important could be offered, he thought it unjustifiable in the House to go into a committee.

Mr. MADISON observed, that at this moment it was not of importance to determine how it has happened that the objections which several gentlemen now say they have to offer, against the bill, were not made at the proper time; it is sufficient for them, if the candor of the House should lead them now to recommit the bill, that, in a Committee of the Whole, they may have an opportunity to offer their objections.

Mr. AMES replied to Mr. Madison. He said he did not conceive that the appeal now made to the candor of the House was in point. The gentlemen who object to the bill had an opportunity to offer their objections; the customary forms have been attended to, and the whole question for recommitment turns on the force of the objections which are now offered to the general principles of the bill, altogether; the candor of the House, he conceived, was entirely out of the question, and therefore not to be appealed to; but the justice due to their constituents in the proper discharge of the duty reposed in them. He said it appeared to him absurd to go into a Committee of the Whole, to determine whether the bill is constitutional or not; if it is unconstitutional, that amounts to a rejection of it altogether.

Mr. MADISON thought there was the greatest propriety in discussing a constitutional question in the Committee of the Whole.

Mr. STONE and Mr. GILES were in favor of recommitment; they objected to the unconstitutionality of the bill, and to several of its particular clauses.

Mr. VINING said he thought it was a subject of congratulation that the bill was in its present situation; it had happily passed to the third reading without that tedious discussion which bills usually receive. The subject has been a considerable time before the House, and the gentlemen have had time to contemplate it. The bill is now in the stage to which gentlemen very usually reserve themselves to state their objections at large; he hoped they would now do it. He was not perfectly satisfied as to the constitutional point; he therefore hoped gentlemen would state their objections, that those who are satisfied on that point, may offer their reasons.

Mr. BOUDINOT stated the process of the business yesterday. He observed he had then the honor to be in the chair; he had read the bill very distinctly and deliberately, with proper pauses; he thought that the fullest opportunity had been offered for gentlemen to come forward with their objections; he was opposed to the recommitment, as it would, he feared, issue in a defeat of the bill, this session. He had one difficulty, however, respecting the unconstitutionality of the bill; this he hoped to have removed, and he hoped that a full discussion of its general principles would take place.

FEBRUARY 2, 1791.

On the question, "Shall the bill pass?" the following debate took place.

Mr. MADISON began with a general review of the advantages and disadvantages of banks. The former he stated to consist in, *First*. The aids they afford to merchants, who can thereby push their mercantile operations farther, with the same capital. *Second*. The aids to merchants in paying punctually, the customs. *Third*. Aids to the Government, in complying punctually with its engagements, when deficiencies and delays happen in the revenue. *Fourth*. In diminishing usury. *Fifth*. In saving the wear of gold and silver, kept in the vaults, and represented by notes. *Sixth*. In facilitating occasional remittances from different places where notes happen to circulate. The effect of the proposed bank in raising the value of stock, he thought, had been greatly overrated. It no doubt would raise that of the stock subscribed into the bank, but could have little effect on stock in general, as the interest on it would remain the same, and the quantity taken out of the market would be replaced by the bank stock.

The principal disadvantage consisted in, *First*. Banishing the precious metals, by substituting another medium to perform their office. This effect was inevitable. It was admitted by the most enlightened patrons of banks, particularly by Smith on the Wealth of Nations. The common answer to the objection was, that the money banished was only an exchange for something equally valuable, that would be imported in return. He admitted the weight of this observation, in general, but doubted whether, in the present habits of this country, the return would not be in articles of no permanent use to it.

*Second.* Exposing the public and individuals to all the evils of a run on the bank, which would be particularly calamitous in so great a country as this, and might happen from various causes, as false rumors, bad management of the institution, an unfavorable balance of trade, from short crops, &c. It was proper to be considered, also, that the most important of the advantages would be better obtained by several banks, properly distributed, than by a single one. The aids to commerce could only be afforded at, or very near, the seat of the bank. The same was true of aids to merchants in the payment of customs. Anticipations of the Government would, also, be most convenient at the different places where the interest of the debt was to be paid. The case in America was different from that in England; the interest there was all due at one place, and the genius of the monarchy favored the concentration of wealth and influence at the metropolis.

He thought the plan liable to other objections; it did not make so good a bargain for the public as was due to its interests. The charter to the Bank of England had been granted only for eleven years, and was paid for by a loan to the Government, on terms better than could be elsewhere got. Every renewal of the charter had, in like manner, been purchased; in some instances at a very high price. The same had been done by the banks of Genoa, Naples, and other like banks of circulation. The plan was unequal to the public creditors; it gave an undue preference to the holders of a particular denomination of the public debt; and to those at, and within reach of, the seat of Government. If the subscriptions should be rapid, the distant holders of paper would be excluded altogether.

In making these remarks on the merits of the bill, he had reserved to himself, he said, the right to deny the authority of Congress to pass it. He had entertained this opinion from the date of the constitution. His impressions might, perhaps, be the stronger, because he well recollected that a power to grant charters of incorporation had been proposed in the general convention, and rejected. Is the power of establishing an *incorporated bank* among the powers vested by the constitution, in the Legislature of the United States? This is the question to be examined.

After some general remarks on the limitations of all political power, he took notice of the peculiar manner in which the Federal Government is limited. It is not only a general grant out of which particular powers are excepted; it is a grant of particular powers, leaving the general mass in other hands. So it had been understood by its friends and its foes; and so it was to be interpreted.

As preliminaries to a right interpretation, he laid down the following rules:

An interpretation that destroys the very characteristic of the Government, cannot be just.

Where a meaning is clear, the consequences, whatever they may be, are to be admitted; where doubtful, it is fairly triable by its consequences.

In controverted cases, the meaning of the parties to the instrument, if to be collected by reasonable evidence, is a proper guide.

Contemporary and concurrent expositions are a reasonable evidence of the meaning of the parties.

In admitting or rejecting a constructive authority, not only the degree of its incidentality to an express authority is to be regarded, but the degree of its importance also; since on this will depend the probability or improbability of its being left to construction.

Reviewing the constitution with an eye to these positions, it was not possible to discover in it the power to incorporate a bank. The only clauses under which such power could be pretended, was, either,

*First.* The power to lay and collect taxes to pay the debts and provide for the common defence and general welfare; or,

*Second.* The power to borrow money on the credit of the United States; or,

*Third.* The powers to pass all laws necessary and proper to carry into execution those powers.



The bill did not come within the first power. It laid no tax to pay the debts, or provide for the general welfare. It laid no tax whatever. It was altogether foreign to the subject.

No argument could be drawn from the terms "common defence and general welfare." The power as to these general purposes was limited to acts laying taxes for them; and the general purposes themselves were limited and explained by the particular enumerations subjoined. To understand these terms in any sense that would justify the power in question, would give to Congress an unlimited power; would render nugatory the enumeration of particular powers; would supersede all the powers reserved to the State Governments. These terms are copied from the articles of confederation; had it ever been pretended that they were to be understood otherwise than as here explained? It had been said, that "general welfare" meant cases in which a general power might be exercised by Congress, without interfering with the power of the States; and that the establishment of a National Bank was of this sort. There were, he said, several answers to this novel doctrine.

*First.* The proposed bank would interfere, so as indirectly to defeat a State bank at the same place.

*Second.* It would directly interfere with the rights of States to *prohibit*, as well as to establish, banks, and the circulation of bank notes. He mentioned a law of Virginia, actually prohibiting the circulation of notes payable to bearer.

*Third.* Interference with the powers of the States was no constitutional criterion of the power of Congress. If the power was not given, Congress could not exercise it; if given, they might exercise it, although it should interfere with the laws, or even the constitution, of the States.

*Fourth.* If Congress could incorporate a bank, merely because the act would leave the States free to establish banks also, any other incorporation might be made by Congress. They could not incorporate companies of manufacturers, or companies for cutting canals, or even religious societies, leaving similar incorporations by the States, like State banks, to themselves; Congress might even establish religious teachers in every parish, and pay them out of the treasury of the United States, leaving other teachers unmolested in their functions. These inadmissible consequences condemned the controverted principle.

The case of the bank, established by the former Congress, had been cited as a precedent. This was known, he said, to have been the child of necessity. It never could be justified by the regular powers of the articles of confederation. Congress betrayed a consciousness of this, in recommending to the States to incorporate the bank also. They did not attempt to protect the bank notes, by penalties against counterfeiters. These were reserved wholly to the authority of the States.

The second clause to be examined is that which empowers Congress to borrow money.

Is this a bill to borrow money? It does not borrow a shilling. Is there any fair construction by which the bill can be deemed an exercise of the power to borrow money? The obvious meaning of the power to borrow money, is, that accepting from, and stipulating payments to, those who are *able* and *willing* to lend.

To say that the power to borrow involves the power of creating the ability, where there may be the will to lend, is not only establishing a dangerous principle, as will be immediately shown, but is as forced a construction, as to say, that it involves the power of compelling the will, where there may be the ability to lend.

The *third* clause is that which gives the power to pass all laws necessary and proper to execute the specified powers.

Whatever meaning this clause may have, none can be admitted that would give an unlimited discretion to Congress.



Its meaning must, according to the natural and obvious force of the terms and the context, be limited to means *necessary to the end*, and *incident to the nature*, of the specified powers.

The clause is, in fact, merely declaratory of what would have resulted, by unavoidable implication, as the appropriate, as it were, technical means of executing those powers. In this sense it had been explained, by the friends of the constitution, and ratified by the State conventions.

The essential characteristic of the Government, as composed of limited and enumerated powers, would be destroyed, if, instead of direct and incidental means, any means could be used, which, in the language of the preamble to the bill, might be conceived to be conducive to the successful conducting of the finances, or might be *conceived to tend to give facility* to the obtaining of loans. He urged an attention to the diffuse and ductile terms which had been found requisite to cover the stretch of power contained in the bill. He compared them with the terms *necessary and proper*, used in the constitution, and asked whether it was possible to view the two descriptions as synonymous, or the one as a fair and safe commentary on the other.

If, proceeded he, Congress, by virtue of the power to borrow, can create the means of lending, and, in pursuance of these means, can incorporate a bank, they may do any thing whatever creative of like means.

The East India Company has been a lender to the British Government, as well as the Bank, and the South Sea Company is a greater creditor than either. Congress may then incorporate similar companies in the United States, and that, too, not under the idea of regulating trade, but under that of borrowing money.

Private capitals are the chief resources for loans to the British Government. Whatever these may be conceived to favor the accumulation of capital, may be done by Congress. They may incorporate manufacturers. They may give monopolies in every branch of domestic industry.

If, again, Congress, by virtue of the power to borrow money, can create the ability to lend, they may, by virtue of the power to levy money, create the ability to pay it. The ability to pay taxes depends on the general wealth of the society, and this, on the general prosperity of agriculture, manufactures, and commerce. Congress may then give bounties, and make regulations on all these objects.

The States have, it is allowed on all hands, a concurrent right to lay and collect taxes. This power is secured to them, not by its being expressly reserved, but by its not being ceded by the constitution. The reasons for the bill cannot be admitted, because they would invalidate that right; why may it not be *conceived* by Congress, that a uniform and exclusive imposition of taxes would not, less than the proposed bank, be *conducive* to the successful conducting of the national finances, and *tend to give facility* to the obtaining of a revenue for the use of the Government?

The doctrine of implication is always a tender one. The danger of it has been felt in other Governments. The delicacy was felt in the adoption of our own; the danger may also be felt, if we do not keep close to our chartered authorities.

Mark the reasoning on which the validity of the bill depends. To borrow money is made the *end*, and the accumulation of capital *implied* as the *means*. The accumulation of capital is, then, the *end*, and a bank implied as the *means*. The bank is then the *end*, and a charter of incorporation, a monopoly, capital punishments, &c. implied as the *means*.

If implications, thus remote, and thus multiplied, can be linked together, a chain may be formed, that will reach every object of legislation, every object within the whole compass of political economy.

The latitude of interpretation required by the bill is condemned by the rule furnished by the constitution itself.

Congress have power "to regulate the value of money," yet it is expressly added, not left to be implied, that counterfeiters may be punished. They have the power "to declare war," to which armies are more incident than

incorporated banks to borrowing, yet it is expressly added, the power "to raise and support armies;" and to this again, the express power, "to make rules and regulations for the government of armies"—a like remark is applicable to the powers as to a navy.

The regulation and calling out of the militia are more appurtenant to war, than the proposed bank to borrowing; yet the former is not left to construction.

The very power to borrow money is a less remote implication from the power of war, than an incorporated monopoly bank from the power of borrowing—yet the power to borrow is not left to implication.

It is not pretended, that every insertion or omission in the constitution is the effect of systematic attention. This is not the character of any human work, particularly the work of a body of men. The example cited, with others that might be added, sufficiently inculcate, nevertheless, a rule of interpretation very different from that on which the bill rests. They condemn the exercise of any power, particularly a great and important power, which is not evidently and necessarily involved in an express power.

It cannot be denied that the power proposed to be exercised, is an important power.

As a charter of incorporation, the bill creates an artificial person, previously not existing in law. It confers important civil rights and attributes, which could not otherwise be claimed. It is, although not precisely similar, at least equivalent to the naturalization of an alien, by which certain new civil characters are acquired by him. Would Congress have had the power to naturalize, if it had not been expressly given?

In the power to make by-laws, the bill delegated a sort of legislative power, which is unquestionably an act of a high and important nature. He took notice of the only restraint on the by-laws, that they were not to be contrary to the law and the constitution of the bank, and asked, what law was intended? If the law of the United States, the scantiness of their code would give a power, never before given to a corporation, and obnoxious to the States, whose laws would then be superseded, not only by the laws of Congress, but by the by-laws of a corporation within their own jurisdiction. If the law intended was the law of the State, then the State might make laws that would destroy an institution of the United States.

The bill gives a power to purchase and hold lands: Congress could not purchase lands within a State, "without the consent of its Legislature." How could they delegate a power to others which they did not possess themselves?

It takes from our successors, who have equal rights with ourselves, and with the aid of experience will be more capable of deciding on the subject, an opportunity of exercising that right for an immoderate term.

It takes from our constituents the opportunity of deliberating on the untried measure, although their hands are also to be tied by it, for the same term.

It involves a monopoly which effects the equal rights of every citizen.

It leads to a penal regulation, perhaps capital punishment—one of the most solemn acts of sovereign authority.

From this view of the power of incorporation exercised in the bill, it never could be deemed an accessory or subaltern power, to be deduced by implication, as a means of executing another power. It was in its nature a distinct, and independent, and substantive prerogative, which, not being enumerated in the constitution, could never have been meant to be included in it, and, not being included, could never be rightfully exercised.

He had adverted to a distinction, which he said had not been sufficiently kept in view, between a power necessary and proper for the Government or Union, and a power necessary for executing the enumerated powers in the latter case; the powers included in each of the enumerated powers were not expressed, but to be drawn from the nature of each. In the former, the powers composing the Government were expressly enumerated. This constituted the peculiar nature of the Government; no power, therefore, not enumerated, could be inferred from the general nature of Government. Had the power of

making treaties, for example, been omitted, however necessary it might have been, the defect could only have been lamented, or supplied by an amendment of the constitution.

But the proposed bank could not even be called necessary to the Government; at most, it could be but convenient. Its uses to the Government could be supplied by keeping the taxes a little in advance; by loans from individuals; by the other banks over which the Government would have equal command, nay, greater, as it may grant or refuse to these the privilege, made a free and irrevocable gift to the proposed bank, of using their notes in the federal revenue.

He proceeded next to the contemporary expositions given to the constitution.

The defence against the charge founded on the want of a bill of rights, presupposed, he said, that the powers not given, were retained; and that those given were not to be extended by remote implication. On any other supposition, the power of Congress to abridge the freedom of the press or the rights of conscience, &c. could not have been disproved.

The explanations in the State conventions all turned on the same fundamental principle, and on the principle, that the terms necessary and proper, gave no additional powers to those enumerated. [Here he read sundry passages, from the debates of the Pennsylvania, Virginia, and North Carolina conventions, showing the ground on which the constitution had been vindicated by its principal advocates against a dangerous latitude of its powers, charged on it by its opponents.] He did not undertake to vouch for the accuracy or authenticity of the publications which he quoted. He thought it probable that the sentiments delivered might, in many instances, have been mistaken, or imperfectly noted; but the complexion of the whole, with what he himself, and many others must recollect, fully justified the use he had made of them.

The explanatory declarations and amendments accompanying the ratifications of the several States, formed a striking evidence, wearing the same complexion. He referred those who might doubt, to the several acts of ratification.

The explanatory amendments, proposed by Congress themselves, at least, would be good authority with them; all these annunciations of power proceeded on a rule of construction excluding the latitude now contended for. These explanations were the more to be respected, as they had not only been proposed by Congress, but ratified by nearly three-fourths of the States. He read several of the articles proposed, remarking particularly on the 11th and 12th; the former, as guarding against a latitude of interpretation—the latter as excluding every source of power not within the constitution itself.

With all this evidence of the sense in which the constitution was understood and adopted, will it not be said, if the bill should pass, that its adoption was brought about by one set of arguments, and that it is now administered under the influence of another set? And this reproach will have the keener sting, because it is applicable to so many individuals concerned in both the adoption and administration.

In fine, if the power were in the constitution, the immediate exercise of it cannot be essential; if not there, the exercise of it involves the guilt of usurpation, and establishes a precedent of interpretation, levelling all the barriers which limit the powers of the General Government and protect those of the State governments. If the point be doubtful only, respect for ourselves, who ought to shun the appearance of precipitancy and ambition; respect for our successors, who ought not lightly to be deprived of the opportunity of exercising the rights of legislation; respect for our constituents, who have had no opportunity of making known their sentiments, and who are themselves to be bound down to the measure for so long a period; all these considerations require that the irrevocable decision should at least be suspended until another session.

It appeared, on the whole, he concluded, that the power exercised by the bill was condemned by the silence of the constitution; was condemned by the

rule of interpretation, arising out of the constitution; was condemned by its tendency to destroy the main characteristic of the constitution; was condemned by the expositions of the friends of the constitution, whilst depending before the public; was condemned by the apparent intentions of the parties, which ratified the constitution; was condemned by the explanatory amendments proposed by Congress themselves to the constitution; and he hoped it would receive its final condemnation by the vote of this House.

FEBRUARY 3, 1791.

A motion was made by Mr. WILLIAMSON, and seconded, that the first section of the said bill be recommitted to a Committee of the Whole House, "for the purpose of altering the time or manner of subscribing; so that the holders of State securities, assumed to be paid by the United States, may be on a footing with the holders of other securities, formerly called national securities."

It passed in the negative. Ayes 21, noes 38.

Further debate arising on the main question,

MR. AMES said, little doubt remains with respect to the utility of banks. It seems to be conceded, within doors and without, that a public bank would be useful to trade, that it is almost essential to revenue, and that it is little short of indispensable necessity in time of public emergency. In countries whose forms of government left them free to choose, this institution has been adopted of choice; and in times of national danger and calamity, it has afforded such aid to Government as to make it appear, in the eyes of the People, a necessary means of self preservation. The subject, however intricate in its nature, is at least cleared from obscurity. It would not be difficult to establish its principles, and to deduce from its theory, such consequences, as would vindicate the policy of the measure. But why should we lose time to examine the theory, when it is in our power to resort to experience? After being tried by that test, the world has agreed in pronouncing the institution excellent. This new capital will invigorate trade and manufactures with new energy. It will furnish a medium for the collection of the revenues; and if Government should be pressed by a sudden necessity, it will afford reasonable and effectual aid. With all these, and many other pretensions, if it was now a question whether Congress should be vested with the power of establishing a bank, I trust that this House, and all America, would assent to the affirmative.

This, however, is not a question of expediency, but of duty. We are not at liberty to examine which of several modes of acting is entitled to the preference. But we are solemnly warned against acting at all. We are told, that the constitution will not authorize Congress to incorporate the subscribers to the bank. Let us examine the constitution; and if that forbids our proceeding, we must reject the bill; though we shall do it with deep regret, that such an opportunity to serve our country must be suffered to escape, for the want of a constitutional power to improve it.

The gentleman from Virginia considers the opposers of the bill as suffering disadvantage, because it was not debated as bills usually are, in committee of the whole house. He has prepared us to pronounce an eulogium upon his consistency, by informing us that he voted, in the old Congress, against the Bank of North America, on the ground of his present objection to the constitutionality. He has told us, that the meaning of the constitution is to be interpreted by contemporaneous testimony. He was a member of the convention which formed it, and of course, his opinion is entitled to peculiar weight. While we respect his former conduct, and admire the felicity of his situation, we cannot think he sustains disadvantage in the debate. Besides, he must have been prepared with objections to the constitutionality, because he tells us they are of long standing, and had grown into a settled habit of thinking. Why then did he suffer the bill to pass the committee in silence? The friends of the bill have more cause to complain of disadvantage: for, while he has had time to prepare his objections, they are obliged to reply to them without premeditation.

In making this reply, I am to perform a task for which my own mind had not admonished me to prepare. I never suspected that the objections I have heard stated, had existence. I consider them as discoveries; and had not the acute penetration of that gentleman brought them to light, I am sure that my own understanding would never have suggested them.

It seems strange, too, that, in our enlightened country, the public should have been involved in equal blindness. While the exercise of even the lawful powers of Government is disputed, and a jealous eye is fixed on its proceedings, not a whisper has been heard against its authority to establish a bank. Still, however unseasonably, the old alarm of public discontent is sounded in our ears.

Two questions occur: May Congress exercise any powers, which are not expressly given in the constitution, but may be deduced by a reasonable construction of that instrument? And, secondly, will such a construction warrant the establishment of the bank?

The doctrine, that powers may be implied which are not expressly vested in Congress, has long been a bugbear to many worthy persons. They apprehend that Congress, by putting constructions upon the constitution, will govern by its own arbitrary discretion; and therefore, that it ought to be bound to exercise the powers *expressly* given, and those only.

If Congress may not make laws conformably to the powers implied, though not expressed in the frame of government, it is rather late in the day to adopt it as a principle of conduct. A great part of our two years' labor is lost, and worse than lost to the public: for we have scarcely made a law, in which we have not exercised our discretion, with regard to the true intent of the constitution. Any words but those used in that instrument will be liable to a different interpretation. We may regulate trade—therefore we have taxed ships; erected light houses; made laws to govern seamen, &c.; because we say they are the incidents to that power. The most familiar and undisputed acts of legislation will shew, that we have adopted it as a safe rule of action, to legislate beyond the letter of the constitution.

He proceeded to enforce this idea by several considerations, and illustrated it by various examples. He said that the ingenuity of man was unequal to providing, especially, before hand, for all the contingencies that would happen. The constitution contains the principles which are to govern in making laws; but every law requires the application of the rule to the case in question. We may err in applying it; but we are to exercise our judgments, and, on every occasion, to decide according to an honest conviction of its true meaning.

The danger of implied powers does not arise from its assuming a new principle. We have not only practised it often, but we can scarcely proceed without it. Nor does the danger proceed so much from the extent of the power, as from its uncertainty. While the opposers of the bank exclaim against the exercise of this power by Congress, do they mark out the limits of the power which they will leave to us with more certainty than is done by the advocates of the bank? Their rules, by interpretation, by ex-temporary testimony, the debates of conventions, and the doctrine of substantive and auxiliary powers, will be found as obscure, and, of course, as formidable, as that which they condemn. They only set-up one construction against another.

The powers of Congress are dissected. We are obliged to decide the question according to truth. The negative, if false, is less safe than the affirmative, if true. Why, then, shall we be told that the negative is the safe side? Not exercising the powers we have, may be as pernicious as usurping those we have not. If the power to raise armies had not been expressed in the enumeration of the powers of Congress, it would be implied from other parts of the constitution. Suppose, however, it were omitted, and our country invaded—would a decision in Congress, against raising armies, be safer than the affirmative? The blood of our citizens would be shed, and shed unavenged. He thought, therefore, that there was too much prepossession with

some against the bank, and the debate ought to be considered more impartially; as the negative was neither more safe, certain, nor conformable to our duty, than the other side of the question. After all, the proof of the affirmative imposed a sufficient burden, as it is easier to raise objections than to remove them. Would any one doubt that Congress may lend money, that they may buy their debt in the market, or redeem their captives from Algiers? Yet no such power is expressly given, though it is irresistibly implied.

If, therefore, some interpretation of the constitution must be indulged, by what rules is it to be governed? The great end of every association of persons or States, is to effect the end of its institution. The matter in debate affords a good illustration. A corporation, as soon as it is created, has certain powers or qualities tacitly annexed to it, which tend to promote the end for which it was formed; such as, for example, its individuality, its powers to sue and be sued, and the perpetual succession of persons. Government is, itself, the highest kind of corporation; and, from the instant of its formation, it has, tacitly annexed to its being, various powers, which the individuals who framed it did not separately possess, but which are essential to its effecting the purposes for which it was framed; to declare, in detail, every thing that Government may do, could not be performed, and has never been attempted. It would be endless, useless, and dangerous; exceptions of what it may not do, are shorter and safer.

Congress may do what is necessary to the end for which the constitution was adopted, provided it is not repugnant to the natural rights of man, or to those which they have expressly reserved to themselves, or to the powers which are assigned to the States. This rule of interpretation seems to be safe, and not a very uncertain one, independently of the constitution itself. By that instrument certain powers are specially delegated, together with all powers necessary and proper to carry them into execution. That construction may be maintained to be a safe one, which promotes the good of the society and the ends for which the Government was adopted, without impairing the rights of any man, or the powers of any State.

This, he said, was remarkably true of the bank; no man could have cause to complain of it; the bills would not be forced upon any one. It is of the first utility to trade. Indeed, the intercourse, from State to State, can never be on a good footing without a bank, whose paper will circulate more extensively than that of any State bank. Whether the power to regulate trade, from State to State, will involve that of regulating inland bills of exchange and bank paper, as the instruments of the trade incident to the power, he would not pause to examine. That is an injury and wrong which violates the right of another. As the bank is founded on the free choice of those who make use of it, and is highly useful to the People and to Government, a liberal construction is natural and safe. This circumstance creates a presumption in favor of its conformity to the constitution. This presumption is enforced by the necessity of a bank to other Governments. The most orderly governments in Europe have banks. They are considered as indispensably necessary; these examples are not to be supposed to have been unnoticed. We are to pay the interest of our debt in thirteen places. Is it possible to transport the revenue from one end of the continent to the other? Nay, a week before the quarter's interest becomes due, transfers may be made which may require double the sum in Boston which was expected. To guard against this danger, an extra sum must be deposited at the different loan offices. This extra sum is not to be had; our revenue is barely equal to the interest due. This imposes an absolute necessity upon the Government to make use of a bank. The answer is, that the State banks will supply this aid. This is risking a good deal to the argument against the bank: for, will they admit the necessity and yet deny to the Government the lawful and only adequate means of providing for it? Ten of the States have no banks; those who have, may abolish theirs, or suffer their charters to expire. But the State banks are insufficient to the purpose; their paper has not a sufficient circulation; of course their capitals are small. Congress is allowed a complete legislative



power over its own finances, and yet, without the courtesy of the States, it cannot be exercised. This seems to be inconsistent.

If a war should suddenly break out, How is Congress to provide for it? perhaps Congress would not be sitting; great expenses would be incurred, and they must be instantly provided for. How is this to be done? By taxes? And will the enemy wait till they can be collected? By loans at home? Our citizens would employ their money in war speculations, and they are not, individually, in a condition to lend a sufficient sum in specie, or shall we send across the sea for loans? The disputes between England and Spain furnish an example; the aid of their banks, for several millions, was prompt and effectual. Or will you say that Congress might issue paper money? That power, ruinous and fallacious as it is, is deduced from implication: for it is not expressly given. A bank only can afford the necessary aid, in time of sudden emergency. If we have not the power to establish it, our social compact is incomplete; we want the means of self preservation.

I shall, perhaps, be told, that necessity is the tyrant's plea. I answer that it is a miserable one, when it is urged to palliate the violations of private right. Who suffers by this use of our authority? Not the *States*: for they are not warranted to establish a national bank. Not *individuals*: for they will be assisted in trade, and defended from danger by it.

Having endeavored to enforce his argument by noticing the uses of banks to trade, to revenue, to credit, and, in cases of exigency, he adverted to the authority of our own precedents. Our right to govern the Western territory is not disputed. It is a power which no State can exercise. It *must* be exercised, and, therefore, it resides in Congress. But how does Congress get this power? It is not expressly given in the constitution, but is derived from the nature of the case, or by implication from the power to regulate the property of the United States. If the power flows from the nature and necessity of the case, it may be demanded, is there not equal authority for the bank? If it is derived from the power of Congress to regulate the territory and other property of the United States, and to make all needful rules and regulations concerning it, and for the disposal of it, a strict construction would restrain Congress merely to the management and disposal of property, and of its own property; yet it is plain that more is intended. Congress has, accordingly, made rules, not only for governing its own property, but the property of the persons residing there. It has made rules which have no relation to property, at all, for punishing crimes. In short, it exercises all power in that territory. Nay, it has exercised the very power of creating a corporation. The Government of that territory is a corporation; and who will deny that Congress may lawfully establish a bank beyond the Ohio? It is fair to reason by analogy from a power which is unquestionable, to one which is the subject of debate.

He then asked whether it appeared, on this view of the subject, that the establishment of a national bank would be a violent misinterpretation of the constitution? He did not contend for an arbitrary, unlimited discretion in the Government to do every thing. He took occasion to protest against such a misconception of his argument. He had noticed the great marks by which the construction of the constitution, he conceived, must be guided and limited, and these, if not absolutely certain, were very far from being arbitrary or unsafe. It is for the House to judge whether the construction, which denies the power of Congress, is more definite and safe.

In proving that Congress may exercise powers, which are not *expressly* granted by the constitution, he had endeavored to establish such rules of interpretation, and had illustrated his ideas by such observations as would anticipate, in a considerable degree, the application of his principles to the point in question. Before he proceeded to the construction of the clauses of the constitution which apply to the argument, he observed that it would be proper to notice the qualities of a corporation, in order to take a more exact view of the controversy.

He adverted to the individuality and the perpetuity of a corporation, and that the property of the individual should not be liable for the debts of the

bank or company. These qualities are not more useful to the corporation than conformable to reason; but Government, it is said, cannot create these qualities. This is the marrow of the argument: for Congress may set up a bank of its own to be managed as public property, to issue notes which shall be received in all payments at the treasury, which shall be exchangeable into specie on demand, and which it shall be death to counterfeit. Such a bank would be less safe and less useful than one under the direction of private persons; yet the power to establish it is indisputable. If Congress has the authority to do this business illy, the question returns whether the powers of a corporation, which are essential to its being well done, may be annexed as incident to it. The bank of New York is not a corporation, yet its notes have credit. Congress may agree with that bank, or with a company of merchants, to take their notes, and to cause all payments to pass through their coffers. Every thing that the Government requires of, and will perform to the bank, may be lawfully done without giving them corporate powers; but to do it well, safely, and extensively, those powers are indispensable. This seems to bring the debate within a narrow compass.

This led him to consider whether the corporate powers are incidental to those which Congress may exercise by the constitution.

He entered into a discussion of the construction of that clause, which empowers Congress to regulate the territory and other property of the United States. The United States may hold property; may dispose of it; they may hold it in partnership; they may regulate the terms of the partnership. One condition may be that the common stock only, shall be liable for the debts of the partnership, and that any purchaser of a share shall become a partner. These are the chief qualities of a corporation. It seems that Congress, having the power to make all needful rules and regulations for the property of the United States, may establish a corporation to manage it; without which we have seen that the regulation cannot be either safe or useful. The United States will be the proprietor of one-tenth of the bank stock.

Congress may exercise exclusive legislation, in all cases whatsoever, over the ten miles square, and the places ceded by the States for arsenals, light houses, docks, &c.; of course, it may establish a bank in those places, with corporate powers. The bill has not restrained the bank to this city, and if it had, this dispute would lose a part of its solemnity. If, instead of principles, it concerns only places, what objection is there to the constitutional authority of Congress to fix the bank at Sandy Hook or Reedy Island, where we have light houses, and a right of exclusive legislation? A bank established there, or in the district located by law on the Potomac for the seat of government, could send its paper all over the Union. It is true that the places are not the most proper for a bank, but the authority to establish it in them, overthrows the argument which is deduced from the definite nature of the powers vested in Congress, and the dangerous tendency of the proposed construction of them.

The preamble of the constitution warrants this remark, that a bank is not repugnant to the spirit and essential objects of that instrument.

He then considered the power to borrow money. He said it was natural to understand that authority as it was actually exercised in Europe, which is to borrow of the bank. He observed, the power to borrow was of narrow use without the institution of a bank, and, in the most dangerous crisis of affairs, would be a dead letter.

After noticing the powers to lay and collect taxes, he adverted to the sweeping clause, as it is usually called, which empowers Congress to exercise all power necessary and proper to carry the enumerated powers into execution. He did not pretend that it gives any new power, but it established the doctrine of implied powers. He then demanded whether the power to incorporate a bank is not fairly relative, and a necessary incident to the entire power to regulate trade and revenue, and to provide for the public credit and defence?

He entered into a particular answer to several objections, and after recapitulating his argument, he concluded with observing, that we had felt the disad-

vantages of the confederation. We adopted the constitution, expecting to place the national affairs under a federal head. This is a power which Congress can only exercise. We may reason away the whole constitution. All nations have their times of adversity and danger. The neglect of providing against them in season, may be the cause of ruining the country.

FEBRUARY 4.

MR. SENOWICK said he would endeavor not to fatigue the patience of the House in the observations he should make on the important subject now under consideration. Without entering into a discussion on a scale so extensive as had been indulged by some gentlemen, he would dwell only on a few important principles, and such consequences as were conclusively deducible from them, which had made a strong impression on his mind.

The opposition to the bill had called into question the constitutional powers of Congress to establish the proposed corporation, and the utility of banks, neither of which, till within a few days, did he suppose was doubted by any intelligent person in America; and had charged the present system with holding out unequal terms against the Government, to those who should subscribe to the proposed stock.

With regard to the question of constitutionality, much had been said, which, in his opinion, had not an intimate relation to the subject now before the House. We have with great earnestness been warned of the danger of grasping power by construction and implication—and this warning has been given in very animated language by the gentleman from Virginia (Mr. M.) I do not wish to deprive that member of the honor of consistency: but I well remember the time when the energy of his reasoning impressed on the minds of a majority of this House, a conviction that the power of removal from offices holden at will, was, by construction and implication, vested by the constitution in the President—so there could be no pretence, that it was expressly granted to him.

He said he would observe, in answer to every thing that had been said of the danger of extending construction and implication, that the whole business of legislation was a practical construction of the powers of the Legislature, and that probably no instrument for the delegation of power could be drawn up with such precision and accuracy, as to leave nothing to *necessary implication*. That all the different Legislatures in the United States had, and *this*, in his opinion, indispensably must, construe the powers which had been granted to them; and they must assume such auxiliary powers as are necessarily implied in those which are expressly granted. In doing which it was no doubt their duty to be careful not to exceed those limits within which it was intended they should be restricted. By any other limitation, said he, the Government would be so shackled that it would be incapable of operating any of the effects which were intended by its institution.

He observed that, on almost all the great and important measures which come under the deliberation of Congress, there were immense difficulties to be surmounted. If we attempt, said he, to proceed in one direction, our ears are assailed with the exclamation of *the constitution is in danger*; if we attempt to attain our objects, by pursuing a different course, we are told the pass is guarded by the *stern spirit of democracy*. Did I concur with gentlemen in opinion on this subject, I should think it my duty to go home to my constituents, and honestly declare to them, that, by their jealousy of power, they had so restrained the operations of the Government, that we have not the means of effecting any of the great purposes for which the constitution was designed, without attempting what, perhaps, would be found impracticable to fix the general rules, the nice point within which Congress would be authorized to assume powers by construction and implication, and beyond which they may be justly considered usurpers.

He wished gentlemen to reflect, what effect a single principle, universally acknowledged, would have, in determining the question now under consideration. It is universally agreed, that *wherever a power is delegated for express purposes, all the known and usual means for the attainment of the ob-*

jects expressed, are conceded also. That, to decide what influence this acknowledged principle would have on the subject before the House, it would be necessary to reflect on the powers with which Congress are expressly invested. He then repeated, that Congress was authorized to lay and collect taxes, to borrow money on the credit of the United States, to raise and support armies, provide and maintain navies, to regulate foreign and domestic trade, to make all laws necessary and proper to carry these, and the other enumerated powers, into effect; they were, in fine, entrusted with the exercise of all those powers, which the People of America thought necessary to secure their fame and happiness against the attacks of internal violence and external invasion. And, in the exercise of these powers, the Legislature was authorized, agreeably to the principles which he had mentioned, to exercise all the *known and usual means, necessary and proper*, to effectuate the ends which are expressed. It might be of use to determine, with precision, what will be the meaning of the words *necessary* and *proper*. They do not restrict the power of the Legislature to enacting such laws only as are indispensable. Such a construction would be infinitely too narrow and limited; and to apply the meaning strictly, it would prove, perhaps, that all the laws which had been passed, were unconstitutional; for few, if any, of them, could be proved indispensable to the existence of the Government. The conduct of Congress had a construction on those words more rational and consistent with common sense, and the purposes for which the Government was instituted; which he conceived to be, that the laws should be established on such principles, and such an agency in the known and usual means employed in the execution of them, as to effect the ends expressed in the constitution, with the greatest possible degree of utility. If banks were among the known and usual means to effectuate or facilitate the ends which had been mentioned, to enable the Government, with the greatest ease and least burden to the People, to collect taxes, to borrow money, regulate commerce, raise and support armies, provide and maintain fleets; he thought the argument irrefragable and conclusive, to prove the constitutionality of the bill. Pursuing, further, the same idea, he asked, for what purpose were banks instituted and patronised by governments which were unrestricted by constitutional limits? Were they not employed as the means, and the most useful engines, to facilitate the collection of taxes, borrowing of money, and the other enumerated powers? Besides, he said, it was to be observed, that the constitution had expressly declared the ends of legislation; but, in almost every instance, had left the means to the honest and sober discretion of the Legislature. From the nature of things, this must ever be the case; for, otherwise, the constitution must contain, not only all the necessary laws under the existing circumstances of the community, but also a code so extensive, as to adapt itself to all future possible contingencies. By our constitution, Congress has power to lay and collect taxes; but every thing subordinate to that end, such as the objects, the means, the instruments, and the purposes, are left to the honest and sober discretion of the Legislature. The power of borrowing money was expressly granted; but all the known and usual means to that end, were left in silence. The same observations might, in truth, be made, respecting the other delegated powers. The great ends to be obtained, as means to effectuate the ultimate end—the public good and general welfare—are capable, under general terms of constitutional specification; but the subordinate means are so numerous, and capable of such infinite variation, as to render an enumeration impracticable, and must, therefore, be left to *construction and necessary implication*. He said, on this ground he was willing to leave the general argument—it was simple, intelligible, and he hoped would be thought conclusive.

He said, the constitutionality had been attacked from another quarter. It was said, we could not give commercial advantages to one port above another. The constitutional provision which had been quoted, was undoubtedly intended to prevent a partial regulation of commerce; if extended to the case under consideration, it would much more strongly prove, that Congress ought not to reside in any commercial city; for he verily believed, that the commercial

advantages of Philadelphia were incomparably greater, from the residence, than they could be supposed from the institution of a national bank. Indeed, it was his opinion, that, considering that this city had a bank, the capital of which was adequate to all her commercial exigencies, that she could enlarge that capital as her necessity should require, and that her bank will, if this bill shall be rejected, receive the benefit of national operation, that the measure will not advance her individual interest.

With regard to the utility of banks, he observed, that he would not attempt to display a knowledge of the subject, by repeating all he had read and heard in relation to it, nor fatigue the House by a detail of his own reflections and reasoning upon it; the causes were unnecessary to be explained; the effects had been such in all countries where banks had been instituted, as to produce an universal opinion, that they were alike useful to all the great purposes of government, and to promote the general happiness of the people. Nor was our own experience wanting to the same purpose. At a time when our public resources were almost annihilated, our credit prostrate, our Government imbecile, and its patronage inconsiderable, a bank, of small capital, was among the most operative causes which produced that first dawn that ultimately terminated in meridian splendor, by the establishment of peace, independence, and freedom. There were two circumstances which he would take the liberty to mention, which would render the banks of more importance in this country than in any where they are at present in use. The first, the commercial enterprise of our merchants, compared with the smallness of their capitals, which, as we had no large manufacturing capitals, whereby the precious metals would be retained in circulation, would frequently, by their exportation, greatly distress the people; the other, originated from a measure of the Government. Congress, from a laudable intention of accommodating their constituents, instituted treasuries in all the States: in some of these there would be, in the ordinary course of events, a deficiency, and in others, a redundancy. To keep them in equilibrio, by the transportation of the precious metals, or by the purchase of bills in the market, would not be only inconvenient and expensive, but would keep out of circulation a considerable part of the medium of the country.

Gentlemen, he said, had been pleased to consider the proposed terms as giving an undue advantage to the stockholders. He would leave this part of the subject to gentlemen who better understood it, only observing that, as Government must rely principally on merchants to obtain the proposed stock, it would be necessary to afford to them sufficient motives to withdraw from their commercial pursuits a part of their capitals.

He said he would attempt to answer some of those desultory objections which had been made; and, in doing this, he would omit to answer such as had been, in his opinion, already refuted. He observed that it had been said that granting charters of incorporation was a high prerogative of Government. He supposed it was not intended that it was, in the nature of things, too transcendent a power to be exercised by a national government; but that the exercise of it should only be in consequence of express delegation. Let this objection be compared with the conduct of Congress on another subject, in all respects, at least, as important. There is not, by the constitution, any power expressly delegated to mortgage our revenues; and yet, without any question being made on the constitutionality of the measure, we have mortgaged them to an immense amount. From whence, he asked, do we acquire the authority to exercise this power? Not from express grants, but being empowered to borrow money on the credit of the United States. We have very properly considered the pledged funds as among the *known* and *usual* means *necessary* and *proper* to be employed for the attainment of the end expressly delegated.

It had been said that the bill authorized the stockholders to purchase real estate. He considered the provision in the bill, in that regard, not a grant, but a limitation of power. Any man, or body of men, might, by the existing laws, purchase, in their private capacities, real estate to any amount. This right was limited as respects the proposed corporation.

It is said there are banks already, and, therefore, the proposed incorporation is unnecessary. To this he answered, that, if the Government should agree to receive all its demands in the paper of the existing banks, it would give to them every advantage which, in the opinion of gentlemen, renders the present system objectionable, without stipulating for any equivalent to the Government. But are, he asked, gentlemen serious in these observations? Do they believe the capitals of the present banks adequate to the exigencies of the nation? Do they believe that those banks possess any powers by which they can give a projectile force to their paper, so as to extend its circulation throughout the United States? Or, do they really wish to have the Government repose itself on institutions with which they have no intimate connexion, and over which they have no control?

Mr. Sedgwick concluded by observing, he was very confident a majority in that House could never be induced to believe that it was the intention of the constitution to deprive the Legislature of one of the most important and necessary means of executing the powers expressly delegated.

Mr. LAWRENCE said, the advocates of this measure stand in an unfortunate situation; for, being those who, in general, advocate national measures, they are charged with designs to extend the powers of the Government unduly. He, however, consoled himself with a conscious attachment to the constitution, and with the reflection that their conduct received the approbation of their constituents. If the present is contrasted with the former circumstances of this country, he said he doubted not the measures of this Government would continue to receive the approbation of the People of the United States.

The silence of the People on the subject now before the House, is strongly presumptive that the measure of a bank is not considered by them as unconstitutional. He then endeavored to show the constitutionality of the bank system. It must be conceded that there is nothing in the constitution expressly against it, and, therefore, we ought not to deduce a prohibition by construction. He adverted to the amendment proposed by Congress to the constitution, which says, "powers not delegated are retained." Here, he said, to prove that the bank is constitutional, the constructive interpretation, so much objected against, is recurred to.

The great objects of this Government are contained in the context of the constitution. He recapitulated those objects, and inferred that every power necessary to secure these, must necessarily follow: for, as to the great objects for which this Government was instituted, it is as full and complete, in all its parts, as any system that could be devised. A full, uncontrollable power to regulate the fiscal concerns of this Union, is a primary consideration in this Government; and, from hence, it clearly follows, that it must possess the power to make every possible arrangement conducive to that great object.

He then adverted to the late confederation, and pointed out its defects and incompetency; and hence, the old Congress called on the States to enact certain laws, which they had not power to enact. From hence he inferred, that, as the late confederation could not pass those laws, and to capacitate the Government of the United States, and form a more perfect union, the constitution under which we now act was formed. To suppose that this Government does not possess the powers for which the constitution was adopted, involves the grossest absurdity.

The deviations from charters, and the infringement of parchment rights, which had been justified on the principle of necessity, by the gentleman from Virginia, (Mr. MADISON) he said, had been on different principles from those now mentioned; the necessity, he contended, did not, at the time, exist; and the old Congress exercised the power, as they thought, by a fair construction of the confederation.

On constructions, he observed, it was to be lamented that they should ever be necessary; but they had been made; he instanced the power of remova-



bility, which had been an act of the three branches, and has not been complained of. It was, at least, as important a one as the present.

But the construction now proposed, he contended, was an easy and natural construction. Recurring to the collection law, he observed, that it was by construction that the receipts are ordered to be made in gold and silver.

With respect to creating a mass of capital, he supposed just and upright national measures would create a will to form this capital.

Adverting to the idea that Congress has not the power to establish companies with exclusive privileges, he observed that, by the amendments proposed by New Hampshire, Massachusetts, and New York, it plainly appears that these States considered that Congress does possess the power to establish such companies.

The constitution vests Congress with power to dispose of certain property in lands, and to make all useful rules and regulations for that purpose. Can its power be less over one species of its own property than over another?

With respect to giving preference to one State over another, he observed that, ten years hence, the seat of Government is to be on the Potomac, and, wherever the Government is finally settled, the place will enjoy superior advantages; but still the Government must go there, and the places not enjoying those advantages must be satisfied.

It is said we must not pass a problematical bill, which is liable to a super-  
vision by the judges of the supreme court; but, he conceived there was no force in this, as those judges are invested, by the constitution, with a power to pass their judgment on all laws that may be passed.

It is said that this law may interfere with the State Governments; but this may or may not be the case; and in all interferences of the kind, the particular interest of a State must give way to the general interest.

With respect to the corporation possessing the power of passing laws, this, he observed, is a power incidental to all corporations, and, in the instance of the Western territory, Congress have exercised the powers of instituting corporations, or bodies politic, to the greatest possible extent.

He defended the right of Congress to purchase and possess property, and quoted a passage in the constitution to show that they possess this right.

He then touched upon the expediency of banks, and of that proposed, in particular. The advantages generally derived from these institutions, he believed, applied peculiarly to this country. He noticed the objections, from banks banishing the specie; he said, the surplus only would be sent out of the country. But, is it given away? No, Sir, it is sent off for articles which are wanted, and which will enrich the country.

With respect to a run on the bank, he mentioned the circumstances under which those runs on the British banks, which had been noticed, took place, and showed there was no parallel that would ever take place in this country.

From several particulars, he showed that the objection which arose, from the United States not having made a good bargain by the system, was not well founded. He then mentioned the peculiar advantages which the United States will enjoy over common subscribers.

The objections from banks being already established in the several States, he obviated, by stating the mischiefs which might arise from an ignorance of the situation of those banks; and concluded by some remarks on the inexpediency of the General Government's having recourse to institutions of merely a local nature.

Mr. JACKSON said that, having been the person who brought forward the constitutional objections against the bill, he thought himself bound to notice the answers which had been offered to that objection. Newspaper authorities, he said, have been alluded to, and their silence on the subject considered as indicating the approbation of the People. He would meet the gentlemen on that ground, and, though he did not consider newspapers as an authority to be depended on, yet, if opinions, thro' that channel, were to be regarded, he

would refer gentlemen to those of this city. The expediency and constitutionality of the bill has been called in question by the newspapers of this city.

The latitude contended for in construing the constitution on this occasion, he reprobated very fully. If the sweeping clause, as it is called, extends to vesting Congress with such powers, and *necessary* and *proper* means are an indispensable implication, in the sense advanced by the advocates of the bill, we shall soon be in possession of all possible powers, and the charter under which we sit will be nothing but a name.

This bill will essentially interfere with the rights of the separate States, for it is not denied that they possess the power of instituting banks; but the proposed corporation will eclipse the Bank of North America, and contravene the interests of individuals concerned in it.

He then noticed the several arguments drawn from the doctrine of implication; the right to incorporate a national bank has been deduced from the power to raise armies; but he presumed it would not be contended that this is a bill to provide for the national defence. Nor could such a power, in his opinion, be derived from the right to borrow money. It has been asked what the United States could do with the surplus of their revenue, without the convenience of a bank, in which to deposit it with advantage? For his part, though he wished to anticipate pleasing occurrences, he did not look forward to the time when the General Government would have this superabundance at its disposal.

The right of Congress to purchase and hold lands has been urged, to prove that they can transfer this power; but the General Government is expressly restricted in the exercise of this power; the consent of the particular State to the purchase, for particular purposes only, is required; these purposes are designated, such as building light houses, erecting arsenals, &c.

It has been said that banks may exist without a charter, but that this incorporation is necessary, in order that it may have a hold on the Government. Mr. Jackson strongly reprobated this idea; he was, he said, astonished to hear such a declaration, and hoped that such ideas would prevent a majority of the House from passing a bill that would thus establish a perpetual monopoly. We have, said he, I believe, a perpetual debt; I hope we shall not make a perpetual corporation. What was it that drove our forefathers to this country? Was it not the ecclesiastical corporations, and perpetual monopolies of England and Scotland? Shall we suffer the same evils to exist in this country, instead of taking every possible method to encourage the increase of emigrants to settle among us? For, if we establish the precedent now before us, there is no saying where it shall stop.

The power to regulate trade is said to involve this, as a necessary means; but the powers consequent on this express power, are specified: such as regulating light houses, ships, harbors, &c. It has been said, that Congress has borrowed money; this shews that there is no necessity of instituting any new bank, those already established having been found sufficient for the purpose. He denied the right of Congress to establish banks at the permanent seat of Government, or on those sand heaps mentioned yesterday: for, if they should, they could not force the circulation of their paper one inch beyond the limits of those places. But, it is said, if Congress can establish banks in those situations, the question becomes a question of place, and not of principle; from hence, it is inferred that the power may be exercised in any other part of the United States; this appeared to him to form a very dangerous construction of the powers vested in the General Government.

Adverting to the powers in Congress, in respect to the finances of the Union, he observed that those powers did not warrant the adoption of whatever measures they thought proper; the constitution has restricted the exercise of those fiscal powers; Congress cannot lay a poll tax, nor impose duties on exports, and yet these undoubtedly relate to the finances.

The powers exercised in respect to the Western territory, he observed, had reference to property already belonging to the United States; it does not refer to property to be purchased, nor does it authorize the purchase of any

additional property; besides, the powers are express and definite, and the exercise of them, in making needful rules and regulations in the government of that territory, does not interfere with the rights of the respective States.

Mr. Jackson then denied the necessity of the proposed institution, and, noticing the observation of Mr. Ames, that it was dangerous, on matters of importance, not to give an opinion, observed, that he could conceive of no danger that would result from postponing that construction of the constitution now contended for, to some future Congress, who, when the necessity of a bank institution shall be apparent, will be as competent to the decision as the present House. Alluding to the frequent representations of the flourishing situation of the country, he inferred that this shows that the necessity of the proposed institution does not exist at the present time; why should we then be anticipating for future generations? State banks he considered preferable to a national bank, as counterfeits can be detected in the States; but, if you establish a national bank, the checks will be found only in the city of Philadelphia or Conogochegue. He then passed an eulogium on the Bank of Pennsylvania; the stockholders, said he, are not speculators; they have the solid coin deposited in their vaults.

He adverted to the preamble and context of the constitution, and asserted that this context is to be interpreted by the general powers contained in the instrument. Noticing the advantages it had been said would accrue to the United States from the bank, he asked, is the United States going to commence stockjobbers? The "general welfare" are the two words which are to involve and justify the assumption of every power. But what is this general welfare? It is the welfare of Philadelphia, New York, and Boston: for, as to the States of Georgia and New Hampshire, they may as well be out of the Union, as to any advantages they will receive from the institution. He reprobated the idea of the United States deriving any emolument from the bank, and, more especially, he reprobated the influence which it was designed the Government should enjoy by it. He said, the banks of Venice and Amsterdam were founded upon different principles. In the famous bank of Venice, the Government holds no shares, and yet has at command 5,000,000 ducats; but the United States were to be immediately concerned in theirs, and to become stockjobbers. The Bank of Amsterdam was under the entire direction of the burgomasters, who had alone the power of making by-laws for its regulation; this power, by the bill, was given up by Government, very improperly he thought, and was to be exercised by the stockholders. The French bank, he added, was first established on proper principles, and flourished; but afterwards became a royal bank; much paper was introduced, which destroyed the establishment, and was near oversetting the Government.

The facility of borrowing, he deprecated; it will, said he, involve the Union in irretrievable debts; the facility of borrowing is but another name for anticipation, which will, in its effects, deprive the Government of the power to control its revenues—they will be mortgaged to the creditors of the Government. Let us beware of following the example of Great Britain in this respect. He said, undue advantages had been taken in precipitating the measure, and the reasonable proposition respecting the State debts is not admitted; this, I consider, as partial and unjust. A gentleman from Virginia has well observed, that we appear to be divided by a geographical line—not a gentleman, scarcely, to the eastward of a certain line, is opposed to the bank, and where is the gentleman to the southward, that is for it? This ideal line will have a tendency to establish a real difference. He added a few more observations, and concluded by urging a postponement, if any regard was to be had to the tranquillity of the Union.

Mr. Boudinot said he meant to confine himself to two or three great points, on which the whole argument appeared to him to rest. He considered the objections to the bill as pointed against its constitutionality and expediency. It was essential, he observed, that every member should be satisfied, as far as possible, of the first: for, however expedient it might be, if it was clearly

unconstitutional, the bill should never receive the sanction of the Representatives of the People. He would, in a great measure, refer for its expediency, if constitutional, to the experience of every gentleman of the House, as the most satisfactory proof on that head, and he conceived there was no need of much argument in support of its decision. The first question, then, was, is Congress vested with a power to grant the privileges contained in the bill? This is denied, and ought to be proved. In order to show in what manner this subject had struck his mind, he first laid down these principles:

Whatever power is exercised by Congress must be drawn from the constitution; either from the express words or apparent meaning, or from a necessary implication, arising from the obvious intent of the framers.

That whatever powers, (vested heretofore in any individual State) not granted by this instrument, are still in the people of such State, and cannot be exercised by Congress; that whatever implication destroys the principle of the constitution, ought to be rejected; that, in construing an instrument, the different parts ought to be so expounded as to give meaning to every part which will admit of it.

Having stated these preliminaries, Mr. Boudinot proceeded to inquire what were the powers attempted to be exercised by this bill: for, until the powers were known, the question of constitutionality could not be determined.

By it, Congress was about to exercise the power of incorporating certain individuals, thereby establishing a banking company "*for successfully conducting the finances of the country.*"

The next inquiry is, What rights will this company enjoy in this new character, that they do not enjoy independent of it? Every individual citizen had an undoubted right to purchase and hold property, both real and personal, to any amount whatever; to dispose of this property to whom, and on what terms, he pleased; to lend his money, on legal interest, to any person willing to take the same; and, indeed, to exercise the power over his property, that was contained in the bill. Individual citizens, then, having these powers, might also associate together in company of co-partnership, and, jointly, exercising the same rights, might hold lands in joint-tenancy, or as tenants in common, to any amount whatever; might put any sum of money into joint stock; might issue their notes to any amount; might make by-laws, or articles of co partnership for their own government; and, finally, might set up a bank to any amount, however great, and no authority in the Government could legally interfere with the exercise of these rights. The great difference between this private association of citizens, in their individual capacities, and the company to be created in this bill, and which is held up in so dangerous a light, is, that the one exposes the company to the necessity of using each individual's name in all their transactions; suits must be brought in all their names; deeds must be taken and given in like manner; each one, in his private estate, is liable for the default of the rest; the death of a member dissolved the partnership, as to him; and, for want of a political existence, the union may be dissolved by any part of its members, and, of course, many obvious inconveniences must be suffered, merely of an official kind. By the bill, these difficulties are to be removed, by conveying three qualities to them:

*First.* Individuality, or constituting a number of citizens into one legal artificial body, capable, by a fictitious name, of exercising the rights of an individual.

*Second.* Irresponsibility in their individual capacity, not being answerable beyond their joint capital.

*Third.* Durability, or a political existence for a certain time, not to be effected by the natural death of its members.

These are the whole of the powers exercised and the rights conveyed. It is true these are convenient and advantageous to the company, but of trifling importance when considered as a right or power exercised by a national legislature, for the benefit of the government. Can it be of any importance to the State, whether the number of its citizens are considered, in legal contemplation, as united in an individual capacity, or separately, as so many individuals,

especially if the public weal is thereby promoted? By their irresponsibility being known, every person dealing with them gives his tacit consent to the principle, and it becomes part of the contract; and, by political duration, their powers and abilities are limited, and their rights restricted, so as to prevent any danger that might arise from the exercise of their joint natural right, not only as to the amount of their capital, but as to the by-laws they may make for their government.

A private bank could make contracts with the Government, and the Government with them, to all intents and purposes as great and important as a public bank, would their capital admit of it; though they would not possess such qualities as to justify the confidence of Government, by depending on them in a time of danger and necessity. This might put it in the power of any individual to injure the community in its essential interests, by withdrawing the capital when most needed. To prevent this, and many other inconveniences, it is necessary that a bank, for the purposes of Government, should be a legally artificial body, possessing the three qualities above mentioned.

Mr. Boudinot then took up the constitution, to see if this simple power was not fairly to be drawn, by necessary implication, from those vested by this instrument in the legislative authority of the United States. It sets out, said he, in the preamble, by declaring the general purposes for which it was formed: "*The ensurance of domestic tranquillity, provision for the common defence, and promotion of the general welfare.*" These are the prominent features of this instrument, and are confirmed and enlarged by the specific grants in the body of it, where the principles on which the Legislature should rest their after proceedings are more fully laid down, and the division of power to be exercised by the general and particular governments distinctly marked out. By the eighth section, Congress has power "*to levy taxes, pay debts, provide for the common defence and general welfare, declare war, raise and support armies, provide for and maintain a navy;*" and, as a means to accomplish these important ends, "*to borrow money;*" and, finally, "*to make all laws necessary and proper for the carrying into execution the foregoing powers.*" Let us then, inquire, is the constituting a public bank necessary to these important and essential ends of government? If so, the right to exercise the power must be in the supreme Legislature.

He argued, the power was not contained in express words, but it was necessarily deduced, by the strongest and most decisive implication, because, he contended, it was a *necessary means to attain a necessary end*. Necessary implication had led Congress, under the power to lay and collect imposts and taxes, to establish officers for the collection, to inflict penalties against those who should defraud the revenue, to oblige vessels to enter one port and deliver at another, subjected them to various ceremonies in their proceedings, for which the owners were made to pay; and he conceived it was not so great an exertion of power, by implication, to incorporate a company for the purpose of a bank. He also deduced the right from the power of paying debts, raising armies, providing for the general welfare and common defence, for which they were to borrow money. All these necessarily include the right of using every proper and necessary means to accomplish these necessary ends. It was certain, he said, that money must be raised from the People. This could not be done in sums sufficient for the exigencies of Government in a country where the precious metals were so scarce as in this. The people, in general, are poor, when compared with European nations; they have a wilderness to subdue and cultivate; taxes must be laid with prudence, and collected with discretion. The anticipation of the revenues, therefore, by borrowing money, becomes absolutely necessary. If so, then, as the constitution had not specified the manner of borrowing, or from whom the loan was to be obtained, the Supreme Legislature of the Union were at liberty, it was their duty, to fix upon the best mode of effecting the purposes of their appointment. For it was a sound principle, that, when a general power is granted, and the means are not specified, they are left to the discretion of those in whom the trust is reposed, provided they do not adopt means expressly forbidden. The public defence or

general welfare, rested on the annual supplies from uncertain revenues, would expose the very existence of the community. It is the duty, then, of those to whom the people have committed this power, to prepare, in time of peace, for the necessary defence in a time of war. The United States are now, happily, in a state of peace; but it was impossible for any one to say how long it would continue. By prudent management, it might long be preserved; but this prudence consisted in being always in a state of preparation to defend our country.

The constitution contemplates this very duty, by authorizing Congress to provide for the common defence, by borrowing money. Why borrow money? Are not the annual revenues sufficient? It might be so, if nothing was attended to but internal wants; but the common defence and general welfare loudly call for that provision which will produce a constant guard on external enemies and internal insurrections. To this necessary end, it becomes Congress to provide that the necessary means may be always at hand, by being able to arm their citizens, and provide for their support while engaged in the defence of their common country. This can be done only by borrowing money, which is usually of citizens or foreigners; if of the first, it must be from individuals or from private banks. Will it be prudent to trust to either? Loans from individuals were attempted during the war, when patriotism produced a will in some lenders, and others were glad to get rid of a depreciating paper currency, almost on any terms whatever.

But, even these loans, arising from this paper medium, with which the market was glutted, were altogether insufficient; and, by one change of circumstances, every hope was precluded of being any ways successful in procuring money from that source. The circumstances of individuals, too, in this country, are such, when compared with the wants of a nation, as render the source too vague and uncertain to rely upon, and it would be a most improvident execution of the powers granted for the express purpose of the common defence and general welfare. Private banks were almost as inadequate to the object, and, for reasons already given, were neither to be depended on, for will or capital, as to the supply for the principal wants of Government. They are generally established for commercial purposes, and on capitals not always sufficient for them. If they should be prevailed upon, at any time, to attempt to supply the demands of a nation at war, it must be from a general combination of their whole stocks, to the destruction of the original designs of their several institutions. This ought not to be expected: for, as far as it goes to the depression of the mercantile interest, so far it is injurious to the Government; besides, a dependence upon such a combination would be in-politic, both from its slowness and uncertainty. The votes of a few individuals, affected by local, selfish, or adverse politics, might endanger the whole people. Such a dependence ought not to be attributed to the wise framers of the constitution, neither does the language warrant it. But, foreign loans have been mentioned as a proper source for this purpose. The imprudence of placing the common defence of a nation on the will of those who have no interest in its welfare, is a good answer to this observation. Would it be prudent to trust a foreigner, perhaps a rival, if not an enemy, with your supply of what has emphatically been called the sinews of war? Would it not expose us to exorbitant demands, and often a refusal? Many adventitious circumstances of a war, increasing demands from other quarters, scarcity of coin, and difficulty of communication, as well as the intrigues of courts, all loudly oppose the measure, as contrary to the spirit and meaning of a provision for the common defence and general welfare. The only resort, then, he conceived, was a timely provision to secure institutions at home, from which loans might be obtained at all times, on moderate terms, and to such amount as the necessity of the State might require. But, gentlemen say that the constitution does not *expressly* warrant the establishment of such a corporation. If by *expressly*, express words are meant, it is agreed that there are no express words; and this is the case with most of the powers exercised by Congress: for, if the doctrine of necessary implication is rejected, he did not see what the supreme



Legislature of the Union could do in that character. If this power is not clearly given in the constitution, by necessary implication, there is a necessary end proposed and directed, while the common and usual necessary means to attain that end are refused, or, at least, not granted.

Mr. Boudinot was firmly of opinion that a National Bank was necessary; the means, without which the end could not be obtained. Theory proved it so in his opinion, and the experience of the Union, in a day of distress, had fully confirmed the theory. The struggles of the friends of freedom, during the late contest, had nearly been rendered abortive, for want of this aid. That danger which was then so hardly avoided, became a solemn memento to this House, to provide against a similar case of necessity. This was the time to do it with advantage, being in such profound peace. He had not heard any argument by which it was proved that either individuals, private banks, or foreigners, could with safety and propriety be depended on as the efficient and necessary means for so important a purpose. Although money was at present plenty in Europe, and might be borrowed on easy terms, it might not be so to-morrow, in case a war should break out and our necessities become pressing. He again enumerated the harmless qualities with which it was proposed to vest the bank corporation, by the bill on the table, for the important purposes of the common defence and general welfare. Gentlemen had not yet pointed out any danger arising to the community, neither did he think it was possible that any could ever be mentioned, equal to those of suffering the Government to depend upon individuals or private banks for loans, in a day of distress.

But it was said that this bill gave the corporation a right to hold real property in a State, which Congress had no power to do. The terms of the bill are misapprehended; this is a right which, it has been shown, attaches to the citizens individually, or in their associated capacity; the bill therefore does no more than to vest a number with an artificial single capacity, under a fictitious name, and by that name to hold lands, make *by-laws*, &c. &c. all which they might have done before, as citizens, in a collective capacity. So far from giving a new power, their original individual rights are limited for the public safety, as to the amount of their stock and the duration of their existence.

Mr. Boudinot then proceeded to cite numerous instances of powers exercised by Congress during the last two years, deduced under the constitution by necessary implication, to show the utter impossibility of carrying any one provision of that authority into execution, for the benefit of the people, without this reasonable latitude of construction. He also adverted to some instances of the like conduct, under the former confederation. It had been urged, that the new Congress had no rights or powers but what had been vested in, and given to them by, the individual States, and therefore they could not accept a cession from Great Britain, by the treaty of peace, of the lands extending to the Lake of the Woods, because not before included in any individual State. Every member was soon convinced of the absurdity of this argument, and by a necessary implication established the power of the confederated Legislature. During the war, the commander-in-chief gave a passport to a British officer, to transmit clothing to the British prisoners at Lancaster. He accordingly conveyed a very large quantity of British goods into Pennsylvania, for that purpose, which, being directly against an express law of that State, they were seized and condemned by the proper magistrate. On a complaint to the Legislature of the State, they referred the same to their judicial officers, upon whose report, (that Congress being vested with the power of declaring war, the right of giving safe passports to an enemy, was necessarily implied, which therefore was duly exercised by their commander-in-chief, though no express power was given to him for that purpose,) the Legislature declared their law, directing the condemnation of the goods, void, *ab-initio*, and the judgment of condemnation had no effect.

This was also the rule that governed this House, with regard to the removability of officers by the President, and the authority given to a council

to legislate for the Western territory. In fine, he concluded that it was universally understood, that, whenever a general power was given, especially to a supreme Legislature, every necessary means to carry it into execution were necessarily included. This was the common sense of mankind, without which it would require a multitude of volumes to contain the original powers of an increasing Government, that must necessarily be changing its relative situation every year or two.

If power was given to raise an army, the making provision for all the necessary supplies and incident charges were included. If a navy was to be formed, the manning and supplying the war-like stores are necessarily understood. If a power is given to borrow money, a right to mortgage or pledge the public property to secure the re-payment, is understood to be vested in the borrower. Take up the present statute book, and every page will afford evidence of this doctrine. Examine the law, with regard to crimes and punishments: under the power of establishing courts, we have implied the power of punishing the stealing and falsifying the records, and ascertained the punishment of perjury, bribery, and extortion. Under the power of regulating trade, we have accepted cessions of real estate, and built light houses, piers, &c. All this is under the doctrine of necessary implication for the public good, and in cases not so strong as the present; and on the exercise of which no gentleman thought proper to start this objection.

This construction appears so natural and necessary, that the good sense of every gentleman on the floor has hitherto led him to proceed on this principle, ever since we began to legislate. What principle of the constitution does it destroy? It gives nothing that can affect the right of any State or citizen. Indeed, it has been said, that it is exercising a high act of power. He thought it had been shown to be rather of the inferior kind. But allow the position, and who so proper, as the Legislature of the whole Union, to exercise such a power, for the general welfare? It has also been said, that this power is a mere conveniency, for the purpose of fiscal transactions, but not necessary to attain the ends proposed in the constitution. This is denied, and at best is a mere matter of opinion, and must be left to the discretion of the Legislature to determine.

Mr. Boudinot said, he should now conclude what he had to say, had not an honorable gentleman (Mr. Jackson) brought forward the observations of the author of the federalist, 2d volume, pages 72, 73, and 74, to show a different contemporaneous exposition of the constitution, and charge the author, who, he alleged, was said to be also the author of the present plan before the House, with a change of sentiment. As this gentleman is not here to speak for himself, he ought to have the next best chance, by having what he then wrote candidly attended to, especially as gentlemen allow him to be good authority. Mr. Boudinot read only part of the 73d page referred to by Mr. Jackson, in these words: Had the convention attempted a positive enumeration of the powers "necessary and proper for carrying their other powers into effect, the attempt would have involved a complete digest of laws on every subject to which the constitution relates: accommodated, too, not only to the existing state of things, but to all the possible changes which futurity may produce: for, in every new application of general power, the *particular powers* which are the means of attaining the general power, must always necessarily vary with that object, and be often properly varied, whilst the object remains the same." How these sentiments can be said to be a different contemporaneous exposition, must be left to the House to determine. Mr. Boudinot then begged the indulgence of the House to hear the same gentleman, when arguing expressly on that part of the constitution now under consideration; and then read the pages 144, 5, and 6, of the first volume of the Federalist, which were too long to be inserted. He declared that, in his opinion, it was impracticable to put together language in the same length, that could more forcibly and pointedly elucidate and prove the construction contended for, in support of the bill on the table. There remained yet but two objections, to which Mr. Boudinot would detain the House any longer.

The Gentleman from Georgia (Mr. Jackson) had charged the measure with establishing the commercial interest, to the great injury of the agricultural. If this was true, he never would agree to it, for he considered the agricultural interest, in America, as its great and sure dependence. Mr. Boudinot confessed that, so far from seeing these measures in this point of light, he could not bring his mind to comprehend how the commercial interests of a country could be promoted without greatly advancing the interests of agriculture. Will the farmer have any temptation to labor, if the surplus of what he raises, beyond his domestic consumption, is to perish in his barn, for want of a market? Can a market be obtained without the merchants? If commerce flourishes, the merchants increase, and, of course, the demand for the produce of the land; but, if the mercantile interests fail, there is none to export the surplus produced by agriculture. If the farmer should undertake to export his own produce, he could not give his whole attention to his affairs; or, if the merchant should attempt to raise the grain he wanted, he could not carry on his merchandise; the one interest depends on the other; a separation destroys both.

But the incapacity of the bank to extend its influence to the extremes of the Union, has been argued, from the gentleman never having seen a note of the present Bank of North America in Georgia; he therefore concludes that bank has never been of any service to her agricultural interests. Mr. Boudinot said that he drew very different conclusions from this fact; he supposed that, by means of the bank, the traders with Georgia had been enabled to send her the precious metals, while the bank paper had answered their purposes nearer home, where they circulated with undoubted credit. He instanced a case of a Philadelphia merchant, who was possessed of £100 in gold, and £100 in credit, at the bank; the merchant wanted £100 worth of rice, of a Georgia planter, and the like value of flour, of a Pennsylvania farmer. When he purchased the one of the Georgian, he could safely pay him the whole in gold, while he found the Pennsylvanian would as readily receive the bank paper for his flour. But had there been no bank, he could have purchased but £50 worth of each, and the Georgian and Pennsylvanian both have gone without a market for the residue. In short, the whole Union might be likened to the body and limbs; you cannot aid and comfort one, but the other must be likewise benefitted.

He said it was, however, difficult and impracticable to show, that every measure adopted by the Government should have an effect perfectly equal, over so extensive a territory as that of the United States; it was sufficient, if, upon the whole, the measures of Government, taken altogether, produced the desired equality.

The last objection was, that, by adopting this bill, we exposed the measure to be considered and defeated by the judiciary of the United States, who might adjudge it to be contrary to the constitution, and thereby void, and not lend their aid to carry it into execution. This, he alleged, gave him no uneasiness. He was so far from controverting this right in the judiciary, that it was his boast and his confidence. It led him, he said, to greater decision on all subjects of a constitutional nature, when he reflected that, if from inattention, want of precision, or any other defect, he should do wrong, there was a power in the Government which could constitutionally prevent the operation of such wrong measure from affecting his constituents. He was legislating for a nation, and for thousands unborn, and it was the glory of the constitution that there was a remedy, even for the failures of the supreme legislature itself.

Upon the whole, then, he said, that, on taking the power in question in any point of view, and giving the constitution the fullest consideration, under the advantages of having the objections placed in the strongest point of light by the great abilities of the gentlemen in the opposition, he was clearly in favor of the bill; as to its expediency, there could be little doubt on the minds of any gentleman, and unless more conclusive arguments could be adduced to show its unconstitutionality, he should, in the end, vote for the passing of the bill.

FEBRUARY 5.

Mr. SMITH, of South Carolina, observed, that he considered it his duty to offer the reasons which should influence him in giving his vote on this occasion. He had wished amendments to the bill, as some parts of it, he confessed, did not perfectly please him, but his wishes having been overruled, the question now is, whether the bill shall pass? Though he came from the Southward of the Potomac, the principle of the bill met his approbation. It would be a deplorable thing, said he, if this Government should enact a law subversive of the constitution, or that so enlightened a body as the Senate of the United States should, by so great a majority as were in favor of this bill, pass a law so hostile to the liberties of this country, as the opposition to this measure have suggested the bank system to be; and it would be very extraordinary if an officer of this Government, who has produced a performance explanatory of the constitution, of such celebrity as to be resorted to as an authority, should be so inconsistent with himself, as to propose a law entirely subversive of the principles laid down in his able defence of the constitution.

He then adverted to the objections drawn from that article of the constitution, that no preference shall be given to one port over another; he showed that the clause was inferred for a particular purpose, and could not be cited as a rule not to be deviated from, as a preference was, and must be, necessarily, given to one port over another. He produced numerous instances in point: in consequence of various clauses in the revenue laws, general regulations sometimes operate partially; and commercial arrangements, apparently unequal, produce the good of the community at large.

In reference to construing the constitution, he observed that the present moment, when the powers of the Government were assailed from various quarters, he conceived the most improper to contract those powers.

The right to construe the constitution, he argued from the principles advanced by Mr. Madison, in the debate on the power of removability, and read sundry observations from Lloyd's Register, made by that gentleman, corroborative of this sentiment. Those arguments, he conceived, applied very aptly to the present subject.

Matters of a fiscal nature necessarily devolve on the General Government, and he urged, that every power resulting from the acknowledged right of Congress to control the finances of this country, must be as necessarily implied, as in the case of the power of removability.

He then alluded to the expediency of a national bank. The Secretary gave notice, in his first report, that this plan was in contemplation. Nothing was ever read with greater avidity, and, though it is now more than a year since this intimation was given, yet, no objections have been offered against it, either by the States, or by individuals; even the State of North Carolina has not mentioned it. [Here Mr. BLOODWORTH (if he was not misunderstood) informed Mr. Smith that the report had not been seen by the Legislature of North Carolina.] Mr. Smith said he was sorry for it; and then proceeded to notice some partial quotations made by Mr. Jackson, from Dr. Smith's *Wealth of Nations*, against bank systems. He said he could have wished the gentleman had been more copious in his quotations from that author; if he had, he would have found that that author has fully demonstrated their utility.

He noticed the division of opinions on the subject of a national bank, in the city of Philadelphia; he supposed ideas of personal advantage induced these opposing sentiments; he, however, thought this subject should be taken up altogether on general principles, and, even if its immediate influence should not extend to the extremes of the Union, if the establishment promises a general preponderating advantage, local considerations must be considered in a secondary point of view. The principal inquiry is, will the institution facilitate the management of the finances? This, he thought, had been made apparent. This is the opinion of the Secretary of the Treasury, after due and mature consideration of the subject. He certainly enjoys the best means for

forming an opinion; he is at the head of the fiscal department, and deservedly enjoys the public confidence; very little has been offered to disprove his sentiments on this part of the question, and the inexpediency of the measure should be clearly proved before the plan is rejected: for an officer who deservedly enjoys the public confidence, is entitled to the support of the Legislature, in those plans which are expedient and constitutional.

Mr. Smith mentioned instances in which Congress exercised power by implication, and observed that this was necessary to the execution of the duties which devolve on the Government by the constitution. The power to establish a national bank must reside in Congress, for no individual State can exercise any such power; the right of no particular State, therefore, is infringed by the institution. It had repeatedly been said that Philadelphia would derive peculiar advantages from the Bank of the United States; but, he observed, if the present plan should fail, it is a question whether the stockholders of the Bank of North America would not derive greater advantages from the necessity, which, in that case, Government would be under, of resorting to them for loans. The institution, as before observed, is founded on general principles, and will, undoubtedly, in its operation, prove of general utility.

Mr. Stone said, if, upon questions like the present, he had given pain to members he regarded, they might be assured the pain was reciprocal. Let us cherish mutual toleration. We might conceive that each pursued improper systems from the purest motives. We differ in our ideas of Government, and our sense of the sacredness of the written compact. We varied widely in our opinions of the direction of this Government. The great lesson of experiment would show who was right; but we are influenced in our habits of thinking by our local situations, and, perhaps, the distinct interests of the States we represent. He observed, that, upon the present occasion, the opinions respecting the constitution seem to be divided by a geographical line, dividing the continent. Hence, it might be inferred that other considerations mixed with the question; and it had been insinuated that it was warped by the future seat of Government. But other causes may be assigned for the diversity of sentiment: the people to the Eastward began earliest in favor of liberty; they pursued freedom into anarchy; starting at the precipice of confusion, they are now vibrating far the other way. He said that all our taxes are paid by the consumers and manufacturers; those taxes are all bounties upon home manufactures. The people to the Eastward are the manufacturers of this country; it was no wonder that they should endeavor to strengthen the hands of a Government by which they are so peculiarly benefitted.

It is a fact, that the greatest part of the continental debt has travelled eastward of the Potomac. This law is to raise the value of the continental paper. Here, then, said he, is the strong impulse of immediate interest in favor of the bank. He took notice of the distinction made by the plan of the bill, between continental and State paper. The State paper, on account of partial payments of interest, still remained in the respective States. But this could not, by the present system, be subscribed; so that the Southern States were deprived of the advantage that might have been given to the only paper they have. But, he said, if gentlemen charge us with defending the seat of Government, let them remember that this betrays consciousness of an attack. If they believe that this scheme tends to break the faith of the Union, pledged to the Potomac, it is no wonder they suppose we oppose it upon that ground. He would not have mentioned this subject, had it not been hinted at. But let the whole of it come forth; let gentlemen consult their own bosoms; let the public decide the truth of his observations. He hoped he should not be suspected of any bias; that, so uniform had been his conduct upon all questions turning upon principles similar to the present, that every member in the House, he believed, had conjectured rightly of the side he would take, before he had uttered a word upon the subject. When implication first raised its head in this House, he started from it, as a serpent which was to sting and poison the constitution. He felt in unison with his country. The fears, the opinions,

the jealousies of individuals and of States, had been explained by a gentleman from Virginia; [Mr. Madison] he should only remark, that all those who opposed the Government dreaded this doctrine; those who advocated it declared that it could not be resorted to, and all combined in opinion that it ought not to be tolerated. Never did any country more completely unite in any sentiment, than America in this: "That Congress ought not to exercise, by implication, powers not granted by the constitution." And it is not strange for the admission of this doctrine destroys the principle of your Government at a blow; it at once breaks down every barrier which the federal constitution had raised against unlimited legislation. He said that necessity was the most plausible pretext for breaking the spirit of the social compact; but the people of this country have anticipated that pretext; they have said to the ministers of this country, "we have given you what we think competent powers, but, if experience proves them inadequate, we will enlarge them; but, in the mean time, dare not usurp those which we have reserved."

It is agreed, on all hands, that the power to incorporate the subscribers to a bank is not expressly granted; and although gentlemen have agreed that it is implied; that it is an incident; that it is a means for effectuating powers expressly granted, yet they are not agreed as to the particular power to which this is an incident. They admit that the sweeping clause in the constitution confers no additional power. But, if he understood the gentlemen, several of them were of opinion that all governments, instituted for certain ends, draw to them the means of execution as of common right. The doctrine would make ours but a short constitution. [Here he read the preamble] and then said, here is your constitution! Here is your bill of rights! Do these gentlemen require any thing more respecting the power of Congress, than a description of the ends of Government? And if, of right, they can carry these into effect, will they regard the means, though they be expressly pointed out? But, I would ask, is there any power under heaven which could not be exercised within the extensive limits of this preamble?

The convention might have stopped here, and there was no need, according to the doctrine of the gentlemen, to point out any of the means for the ends mentioned in the preamble. That portion of the constitution which, by all America, has been thought so important, according to their logic, would become a dead letter; but the preamble, in fair construction, is a solemn compact that the powers granted shall be made use of to the ends thereby specified. He then reprobated in pointed terms the latitude of the principles premised. He said, that the end of all government is the public good, and if the means were left to legislation, all written compacts were nugatory. He observed, that the sober discretion of the Legislature, which in the opinions of gentlemen ought to be permanent, was the very thing intended to be curbed and restrained by our constitution.

He then declared that our form of government not only pointed out the ends of government, but specified the means of execution. He said, we may make war—this would draw to it the power of raising an army and navy, laying taxes, establishing a judiciary, &c. But the spirit of the constitution, in this respect, had been well explained by Mr Madison, and he should not recapitulate.

He said, a gentleman from South Carolina, [Mr. SMITH] had remarked, that all our laws proceeded upon the principle of expediency—that we were judges of that expediency; as soon as we gave it as our opinion that a thing was expedient, it became constitutional. What, then, said he, remains of your constitution, except its mode of organization? We may look into it to refresh our memories, respecting the times, places, and manner, of composing the Government; that, as to the powers of Congress, were he of that gentleman's opinion, he would never look into it again. Gentlemen see the difficulties of their theories, and are obliged to confess that these incidental powers are not easily defined. They rest in the sober discretion of the Legislature.

One gentleman [Mr. AMES] has said, no implication ought to be made against the law of nature, against rights acquired, or against powers pre-occu-



ped by the States; that it is easier to restrain than to give competent powers of execution. Now, these notions are hostile to the principle of our Government, which is only a grant of particular portions of power, implying a negative to all others. It has been shown that the ends of government will include every thing. If gentlemen are allowed to range, in their sober discretion, for the means, it is plain they have no limits. By the cabalistical word, incident, your constitution is turned upside down; and instead of being a grant of particular powers, guarded by an *implied negative* to all others, it is made to *imply all powers*. But, strange to tell, America forgot to guard it, by express negative provisions. Is there any difference, in effect, between lodging general powers in a government, and permitting the exercise of them by subtle constructions? He said there was a difference; in the one case the people fairly gave up their liberty and stood prepared; in the other, they were unexpectedly tricked out of their constitution.

The preceding remarks, (he observed) showed how dangerous is the doctrine of implication, and upon what small data ingenuity can raise the most dangerous superstructure. He said he should now take a view of those precedents in the former and present Congress, which are relied on to justify the present measure.

1st. The Bank of North America. Here he stated the distressful and critical situation of America at that period; he remarked that it was at the declension of the continental money. He showed that there were no powers in the confederation, to which even (according to the reasoning of the other side) this power could be incidental, but what required the vote of nine States; that the ordinance passed by a vote of seven States, which showed that necessity alone gave birth to that measure. He showed the dissimilarity of the situation of the former and this Congress, and the difference in their powers, and consequently in the dangers to be apprehended from the encroachment of either.

2d. The redemption of our prisoners at Algiers. This comes within the power to regulate trade. If, said he, we are not capable of redeeming, by the best means in our power, our citizens, our trade may be entirely ruined, and hence the law which shall be made for their redemption would be necessary and proper. But, by the constitution, the Executive may make treaties, these may be general, or for a particular object; and the Legislature may effectuate them by grants of money.

3d. We have bought certificates and not destroyed them. This they say is *implied* from the power of paying the debts.

He asked if, before the purchase, the certificates were debts due from the United States? And demanded, if, by the purchase, they were divested of that quality? Now (said he) in my judgment, when a debt is *fairly* cancelled, it is as much like a payment as need be.

4th. We had no right, except by implication, to give a salary to the Vice President. He said he had voted against the salary, and had been for a per diem allowance, because he thought the Vice President was viewed by the constitution only as President of the Senate. But this example fails most palpably, as Congress, in the compensations, are not confined, by the constitution, either to a particular sum or mode of payment.

5th. Congress have made corporations, and exercise complete legislation in the Western territory. He said, to answer this case nothing more was necessary than to read the clause in the constitution which gave to Congress, expressly, the power to make all rules and regulations for them. It seemed to him as if gentlemen were inverting the order of things, by making powers where there were none, and attempting to prove express grants to be implications.

6th. Our regulations respecting freighters and owners, and between captains and seamen. He had not those regulations correctly in his memory, but he believed them proper and necessary regulations of commerce.

7th. It has been said, we have exclusive jurisdiction in places belonging to Congress and within the ten miles square. We could erect a bank in either

of these places; its influence would extend over the continent; the principle on which we founded this power could not be confined to a particular time or spot of land. Gentlemen ridicule the idea that the exercise of a pervading influence and a general principle should be limited by any particular number of years, or be confined within a fort. He said the power of exclusive legislation in those places was expressly granted, and, under its influence, the Congress might exercise complete and exclusive legislation, within those limits; that the power was confined to places. But, if the general powers of this constitution are to be governed by the same rules of construction, and we have no regard to place, it follows that Congress can exercise exclusive legislation over this continent. He was astonished at the doctrine. It would be equally reasonable to say that France, because, within her own dominions, and over her own property, she exercised exclusive legislation, that hence she had a right to legislate for the world.

8th. The power of removal of officers by the President alone. He said it was known he had opposed that doctrine. He left it to be defended by those who had voted for it. But he hoped the gentleman from South Carolina, [Mr. SMITH] and some other gentlemen who had opposed it, would review the arguments they had used upon that occasion.

He observed, after taking a view of those precedents, on the danger of laying down improper principles in legislation. How eagerly men grasped at the slightest pretexts for the exercise of power. He shuddered to think what a broad and commanding position this bank will form for farther encroachments.

A gentleman from Massachusetts, [Mr. SEDGWICK] has said, that, whenever a power is granted, all the known and usual means of execution are always implied; the idea (he said) had been properly examined by [Mr. GILES,] but he would ask if incorporating the subscribers to a bank was the known and usual means of borrowing money, especially when the subscribers were not obliged to loan, or of collecting taxes when no taxes were levied on the bank?

But gentlemen tell us, if we tie up the constitution too tight, it will break; if we hamper it, we cannot stir; if we do not admit the doctrine, we cannot legislate at all. And with a kind of triumph, they say, that implication is recognised by the constitution itself, in the clause wherein we have power to make all laws to carry, &c. He said he was ready to meet the gentlemen upon this ground. This clause, he said, was intended to defeat those loose and proud principles of legislation which had been contended for. It was meant to reduce legislation to some rule. In fine, it confined the Legislature to those means that were necessary and proper.

He said, it would not be pretended that it was necessary and proper for the collection of taxes. Indeed, one gentleman [Mr. AMES] had attempted to show that the payments in specie could not be made, if, by chance, a great quantity of debt suddenly accumulated in a particular place. But it might be remembered that this necessity, if it arrived, was created by the Legislature, and that would be strange reasoning which broke a good constitution, to mend a bad law. No taxes are collected by this bill.

It would not be necessary and proper, as a mean of borrowing money, because, first, we do not want to borrow money; and if we did, this law, though it may be the probable, it is not the necessary mean: for, if it was the interest of the stockholders, they might, and he believed would, refuse to loan. He said that the institution might be defended upon more plausible grounds, if the bank had been taxed, or if a condition to loan money to the public had been made part of the plan. Upon what ground, then, do gentlemen stand? They can only say that they have implied a great and substantive power in Congress, which gives to the Government or to individuals the influence of 15,000,000 dollars, irrevocably, for twenty years, with a power of making by-laws, &c. because there is a probability that this institution may be convenient and agreeable to the operations of Government. He asked, upon parallel principles, what might Congress not do? He said that the gentleman from Virginia, [Mr. MADISON] pursuing the doctrine in all the forms in which it might appear, had struck upon several cases which were very pointed; an incorpora-

tion of manufacturers with exclusive privileges; merchants with the same; a national religion. This, a gentleman [Mr. АМЕС] had said was unfair and extravagant reasoning; and yet, in five minutes, the gentleman's own reasoning led him to ask, with warmth, if Congress could not join stocks with a company to trade to Nootka! and he condescended to doubt if the privileges given to such a company might not be exclusive. He saw clearly, himself, that his theory led to the latter conclusion: for, if expediency, if convenience, facility, if fears of war, if preparations for events which might never happen, can justify an incorporation upon the present plan. the same suggestions, the same logic, will legalize incorporations, with exclusive privileges. The deductions of the gentleman from Virginia are sound and right, and cannot be fairly controverted. Congress may then do any thing. Nay, if the principles now advocated are right, it is the duty of the Legislature of the Union to make all laws, not only those that are necessary and proper to carry the powers of the Government into effect, but all laws that are convenient, expedient, and beneficial to the United States. Then, where is your constitution? Are we not now sitting, in our sober discretion, a General Government, without the semblance of restraint? Yes! said he; we have yet a constitution; but where is it to be found? Is it written? No. Is it among the archives? No. Where is it? It is found in the sober discretion of the Legislature; it is registered in the brains of the majority.

He proceeded: I say there is no necessity, there is no occasion, for this bank. The States will institute banks, which will answer every purpose. But a distrust of the States is shown in every movement of Congress. Will not this plant distrusts in the States? Will you gain by his contest? This scheme may give, and I am convinced will give, partial advantages to the States. In the fair administration of our Government, no partial advantages can be given! But, by this bill, a few stockholders may institute banks in particular States, to their aggrandizement, and the oppression of the others. It will swallow up the State banks; it will raise in this country a moneyed interest, at the devotion of Government; it may bribe States and individuals. He said, gentlemen asked, who would be offended or hurt by this plan? Have we heard any complaint against it? Have the newspapers reprobated it? These questions had no influence on his mind. He said, it was one of those sly and subtle movements, which marched silently to its object; the vices of it were at first not palpable or obvious; but, when the people saw a distinction of banks created; when they viewed, with astonishment, the train of wealth which followed individuals, whose sudden exaltation surprised even the possessors, they would inquire how this all came about. They will then examine into the powers by which these phenomena have arisen, and they will find, they will reprobate the falsehood of the theories of the present day.

He said that gentlemen had told us of the sudden irruptions of enemies. When those necessities arrive, it is time enough to make use of them to break your constitution. But gentlemen say, upon emergencies, the bank will loan money. We differ in opinion. I think when we want it most, the bank will be most unable and unwilling to lend. If we are in prosperity, we can borrow money almost any where; but, in adversity, stockholders will avoid us with as much caution as any other capitalists.

But a gentleman [Mr. АМЕС] tells us not to be alarmed; the bank will not eat up liberty. He said he was not afraid; he was not under any apprehension that all the little influence that Congress possessed, would destroy the great spirit of American liberty. The body of the People would laugh and ridicule any attempt to enslave them; but a conduct which had that tendency might arouse alarming passions. He said there existed at this moment ill blood in the United States, which, to quiet, he would readily agree to enter into a foreign war. America with us, we might defy the world. There was, he said, but one people he was afraid of offending: this was America. He was not afraid of foreign enemies; but the resentment of our own country is always a subject of serious apprehension. He observed, there were other parts of this important and diffusive subject which he might have touched, but he had fatigued himself and the House.

Mr. SMITH, of S. C. (in explanation) said, as he had been greatly misunderstood by the gentleman last up, he wished to explain the position he had laid down.

He had never been so absurd as to contend, as the gentleman had stated, that whatever the Legislature thought expedient, was therefore constitutional; but he had only argued, that, in cases where the question was, whether a law was necessary and proper to carry a given power into effect, the members of the Legislature had no other guide but their own judgments, from which alone they were to determine whether the measure proposed was necessary and proper to carry the powers vested in Congress into full effect. If, in such cases, it appeared to them, on solemn deliberation, that the measure was not prohibited by any part of the constitution, was not a violation of the rights of any State or individual, and was peculiarly necessary and proper to carry into operation certain essential powers of the Government, it was, then, not only justifiable, on the part of Congress, but it was even their duty to adopt such measure: that, nevertheless, it was still in the province of the judiciary to annul the law, if it should be by them deemed not to result by fair construction from *the powers vested by the Constitution.*

FEBRUARY 7.

Mr. GILES. In the course of discussing the present important question, it has been several times insinuated that local motives, and not a candid and patriotic investigation of the subject, upon its merits, have given rise to the difference of opinion which has been heretofore manifested in this House. I shall not examine the truth of this observation, but merely remark, that the causes which may have produced the arguments against the proposed measure, whatever they be, can neither add to, or take from, their merit and influence; and, of course, the insinuations might have been spared, without injury to the subject; but, so far as the observation may have been intended to myself, I can truly say, that, if a bias were to influence my conduct, it would rather direct it to favor, than to oppose the proposed measure. This bias would arise from two causes: the one, from the respect which I entertain for the judgments of the majority who advocated the measure; the other, of a more serious nature. I have observed, with regret, a radical difference of opinion between gentlemen from the Eastern and Southern States, upon great governmental questions, and have been led to conclude that the operation of the cause alone might cast ominous conjecture on the promised success of this much valued Government. Mutual concessions appear to be necessary to obviate this effect; and I have always been pleased in manifesting my disposition to make advances; but, from the most careful view of the arguments in favor of the proposed measure, considered under this impression, they do not seem to me sufficient to establish the propriety of its adoption, and I am therefore impelled, by the joint influence of duty and opinion, to be one in the opposition.

A gentleman from Massachusetts (Mr. AMES) prefaced his observations with this remark: that it was easier to point out defects, and raise objections, to any proposed system, than to defend it from objections, and prove an affirmative propriety; and warned the House against the effects of arguments of this nature, urged in opposition to the measure now under consideration. I agree with the gentleman in this idea generally, but we should reflect, that, in the present case, the address of the arguments in favor of the measure is made to one of the strongest affections in the human mind—the love of dominion; and hence we may justly conclude that they will be received and relished with their full and unabated influence. This reflection appears to me to be at least a counterpoise to that remark.

The advocates of this bill have been called on, and I conceive with propriety, to show its constitutionality and expediency, both of which have been doubted by those of the opposition. In support of the first position a multitude of arguments have been adduced, all of which may be reducible to the following heads, such as are drawn from the constitution itself: From the incidental authority of this authority to the mere creation and existence of Government;

from the expediency of the measure itself; and from the precedents of Congress; to which may be added a similar exercise of authority by Congress, under the former confederation.

Observations arising from the constitution itself, were of two kinds: The right of exercising this authority is either expressed in the constitution, or deducible from it by necessary implication. One gentleman only, from Massachusetts, (Mr. SEDGWICK) has ventured to assert, that, discarding the doctrine of implication, he could shew that the right to exercise the authority contended for was expressly contained in the constitution. This, I presume, must have been a mistake in language; because the difference between an express and an implied authority appears to consist in this: in the one case, the natural import of the words used, in granting the authority, would, in themselves, convey a complete idea to the mind, of the authority granted, without the aid of argument or deduction: in the other, to convey a complete idea to the mind, the aid of argument and deduction is found necessary to the usual import of the words used; and that gentleman proceeded with a labored argument to prove, that the authority was expressly granted, which would have been totally useless if his assertion had been just.

[Mr. SEDGWICK rose to explain. He never conceived the authority granted by the express words of the constitution; but absolutely by necessary implication from different parts of it.]

Mr. GILES resumed. I shall not contend as to the assertion, but shall proceed to consider the arguments in favor of the measure, on the doctrine of implication, which, indeed, are those only which deserve consideration.

In doing this, I shall consider the authority contended for, to apply to that of granting charters of incorporation in general: for I do not recollect any circumstance, and I believe none has been pretended, which could vary this case from the general exercise of that authority. To establish the affirmative of this proposition, arguments have been drawn from several parts of the constitution; the context has been resorted to: *We, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, &c.* It has been remarked, that here the ends for which the Government was created are clearly pointed out. The means to produce the ends are left to the choice of the Legislature, and the incorporation of a bank is one necessary means to produce these general ends. It may be observed, in reply, that the context contemplates every general object of Government whatever; and, if this reasoning were to be conclusive, every object of Government would be within the authority of Congress, and the detail of the constitution would have been wholly unnecessary, farther than to designate the several branches of the Government which were to be entrusted with this unlimited, discretionary choice of *means*, to produce these specified ends. The same reasoning would apply as forcibly to every clause in the constitution, restraining the authority of Congress, as to the present case, or to any other one in which the constitution is silent. The only candid construction, arising from the context, appears to me to be this: it is designed, and it is the known office of every member to point out the great objects proposed to be answered by the subsequent regulations, of which the constitution is composed. These regulations contain the means by which these objects are presumed to be best answered. These means consist in a proper distribution of all governmental rights between the Government of the United States and the several State Governments, and in fixing limits to the exercise of all authorities granted to the Government of the United States. The context, therefore, gives no authority whatever, but only contemplates the ends for which certain authorities are subsequently given. Arguments drawn from this source appear to be ineffectual in themselves, and the reliance of gentlemen upon them indicates a suspicion and distrust of such as may be drawn from other parts of the constitution. The advocates of the bill have turned away from this context, and have applied to the body of the constitution in search of arguments. They have fixed upon the following

clauses, to all or some one of which, they assert, the authority contended for is clearly incidental: The right to lay and collect taxes, &c. &c.; to provide for the common defence and general welfare, &c.; to borrow money, &c.; to regulate commerce with foreign nations, &c. The bill contemplates neither the laying nor collecting taxes; and, of course, it cannot be included in that clause. Indeed, it is not pretended, by the bill itself, to be at all necessary to produce either of those ends; the farthest the idea is carried in the bill, is, that it will tend to give a facility to the collection. The terms *common defence and general welfare* contain no grant of any specific authority, and can relate to such only as are particularly enumerated and specified. *To borrow money.* Gentlemen have relied much upon this clause. Their reasoning is, that a right to incorporate a bank is incidental to that of borrowing money, because it creates the ability to lend, which is necessary to effectuate the right to borrow. I am at a loss to discover one single relation between the *right to borrow* and the *right to create the ability to lend*, which is necessary to exist between principal and incident. It appears to me that the incidental authority is paramount to the principal; for the right of creating the ability to lend is greater than that of borrowing from a previously existing ability. I should therefore rather conclude, that the right to borrow, if there be a connexion at all, would be incidental to the right to grant charters of incorporation, than the reverse of that proposition, which is the doctrine contended for by the advocates of this measure. The same reasoning which would establish a right to create the ability to lend, would apply more strongly to enforce the will, after the ability be created; because the creator would have a claim of gratitude, at least, upon the created ability, which, if withheld, perhaps with justice, might be insisted on.

*To regulate commerce with foreign nations.* This is, by no means, a satisfactory ground for the assumption of this authority: for, if it be deemed a *commercial regulation*, there is a clause in the constitution which would absolutely inhibit its exercise. I allude to that clause which provides that no preference shall be given by any *regulation of commerce* or revenue, to the ports of one State over those of another; and it seems to be admitted that one principal effect to be produced by the operation of this measure will be, to give a decided commercial preference to this port [Philadelphia] over every other in the United States.

Gentlemen, finding it difficult to show that necessary relation and intimate connexion between the authority contended for, and any one of the specified authorities before mentioned, which would be essential to the establishment of their doctrine, have referred to what has been generally called the sweeping clause, and have made deductions from the terms *necessary* and *proper*. They have observed, that certain specified authorities being granted, all others necessary to their execution follow, without any particular specification. This observation may, in general, be true; but its fallacy here consists in its application to this particular case. It cannot be applied until the exercise of this authority be proved to be necessarily connected with some one of the previously enumerated authorities; and here the argument, as well as the fact, fails. The authority contended for seems to me to be a distinct substantive branch of legislation, and perhaps paramount to any one of the previously enumerated authorities, and should therefore not be usurped as an incidental subaltern authority.

I am confirmed in this opinion from the indistinct, confused conceptions of gentlemen who advocate the measure. They rely upon the incidentality of this authority, to some one of those particularly specified, and yet have applied it as an incident to several distinct, unconnected subjects of legislation; and thus, distrusting their own conclusions, or as if the inquiry would be too troublesome or minute, they leave this ground, and assert that it is incidental to the result of the whole combined specified authorities. Gentlemen must, therefore, view this right through different optics, at different times; or, what I rather believe to be the fact, they have no distinct view of it at all—the right having no existence.



A gentleman from Massachusetts, (Mr. SEDGWICK) finding the usual import of the terms used in the constitution to be rather unfavorable to the doctrines advanced by him, has favored us with a new exposition of the word *necessary*. He says that *necessary*, as applicable to a mean to produce an end, should be construed so as to produce the greatest possible quantum of public utility. I have been taught to conceive that the true exposition of a necessary mean to produce a given end, was that mean without which the end could not be produced.

The gentleman's reasoning, however, if pursued, will be found to teem with dangerous effects, and would justify the assumption of any given authority whatever. Terms are to be so construed as to produce the greatest degree of public utility. Congress are to be the judges of this degree of utility: this utility, when decided on, will be the ground of constitutionality; hence, any measure may be proved constitutional which Congress may judge to be useful. These deductions would suborn the constitution itself, and blot out the great distinguishing characteristic of the free constitution of America, as compared with the despotic Governments of Europe, which consists in having the boundaries of Governmental authority clearly marked out and ascertained. The exclusive jurisdiction over ten miles square has been adverted to, by one gentleman, (Mr. AMES) as a specified authority, to which the one contended for is suggested to be incidental. He has reasoned in this manner: Congress possesses jurisdiction over ten miles square, &c. Congress may, therefore, establish a bank within the ten miles square; and, as principle is not applicable to place, Congress may exercise the same authority any where else. This seems to me to be an ingenious improvement upon sophistical deduction. The gentleman, however, should have reflected, that the ground upon which he built the right to exercise this authority, was that of exclusive jurisdiction, and, to extend the principle, it is necessary to extend the right of exclusive jurisdiction: without this, the basis of his argument fails, and the superstructure, however beautified, must follow, for the principle, if at all deducible from that source, is expressly confined to place, and cannot operate beyond it.

I shall now consider the second resource whence the constitutional right of exercising the proposed authority is derived; its incidentality to the mere creation and existence of Government. It has been observed that, in all governments, there are certain rights tacitly granted, and certain other rights retained; that it is impossible, in framing a constitution, to enumerate every minute governmental right, and that such an attempt would be chimerical and vain; and, hence, the incidentality of this authority to the mere existence of government is inferred. These observations seem to me to apply to a government growing out of a state of society, and not in a government composed of chartered rights from previously existing governments, or the people of those governments. I have been taught to consider this as a federal, not as a consolidated government, and am not prepared or disposed, at present, to relinquish that idea. A gentleman from New York, (Mr. LAWRENCE) has remarked that the government is consolidated *quo ad* the powers granted, and, of course, *quo ad* their incidents; but he should first have shown that the authority contended for is one of those granted, or incidental to some of them, before the application can be made; the observation can have no tendency to establish either of those positions. What effect would this doctrine, if admitted, have upon the State governments? And how would it be relished by them? Their dignity and consequence will not only be prostrated by it, but their very existence radically subverted. A third resource of deducing this constitutional authority has been resorted to—the *expediency of the proposed measure itself*. I presume the great object of the constitution was to distribute all governmental rights between the several State governments and the Government of the United States; the expediency, therefore, of the exercise of all the constitutional rights, as they relate to State or General Government, is properly contemplated and decided by the constitution, and not by the governments amongst which the distribution is made. A gentleman from South Carolina (Mr. SMITH) has said, that the expediency and constitution-

ality of the proposed measure cannot be considered separately, because the constitutionality grows out of the expediency; this is but candidly unveiling the subject of that sophistical mask which has been ingeniously thrown over it by some gentlemen: for all the arguments adduced in favor of the measure, from whatever source they arise, if pursued, will be found to rush into the great one of expediency, to bear down all constitutional provisions, and to end themselves in the unlimited ocean of despotism.

Several gentlemen have said, that this authority may be safely exercised, since it does not interfere with the rights of States or individuals. I think this assertion not very correct; if the States be constitutionally entitled to the exercise of this authority, it is an intrusion on their rights to do an act which would eventually destroy or impede the freest exercise of that authority: for it is totally immaterial whether the effect be produced by the operation of this or by an inhibition in express terms—the States may not only incorporate banks, but may, of right, prohibit the circulation of bank paper within their respective limits; the act, therefore, if it be intended to have an effectual operation, will certainly infringe this right, or exist at the mercy of the State Governments. This reasoning, however, places the subject in another point of view, a little singular; it contemplates the authority contended for as vacant ground, and justifies the tenure by the mere title of occupancy. In almost all the remarks in favor of the measure, gentlemen seem to have forgotten the peculiar nature of this Government: it being composed of mere chartered authorities, all authority not contained within the charter, would, from the nature of the grant, have been retained to the granting party, and I will venture to assert that this opinion was a *sine qua non* of the adoption and existence of this Government; but, if this opinion had been doubtful, Congress themselves have made an express declaration in favor of this construction, in the proposed amendments to the constitution. Gentlemen have inferred a constitutional right to exercise the authority contended for, from a fourth resource—the former usages and habits of Congress; in affirmance of this argument, several acts of Congress have been referred to, the power of removal from office, the government of the Western territory, the cession from North Carolina, the purchase of West Point, &c. &c. I shall not examine into the propriety of those several acts, though I conceive it would not be difficult to show that they differ materially, upon constitutional grounds, from the one now proposed; I shall only remark, that, if Congress have heretofore been in the usage and habit of disregarding and violating the constitution, it is high time that that habit and usage were corrected: I hope and trust that the People of the United States will not tamely see the only security of their rights and liberties invaded and violated, but also see one violation of it, with impunity, boldly urged as an argument to justify another.

An instance of a similar exercise of authority by the Congress which existed under the former confederation, has been mentioned in favor of its exercise by the present Congress. The argument has been, that, as the powers of the present Congress are greater than those of the former Congress, and the former were competent to the exercise of this right, the present must be more so. It is to be remarked that that act was the child of necessity, and Congress doubted its legitimacy, and the act itself was never confirmed by a judicial decision; and, it should be also remarked, that the same Congress did not pretend to profess the right to punish those who should counterfeit the paper of the bank, and recommended it to the States to confirm the act which they had done, and to pass laws for the purpose of punishing those who should counterfeit the paper; and it is a little remarkable that this circumstance, which is one of the most essential to the existence and operation of this act, is withheld from our view. But, as I think arguments from this source wholly foreign to the subject, I shall make no other remark upon them. I shall now suggest a few observations respecting the expediency of the proposed measure. In doing this, I shall not say any thing as to the utility of banks in general, nor as to the effects of the banks of England, Scotland, Holland, &c. &c. I possess not sufficient practical or theoretical knowledge to justify the inquiry. I

shall only point out a few circumstances, which are peculiarly attached to the Government we are now administering, which might vary the application of general rules drawn from the governments of a different nature, and which possess the unquestioned right of granting charters of incorporation.

In the first place, the right of exercising that authority, by this Government, is at least problematical; it is no where granted in express terms: the Legislature, therefore, can have no competent security against the judicial decision, but a dependent or a corrupt court. I presume that a law to punish with death those who counterfeit the paper emitted by the bank, will be consequent upon the existence of this act; hence a judicial decision will probably be had of the most serious and awful nature. The life of an individual at stake on one hand: an improvident act of the Government on the other. A distrust, arising from this cause, will forever keep the bank in jeopardy; and the very first trial of this nature will probably subject the bank to a run which it will be unable to stand; for all stockholders will require the greatest possible security for their money, and distrust of such an institution will be destruction. This observation seems to me to have a peculiar force, from the great proportion of paper to that of gold and silver, upon which the bank is proposed to be founded. The peculiar relation between the General and State Governments will naturally produce a contest for governmental rights, until long experience shall settle the present boundaries between them. The present measure appears to me to be an unprovoked advance in this scramble for authority, and a mere experiment how far we may proceed without involving the opposition of the State Governments. It should be remarked, that this Government is in its childhood; it is therefore unfitted for such bold and manly enterprises, and policy would dictate that it should wait at least, until it may have become more matured or invigorated. Two modes of administering this Government present themselves: the one, with mildness and moderation, by keeping within the known boundaries of the constitution; the other, by the creation and operation of fiscal mechanism. The first will ensure us the affections of the People, the only natural and substantial basis of republican government; the other will arise and exist in oppression and injustice—will increase the previously existing jealousies of the People, and must be ultimately discarded, or bring about a radical change in the nature of our Government. Having suggested these observations upon the measure in general, I shall now proceed to point out a few objections to the detail of the bill. I think the authority given to the bank, to purchase and hold lands, objectionable. In the first place, I doubted the constitutional right of Congress to invest such an authority: the lands within the United States are holden of the individual States, and not of the United States, and that tenure appears to me to be the true ground upon which the right to exercise that authority grows. I believe it is admitted, that, although Congress may naturalize a foreigner, that they cannot authorize him to purchase lands. And I think the case at least as strong, when they first create an artificial person, and then invest the authority; besides, if we have reference to the experience of other countries, we shall find it dangerous to allow incorporated bodies to hold lands at all. The exercise of that right produced great oppression in England; and nothing but the masterly activity of an absolute prince could apply a competent remedy. A gentleman from Massachusetts [Mr. SEDGWICK] has denied that the bank is invested with this right. It is true, it is confined to the mode of purchasing by mortgage, but that is the most effectual mode of purchasing, and the most ruinous to the landholder.

I will merely mention one other objection without a comment. The authority given to make laws not contrary to law or its own constitution; but the most objectionable clause, is that which limits its duration, and pledges the faith of the United States that no other bank shall be established in the meantime. However dangerous and offensive the present measure might prove in its operation, and whatever may be the utility and advantage in any other scheme of banking, which experience may suggest, such a stipulation cannot be justified but from the most pointed necessity, and from the maturest deliberation. When I search for the necessity of this measure, it escapes

me; it is not pretended in the bill itself: the chief stimulus which I can discover to the existence of this measure, is, to give artificial impulse to the value of stock. This is not a sufficient justification. The subject has not been sufficiently considered, and I therefore hope it may be postponed to some future session of Congress. Many evils may be avoided by such a conduct; none can result from it.

Mr. GERRY said he should principally confine himself to the objections of the gentleman first up, from Virginia, [Mr. MADISON] not from a disrespect to the observations of other gentlemen in the opposition, but because he considered their arguments as grafts on the original stock of those urged by the gentleman alluded to; and, if the trunk fall, its appendages must fall also.

The objects of the bill, he said, were to render the fiscal administration successful; to give facility to loans, on sudden emergencies; and to benefit trade and industry generally; and that these were objects of high importance, had not been denied, neither had it been asserted that they ought not, if possible, to be attained.

It is objected, however, that the mode proposed by the bill is *unconstitutional*, and the bill itself defective.

The mode proposed is a national bank; to establish which, he thought Congress were as competent as either House were to adjourn from day to day.

It is said that Congress have no power relating to this subject, except what is contained in the clauses for laying and collecting taxes, imposts, excises, &c.; for borrowing money, and for making all laws necessary and proper for carrying these powers into effect; and that these do not authorize the establishment of a national bank.

To ascertain this, the gentleman from Virginia proposes a candid interpretation of the constitution, which we shall agree to, and he offers to assist us with his rules of interpretation: for his good intentions in doing which, we give him full credit; but, as he acknowledges that he has been long decided against the authority of Congress to establish a bank, and is therefore prejudiced against the measure; as his rules, being made for the occasion, are the result of his interpretation, and not his interpretation of the rules; as they are not sanctioned by law exposition, or approved by experienced judges of the law; they cannot be considered as a criterion for regulating the judgment of the House, but may, if admitted, prove an *ignis fatuus*, that may lead to destruction.

We wish not, however, by establishing our own rules of interpretation, to enjoy the privilege which is denied to the gentleman, but will meet him on fair ground, by applying rules, which have the sanction mentioned; and as the learned Judge Blackstone has laid down such, it is presumed the gentleman from Virginia will not contend for a preference, or refuse to be tried by this standard.

The Judge observes, "that the fairest and most rational method to interpret the will of the legislator, is, by exploring his intention at the time when the law was made, by *signs* the most natural and probable; and these signs are either the words, the context, the subject matter, the effect and consequences, or the spirit and reason of the law." With respect to words, the Judge observes, that "they are generally understood in their usual and most ordinary signification, not so much regarding the grammar, as their *general* and *popular* use."

The gentlemen on different sides of the question do not disagree with respect to the meaning of the terms *taxes, duties, imposts, excises, &c.* or of *borrowing money*, but of the word *necessity*. And the question is, what is the general and popular meaning of this term? Perhaps the answer to the question will be truly this, that, in a general and popular one, the word does not admit of a definite meaning, but that this varies according to the *subject* and *circumstances*. With respect to the subject: for instance, if the people, speaking of a garrison besieged by a superior force, and without provisions, or a prospect of relief, should say, it was under the *necessity* of surrendering, they would

mean a *physical* necessity, for troops cannot subsist long without provisions. But, if speaking of a debtor, the people should say he was frightened by his creditor, and thus was reduced to the *necessity* of paying his debts, they would mean a *legal*, which is very different from a *physical* necessity: for, although the debtor, by refusing payment, might be confined, he would be allowed subsistence. and the necessity he was under to pay his debts would not extend beyond his confinement. Again, if it should be said that a *client* is under the necessity of giving to his lawyer more than legal fees, the general popular meaning of *necessity* would, in this instance, be very different from that in the other—the necessity would neither be *physical* nor *legal*, but *artificial*; or, if I may be allowed the expression, *a long robe necessity*.

The meaning of the word "*necessary*" varies also, according to circumstances: for, although Congress has power to levy and collect taxes, duties, &c. to borrow money, and to determine the time, quantum, mode, and every other regulation "*necessary*" and proper for supplying the treasury, yet the people would apply a different meaning to the word *necessary*, under different circumstances. For instance, without a sufficiency of precious metals for a medium, laws regulating an artificial medium would be generally thought necessary for carrying into effect the power to levy and collect taxes; but if there was a sufficiency of such metals, those laws would not, generally, be thought necessary. Again, if specie was scarce, and the credit of the Government low, collateral measures would be, by the People, thought necessary for obtaining public loans; but not so, if the case was reversed. Or, if part of the States should be invaded and over-run by an enemy, it would be thought necessary to levy on the rest heavy taxes, and collect them in a short period, and to take stock, grain, and other articles, from the citizens, without their consent, for common defence; but in a time of peace and safety, such measures would be supposed unnecessary. Instances may be multiplied in other respects, but it is conceived that these are sufficient to show that the popular and general meaning of the word "*necessary*," varies according to the subject and circumstances.

The second rule of interpretation relates to the *context*, and the Judge conceives, that, "if words are still dubious, we may establish their meaning by "the context: thus, the preamble is often called in to help the construction of "an act of Parliament." The constitution, in the present case, is the great law of the People, who are themselves the sovereign legislature; and the preamble is in these words: "We, the People of the United States, in order to form "a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the "blessings of liberty to ourselves and our posterity, do ordain and establish "this constitution for the United States of America."

These are the great objects for which the constitution was established, and, in administering it, we should always keep them in view. And here it is remarkable, that, although "common defence and general welfare" are held up in the preamble, amongst the primary objects of attention, they are again mentioned in the eighth section of the first article, whereby we are enjoined, in levying taxes, duties, &c. particularly to regard "the common defence and general welfare." Indeed, common sense dictates the measure: for, the security of our property, families, and liberty, of every thing dear to us, depends on our ability to defend them. The means, therefore, for attaining this object, we ought not to omit, a year, a month, or even a day, if we could avoid it; and we are never provided for defence, unless prepared for sudden emergencies. Should Government be *surprised* in this case, it would be as dishonorable as for a general to be surprised in a state of warfare, and the event to the community may be much more fatal. If provision, then, for sudden emergencies, is indispensable, it must be evident that it will depend, in a great measure, on the ability of Government to command, at all times, for this purpose, a sufficient sum of money, which is justly denominated the *sinews of war*; and how is this to be effected? By emissions of bills of credit? During the Revolution, bills of credit, it must be acknowledged, have done

wonders. They have, in conflict with the banks, treasury, and public credit of Great Britain, risen superior to them all, and have died a natural death. We have honored them with a funeral pile; we now bid peace to their manes, and devoutly hope that bills of credit will for ever be extinct in the United States. Are we to depend, then, on *taxes*, for commanding money in cases of urgent necessity? These, as has been shown by other gentlemen, will be too slow in their operation; unless, indeed, we should levy a tax for drawing into, or locking up, in the treasury, three or four millions of dollars—a law which would be universally considered as unnecessary and improper.

By loans, and loans only, can provision be made for sudden emergencies. But if loans should be made *previously* to an emergency, the People would be unnecessarily burdened by the interest thereof, and most of the other evils would ensue, that would arise from previous taxes; and if they were to be made as an emergency, without previous arrangements, of whom are we to borrow? Of *individuals*? These cannot be depended on, as has been fully proved by our own experience at the commencement of the Revolution. Are we to apply to the banks already established in the States, for loans? These can no more be depended on than individuals: for stockholders, having no more attachment to Government than other citizens, would, in cases of public danger, attend to the preservation of their property, by other means than loaning it to Government. And, moreover, the united capitals of all the banks existing in the Union, would be insufficient for Government: for they do not amount to a million and a half of dollars; and only a part of this could, in any case, be reasonably expected on loan.

Are we to apply to foreign banks or individuals? These, as has been shown, are too remote; and, if not, we have not been able, without the assistance of an ally, to obtain foreign loans during the war; and, perhaps, the Power, on whose assistance we may rely, would be hostile to us. Such dependence, then, as has been stated, would necessarily leave us in a deplorable state. And it must be evident, that a previous arrangement to aid loans, in cases of sudden emergency, is necessary and proper, in the general and popular use of the term, inasmuch as any other measure, that Congress can adopt, would be inadequate to the purpose of common defence; and what previous arrangement can we make so proper as that of a national bank? If gentlemen in the opposition know of any, let them produce it, and let the merits of it be investigated, for it is unreasonable to propose a rejection of this plan, without producing a better. The plan proposed by the Secretary of the Treasury, which is now the subject of discussion, does honor, like all his other measures, both to his head and heart. It will be mutually beneficial to the stockholders and to the Government, and, consequently, to the People. The stockholders, by this plan, will be deeply interested in supporting Government, because three-quarters of their capital, consisting of funded certificates, depend on the existence of the Government, which, therefore, is the prop of their capital—the main pillar that supports the bank. Again, the *credit* of Government, which is immaterial to other banks, is essential to the national bank: for the annual interest of three-quarters of its capital, which must form a great share of its profits, will depend altogether on the credit of Government, and produce, on the part of the stockholders, the strongest attachment to it. On the other hand, it will be for the interest of Government to support the bank, as well on account of the benefits which the public will generally derive from the institution, and the profits arising from the shares of Government in the stock, which will be hereafter noticed, as of the supplies of money, which it will be for the interest of the bank to furnish, in *cases of urgent necessity*. Whenever *these* exist, Congress may lay a tax for supplying the treasury, and anticipate it with certainty, by means of the national bank. It being then our duty to provide for the common defence, in cases of emergency, the provision must evidently be by taxes, loans, or by arrangements for obtaining the latter on the earliest notice; and previous taxes and loans being oppressive, improper and unnecessary, the arrangement for aiding loans becomes indispensable, and a bank, of consequence, necessary and constitutional.



The third rule of the Judge, relative to the "subject matter" of a law, it is unnecessary to apply, because the members agree in their ideas relative to the meaning of the terms taxes, duties, loans, &c.

The fourth rule, which relates to "effects and consequences," is important, and here the learned Judge observes, that, "as to effects and consequences, the rule is, where the words bear none, or a very absurd signification, if literally understood, we must a little deviate from the received sense of them." In the present case, the gentleman first up, from Virginia, gave the whole clause, by which Congress are authorized to "make all laws necessary and proper," &c. no meaning whatever; for, they say, the former Congress had the same power, under the confederation, without this clause, as the present Congress have with it. The Federalist is quoted on this occasion, but although the author of it discovers great ingenuity, this part of his performance I consider as a political heresy. His doctrine, indeed, was calculated to lull the consciences of those who differed in opinion with him at that time, and having accomplished his object, he is probably desirous that it may die with the opposition itself. The rule in this case, says, that where the words bear no signification, we must deviate a little; and as this deviation cannot be made by giving the words less than no meaning, it must be made by a more liberal construction than is given by gentlemen in the opposition. Thus, their artillery is turned on themselves: for their own interpretation is an argument against itself.

The last rule mentioned relates to the spirit and reason of the law, and the Judge is of opinion, "that the most universal and effectual way of discovering the true meaning of a law, where the words are dubious, is, by considering the reason and spirit of it, or the cause which moved the Legislature to enact it." The causes which produced the constitution, were, an imperfect union, want of public and private justice, internal commotions, a defenceless community, neglect of the public welfare, and danger to our liberties. These are known to be the causes, not only by the preamble of the constitution, but also from our own knowledge of the history of the times that preceded the establishment of it. If these weighty causes produced the constitution, and it not only gives power for removing them, but also authorizes Congress to make all laws necessary and proper for carrying these powers into effect, shall we listen to assertions, that these words have no meaning, and that this constitution has not more energy than the old! Shall we thus unnerve the Government, leave the Union as it was under the confederation, defenceless against a banditti of Creek Indians, and thus relinquish the protection of its citizens? Or shall we, by a candid and liberal construction of the powers expressed in the constitution, promote the great and important objects thereof? Each member must determine for himself. I shall, without hesitation, choose the latter, and leave the People and States to determine whether or not I am pursuing their true interest. If it is inquired where we are to draw the line of a liberal construction, I would also inquire where the line of restriction is to be drawn? The interpretation of the constitution, like the prerogative of a sovereign, may be abused, but from hence the disuse of either cannot be inferred. In the exercise of prerogative, the minister is responsible for his advice to his sovereign, and the members of either House are responsible to their constituents for their conduct in construing the constitution. We act at our peril: if our conduct is directed to the attainment of the great objects of Government, it will be approved, and not otherwise; but this cannot operate as a reason to prevent our discharging the trust reposed in us.

Let us now compare the different modes of reasoning on this subject, and determine which is right, for both cannot be.

The gentleman from Virginia, [MR. MADISON] has urged the dangerous tendency of a liberal construction. But which is most dangerous, a *liberal* or a *destructive* interpretation? The liberty we have taken in interpreting the constitution, we conceive to be *necessary*, and, it cannot be denied to be *useful* in attaining the objects of it; but, whilst he denies us this liberty, he grants to himself a right to annul part, and a very important part, of the con-

stitution. The same principle that will authorize a destruction of part, will authorize the destruction of the whole of the constitution; and if gentlemen have a right to make such rules, they have an equal right to make others for *enlarging* the powers of the constitution, and, indeed, of forming a despotism. Thus, if we take the gentleman for our pilot, we shall be wrecked on the reef which he cautions us to avoid.

The gentleman has referred us to the last article of the amendment, proposed to the constitution by Congress, which provides that the powers not delegated to Congress, or prohibited to the States, shall rest in them or the People. And the question is, what powers are *delegated*? Does the gentleman conceive that such only are delegated as are *expressed*? If so, he must admit that our whole code of laws is unconstitutional. This he disavows, and yields to the necessity of interpretation, which, by a fair and candid application of established rules of construction to the constitution, authorizes, as has been shown, the measure under consideration.

The *usage* of Congress has also been referred to; and if we look at their acts, under the existing constitution, we shall find that they are, generally, the result of a liberal construction. I will mention but two. The first relates to the establishment of the Executive department, and gives to the President the power of removing officers. As the constitution is silent on this subject, the power mentioned, by the gentleman's own reasoning, is vested in the States or the People: he, however, contended for an *assumption* of the power, and when assumed, urged that it should be vested in the President, although, like the power of appointment, it was, by a respectable minority in both Houses, conceived that it should have been vested in the President and Senate. His rule of interpretation, *then*, was, therefore, more liberal than it is *now*. In the other case, Congress determined by law, with the sanction of the President, when and where they should hold their next session, although the constitution provides that this power shall rest solely in the two Houses.

The gentleman also advocated this measure, and yet appears to be apprehensive of the consequences that *may* result from a construction of the constitution which admits of a national bank. But, from which of these measures is danger to be apprehended? The *only* danger, from our interpretation, would be the exercise by Congress of a general power to form corporations. But the dangers resulting from the gentleman's interpretations, in the cases alluded to, are very different: for what *may* we not apprehend from the precedent of having assumed a power on which the constitution was silent, and from having annexed it to the supreme Executive? If we have this right in one instance, we may extend it to others, and make him a despot. And here I think it necessary to declare, that such is my confidence in the wisdom, integrity, and justice of the Chief Magistrate, as that I should be at ease, if my life, liberty, and property, were at his disposal; but this is a trust which I am not authorized to make for my constituents, and as his successor in office will possess equal powers, but may not possess equal virtues, caution with respect to them is necessary. Again, what may be the result of the precedent relating to the session of Congress? If we had a right, by *law*, to determine where the next Congress should hold their sessions, one Congress may oblige another to sit at Kentucky, or in the intended Yazoo State, under the protection of a Choctaw chief, or his excellency Governor Tallan. It must, therefore, be evident that the usage of Congress, in both instances, is against the gentleman, and that the dangers, from the precedent of establishing a bank, are, comparatively, small, to those resulting from the other measures referred to.

The gentleman from Virginia has endeavored to support his interpretation of the constitution by the *sense* of the federal convention. But how is this to be obtained? By applying proper rules of interpretation. If so, the sense of the convention is in favor of the bill; or, are we to depend on the memory of the gentleman for an history of their debates, and from thence to collect their sense? This would be improper, because the memories of different gentlemen would probably vary, as they have already done, with respect to those facts; and, if not, the opinions of the individual members, who debated, are not to be considered as the opinions of the convention. Indeed, if they were,

no motion was made in that convention, and, therefore, none could be rejected for establishing a national bank. And the measure which the gentleman has referred to was a proposition merely to enable Congress to erect *commercial* corporations, which was, and always ought to be, negatived.

The gentleman's arguments, respecting the sense of the State conventions, have as little force as those relating to the federal convention. The debates of the State conventions, as published by short hand writers, were, generally, partial and mutilated; in this, if the publications are to be relied on, the arguments were all on one side of the question: for there is not in the record, which is said to contain the Pennsylvania debates, a word against the ratification of the constitution; although we all know that arguments were warmly urged on both sides. The gentleman has quoted the opinions as recorded in the debates of this State and North Carolina of two of our learned judges. But the speech of one member is not to be considered as expressing the sense of a convention; and, if it was, we have no record, which can be depended on, of such speeches. Indeed, had even this been the case, the Union was, at that time, divided into two great parties, one of which feared the loss of the Union if the constitution was not ratified unconditionally, and the other, the loss of our liberties, if it was. The object, on either side, was so important, as, perhaps, to induce the parties to depart from candor, and to call in the aid of art, flattery, professions of friendship; promises of office, and even of good cheer, were resorted to; and when these failed, the *federal bill* was published, denouncing political death and destruction to anti-federal infidels. Under such circumstances, the opinions of great men ought not to be considered as authorities, and, in many instances, could not be recognised by themselves.

Mr. Gerry then observing that the sense of the States, respecting a bank, would be best ascertained by their legislative acts, showed, from the journals of Congress, that, when restrained by the confederation from exercising any powers but what were *expressly* delegated, Congress had, without any authority, established a bank, whose capital might extend to ten millions of dollars, and had not only pledged the faith of the Union not to erect any other, but had recommended it to the States to prohibit any State establishment of the kind, and had, also, determined that the bank bills should be receivable in the taxes and duties of every State. That the States did not remonstrate against, or *tacitly* acquiesce in, but actually supported the measures of Congress relative to the bank, whilst the war continued, and after the peace. That this was the strongest evidence the States could give, that they thought the measure salutary, and had no objection to it on the ground of its being constitutional. He then argued that, if the States, and the People at large, had no objections to a bank, in that case, they certainly could not in this; and inquired whether there was any evidence of their disapprobation of such an institution in the debates of their conventions or propositions for amendments? To this he answered in the negative, and urged that, whilst the conventions were silent on this subject, and had no objections to such a measure, several of them had proposed amendments to the constitution, for restraining Congress from establishing *commercial corporations*, which evinced their approbation of such institutions, and admitted, at the same time, in some degree, the power of Congress, under the existing constitution, to form them.

Mr. Gerry then showed that, as a monopoly has been urged as an objection to the bill, no such consequence could result from it: for the bill does not restrain State or private banks, or even individuals, from negotiations of a similar nature with those permitted to the stockholders; nor does it restrain the States from forming similar corporations. This plan has not a feature of monopoly, and the gentlemen who oppose it contend for a bank, which, according to its original institution, was founded in monopoly.

He then answered the arguments, urged against the authority of Congress, to enable corporations to hold lands, when they had no power themselves of purchasing and holding land; and showed that, although Congress are restrained from purchasing lands, (except in certain cases) and from exercising over

the same *exclusive legislation*: yet, that they may hold lands obtained by execution, conquest, and by other means, as well as by those clauses of the constitution which relate to lands now belonging to the Union; and that Congress had often invested others with powers which they, themselves, could not exercise.

He then noticed the argument, that, by a law of Virginia, notes payable to the bearer, or order, could not circulate in that State; and observed that this law could not be supposed to extend to bank notes; and, if it did, it would be null and void, because the constitution of the Union, and laws made in pursuance thereof, were paramount to the laws and constitutions of the several States. Having considered the arguments against the constitutionality of the bill, he entered into the policy and utility of the measure, in his remarks on which head, the reporter did not follow him.

Mr. VINING apologized for rising to offer his sentiments on this subject, which had already been so ably discussed; but, considering the nature of the objections, as arising from constitutional principles, it had acquired an importance which would justify his troubling the House with some remarks.

He began by noticing the leading argument of Mr. Madison respecting the sense of the continental convention, on the power proposed to be exercised by Congress in this bill. He showed that the opinion of the gentleman, in this instance, was, if not singular, different from that of his contemporaries; at least, a similar objection had not been started by those gentlemen of the Senate who had been members of the convention; but, granting that the opinion of the gentleman from Virginia had been the full sense of the members of convention, their opinions, at that day, he observed, are not a sufficient authority for Congress, at the present time, to construe the constitution by.

Mr. V., in explaining the powers proposed by the bill to be given to the corporation of the bank, adverted to the particular power of "making rules and regulations not contrary to law."

He showed that this term *law* means the *common law*, and, alluding to the inquiry of Mr. Madison, what law was intended by this clause? who, in answering his own question, had said, *that, if the laws of the United States were intended, the power contemplated was dangerous and unconstitutional, as those laws were very few in number*, Mr. VINING observed, that the restriction contended for by the gentleman, as the result of his objection, would annihilate the most essential rights and privileges of the citizens of the United States. He then observed, a corporation is nothing more than constituting a body with powers to effect certain objects in a combined capacity, which an individual may do in his individual capacity, agreeably to the usage and custom of *common law*.

Adverting to the act by which the United States became a free and independent nation, he said, from that declaration, solemnly recognised at home and abroad, they derive all the powers appertaining to a nation thus circumstanced, and consequently the power under consideration. He traced the origin of corporations to the time of Numa; the first of which was for agricultural purposes; they were afterwards extended to other objects; and, from that day to this, said he, all civilized and independent nations have been in the practice of creating them; and what do they amount to but this, enabling a number of persons, in a combined capacity, to do that to a more certain effect than an individual may do, but subject to the control of *common law* in all its regulations and transactions.

On the doctrine of constructions, as applied to the constitution, he observed, that, on some occasions, the constitution is like the sensitive plant, which shrinks from the smallest touch; on others, it is like the sturdy oak, which braves the force of thunder. He referred to the act confining the power of removability, in which the utmost latitude of construing the constitution was contended for and adopted; and, said he, the funding system cannot be defended on any other principle than that of implication.

He then inquired, of what right does this incorporation deprive a single citizen? And can an act possibly meet the disapprobation of a single person which does not infringe his rights, and which puts money into his pocket? I think not. He insisted that the power of Congress alone, was equal to establishing a bank, competent of creating a currency which shall pervade all parts of the Union; the paper of the State banks cannot circulate beyond the bounds of the particular States.

From the restrictions to the Government, contended for by the opposers of the bill, he simlized the constitution to a horse, finely proportioned in every respect to the eye, and elegantly caparisoned, but deficient in one, and the most essential requisite, that of ability to carry the owner to his journey's end; he had rather, he said, mount the old confederation, and drag on in the old way, than be amused with the appearance of a Government so essentially defective.

Mr. MADISON observed, that the present is a question which ought to be conducted with moderation and candor, and, therefore, there is no occasion to have recourse to those tragic representations which have been adduced—warmth and passion should be excluded from the discussion of a subject which ought to depend on the cool dictates of reason for its decision.

Adverting to the observations of Mr. Smith, of South Carolina, "that it would be a deplorable thing for the Senate of the United States to have fallen on a decision which violates the constitution," he inquired, what does the reasoning of the gentleman tend to show, but this, that, from respect to the Senate, this House ought to sanction their decision? And from hence it will follow, that the President of the United States ought, out of respect to both, to sanction their joint proceedings; but he could, he said, remind the gentleman of his holding different sentiments on another occasion.

Mr. M. then enlarged on the exact balance of equipoise, contemplated by the constitution, to be observed and maintained between the several branches of Government; and showed that, except this idea was preserved, the advantages of different independent branches would be lost, and their separate deliberations and determinations were entirely useless.

In describing a corporation, he observed, that the powers proposed to be given, are such as do not exist antecedent to the existence of the corporation; these powers are very extensive in their nature, and to which a principle of perpetuity may be annexed.

He waived a reply to Mr. Vining's observations on the *common law*, (in which that gentleman had been lengthy and minute, in order to invalidate Mr. Madison's objection to the power proposed to be given to the bank, to make rules and regulations, not contrary to law.) Mr. Madison said the question would involve a very lengthy discussion; and other objects, more intimately connected with the subject, remained to be considered.

The power of granting charters, he observed, is a great and important power, and ought not to be exercised without we find ourselves expressly authorized to grant them. Here he dilated on the great and extensive influence that incorporated societies had on public affairs in Europe. They are a powerful machine, which have always been found competent to effect objects on principles in a great measure independent of the People.

He argued against the influence of the precedent to be established by the bill; for, though it has been said that the charter is to be granted only for a term of years, yet, he contended that granting the powers, on any principle, is granting them *in perpetuum*—and assuming this right on the part of the Government, involves the assumption of every power whatever.

Noticing the arguments in favor of the bill, he said, it had been observed that the "Government necessarily possesses every power." However true this idea may be in theory, he denied that it applied to the Government of the United States.

Here he read the restrictive clause in the constitution, and then observed that he saw no pass over this limit.

The preamble to the constitution, said he, has produced a new mine of power; but this is the first instance he had heard of, in which the preamble has been adduced, for such a purpose. In his opinion, the preamble only states the objects of the confederation; and the subsequent clauses designate the express powers by which those objects are to be obtained; and a mean is proposed through which to acquire those that may be found still requisite, more fully to effect the purposes of the confederation.

It is said, "there is a field of legislation yet unexplored." He had often heard this language. but, he confessed, he did not understand it. Is there, said he, a single blade of grass—is there any property in existence in the United States, which is not subject to legislation, either of the particular States or of the United States? He contended that the exercise of this power, on the part of the United States, involves, to all intents and purposes, every power which an individual State may exercise. On this principle, he denied the right of Congress to make use of a bank to facilitate the collection of taxes. He did not, however, admit the idea, that the institution would conduce to that object. The bank notes are to be equal to gold and silver, and consequently will be as difficult to obtain as the specie. By means of the objects of trade on which gold and silver are employed, there will be an influx of those articles; but paper being substituted, will fill those channels, which would otherwise be occupied by the precious metals. This, experience shows, is the uniform effect of such a substitution.

The right of Congress to regulate trade, is adduced as an argument in favor of this of creating a corporation; but what has this bill to do with trade? Would any plain man suppose that this bill had any thing to do with trade? He noticed the observation respecting the utility of banks to aid the Government with loans. He denied the necessity of the institution to aid the Government in this respect. Great Britain, he observed, did not depend on such institutions—she borrows from various sources.

"Banks, it is said, are necessary to pay the interest of the public debt;" then they ought to be established in the places where that interest is paid; but can any man say, that the bank notes will circulate at par in Georgia? From the example of Scotland, we know that they cannot be made equal to specie remote from the place where they can be immediately converted into coin; they must depreciate in case of a demand for specie; and if there is no moral certainty that the interest can be paid by these bank bills, will the Government be justified in depriving itself of the power of establishing banks in different parts of the Union?

We reason, said he, and often with advantage, from British models; but in the present instance, there is a great dissimilarity of circumstances. The bank notes of Great Britain do not circulate universally; to make the circumstances parallel, it ought to have been assumed, as a fact, that banks are established in various parts of Great Britain, at which the interest of the national debt is paid; but the fact is, it is only paid in one place.

The clause of the constitution, which has been so often recurred to, and which empowers Congress to dispose of its property, he supposed, referred only to property left at the conclusion of the war, and has no reference to the moneyed property of the United States.

The clause which empowers Congress to pass all laws necessary, &c. has been brought forward repeatedly by the advocates of the bill; he noticed the several constructions of this clause which had been offered. The conclusion which he drew from the commentary of the gentleman from Massachusetts, [Mr. GERRY] was, that Congress may do what they please; and recurring to the opinion of that gentleman, in 1787, he said, the powers of the constitution were then dark, inexplicable, and dangerous; but now, perhaps, as the result of experience, they are clear and luminous.

The constructions of the constitution, he asserted, which have been maintained on this occasion, go to the subversion of every power whatever in the several States; but we are told, for our comfort, that the judges will rectify our



mistakes. How are the judges to determine in the case? Are they to be guided in their decisions by the rules of expediency?

It has been asked, if those minute powers of the constitution were thought to be necessary, is it supposable that the great and important power on the table was not intended to be given? Mr. Madison interpreted this circumstance in a quite different way, viz:—If it was thought necessary to specify, in the constitution, those minute powers, it would follow that more important powers would have been *explicitly* granted, had they been contemplated.

The Western territory business, he observed, was a case *sui generis*, and therefore cannot be cited with propriety. West Point, so often mentioned, he said, was purchased by the United States pursuant to law, and the consent of the State of New York is supposed, if it has not been expressly granted; but, on any occasion, does it follow that one violation of the constitution is to be justified by another?

The permanent residence bill, he conceived, was entirely irrelevant to the subject; but he conceived it might be justified on truly constitutional principles. The act vesting in the President of the United States the power of removability has been quoted; he recapitulated, in a few words, his reasons for being in favor of that bill.

The Bank of North America, he said, he had opposed, as he considered the institution as a violation of the confederation. The State of Massachusetts, he recollected, voted with him on that occasion. The Bank of North America was, however, the child of necessity; as soon as the war was over, it ceased to operate as to continental purposes. But, asked he, are precedents in war to justify violations of private and State rights, in a time of peace? And did the United States pass laws to punish the counterfeiting the notes of that bank? They did not, being convinced of the invalidity of such a law; the bank therefore took shelter under the authority of the State.

The energetic administration of this Government is said to be connected with this institution. Mr. Madison here stated the principles on which he conceived this Government ought to be administered, and added, other gentlemen may have had other ideas on the subject, and may have consented to the ratification of the constitution, on different principles and expectations; but he considered the enlightened opinion and affections of the People, the only solid basis for the support of this Government.

Mr. Madison then stated his objections to the several parts of the bill. The first article he objected to, was the duration. A period of twenty years, he observed, was, to this country, as a period of a century in the history of other countries—there was no calculating for the events which might take place. He urged the ill policy of granting so long a term, from the experience of the Government in respect to some treaties, which, though found inconvenient, could not now be altered.

The different classes of the public creditors, he observed, were not all put on an equal footing by *this bill*; but, in the bill for the disposal of the Western territory, this had been thought essential. The holders of six per cent. securities will derive undue advantages. Creditors at a distance, and the holders of three per cent. securities, ought to be considered; as the public good is most essentially promoted by an equal attention to the interest of all.

I admit, said he, that the Government ought to consider itself as the trustee of the public on this occasion; and, therefore, should avail itself of the best disposition of the public property.

In this view of the subject, he objected to the bill, as the public, he thought, ought to derive greater advantages from the institution than those proposed. In case of a universal circulation of the notes of the proposed bank, the profits will be so great, that the Government ought to receive a very considerable sum for granting the charter.

There are other defects in the bill, which render it proper and necessary, in my opinion, that it should undergo a revision and amendment before it passes into a law. The power vested by the bill in the Executive, to borrow of the

bank, he thought was objectionable; and the right to establish subordinate banks, he said, ought not to be delegated to any set of men under heaven.

The public opinion has been mentioned; if the appeal to the public opinion is suggested with sincerity, we ought to let our constituents have an opportunity to form an opinion of the subject.

He concluded by saying, he should move for the previous question.

Mr. GERRY rose to reply to Mr. Madison; but the House discovering an impatience to have the main question put, after a few remarks, he waived any further observations.

FEBRUARY 8, 1791. 1791

Mr. MADISON having, in the conclusion of his speech, moved the previous question, to wit: "*Shall the main question now be put?*" it was resolved in the affirmative by a vote of 38 to 20.

And the main question being put, to wit: "*Shall the bill pass?*" it was resolved in the affirmative. Ayes 39, noes 20.

Those who voted in the affirmative, are,

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|--------------------------------------|--|
| Messrs. Fisher Ames, <i>of Mass.</i> | Messrs. George Partridge, <i>Mass.</i> |
| Egbert Benson, <i>N. Y.</i>          | Jeremiah Van Rensselaer, <i>N. Y.</i>  |
| Elias Boudinot, <i>N. J.</i>         | James Schureman, <i>N. J.</i>          |
| Benjamin Bourn, <i>R. I.</i>         | Thomas Scott, <i>Pa.</i>               |
| Lambert Cadwallader, <i>N. J.</i>    | Theodore Sedgwick, <i>Mass.</i>        |
| George Clymer, <i>Pa.</i>            | Joshua Seney, <i>Md.</i>               |
| Thomas Fitzsimmons, <i>Pa.</i>       | John Sevier, <i>N. C.</i>              |
| William Floyd, <i>N. Y.</i>          | Roger Sherman, <i>Conn.</i>            |
| Abiel Foster, <i>N. H.</i>           | Peter Sylvester, <i>N. Y.</i>          |
| Elbridge Gerry, <i>Mass.</i>         | Thomas Sinnickson, <i>N. J.</i>        |
| Nicholas Gilman, <i>N. H.</i>        | William Smith, <i>Md.</i>              |
| Benjamin Goodhue, <i>Mass.</i>       | William Smith, <i>S. C.</i>            |
| Thomas Hartley, <i>Pa.</i>           | John Steele, <i>N. C.</i>              |
| John Hathorn, <i>N. Y.</i>           | Jonathan Sturges, <i>Conn.</i>         |
| Daniel Heister, <i>Pa.</i>           | George Thatcher, <i>Mass.</i>          |
| Benjamin Huntington, <i>Conn.</i>    | Jonathan Trumbull, <i>Conn.</i>        |
| John Lawrence, <i>N. Y.</i>          | John Vining, <i>Del.</i>               |
| George Leonard, <i>Mass.</i>         | Jeremiah Wadsworth, <i>Conn.</i>       |
| Samuel Livermore, <i>N. H.</i>       | Henry Wyncoop, <i>Pa.</i>              |
| Peter Muhlenburg, <i>Pa.</i>         |  |

Those who voted in the negative, are,

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|---|---------------------------------------|
| Messrs. John Baptist Ashe, <i>N. C.</i> | Messrs. Richard Bland Lee, <i>Va.</i> |
| Abraham Baldwin, <i>Geo.</i>            | James Madison, Jun. <i>Va.</i>        |
| Timothy Bloodgood, <i>N. C.</i>         | George Matthews, <i>Geo.</i>          |
| John Brown, <i>Va.</i>                  | Andrew Moore, <i>Va.</i>              |
| Edanus Burke, <i>S. C.</i>              | Josiah Parker, <i>Va.</i>             |
| Daniel Carroll, <i>Md.</i>              | Michael Jenifer Stone, <i>Md.</i>     |
| Benjamin Contee, <i>Md.</i>             | Thomas Tudor Tucker, <i>S. C.</i>     |
| Jonathan Grout, <i>Mass.</i>            | Alexander White, <i>Va.</i>           |
| William B. Giles, <i>Va.</i>            | Hugh Williamson, <i>N. C.</i>         |
| James Jackson, <i>Geo.</i>              |                                       |

So the bill was passed, and it was

*Ordered*, That the Clerk of the House do acquaint the Senate therewith.

On the 14th of February, 1791, the bill was presented to the President for his approbation; on the 25th, it received his signature, and became a law. The interval between these two dates was occupied by him in anxious and diligent inquiries into the constitutionality of the bill, and in the consideration of his duty in relation to it. In these investigations, he called to his aid his cabinet advisers, and received from some of them their written opinions on the subject. These have been obtained, and are here inserted, as well on account of their own intrinsic importance, as of the illustration they afford of

the caution and circumspection in the discharge of official duties of the truly great man to whom they were addressed.

The opinions of Edmund Randolph, Attorney General, and of Mr. Jefferson, Secretary of State, were, that the bill was unconstitutional, while that of Alexander Hamilton, Secretary of the Treasury, was given on the opposite side, and in support of the bill.

OPINION OF EDMUND RANDOLPH,

*Attorney General of the United States, to President Washington.*

The Attorney General of the United States, in obedience to the order of the President of the United States, has had under consideration the bill, entitled "An act to incorporate the subscribers to the Bank of the United States," and reports on it, in point of constitutionality, as follows:

It must be acknowledged, that, if any part of the bill does either encounter the constitution, or is not warranted by it, the clause of incorporation is the only one.

The legal properties of this corporation would be,

- 1st. To have succession until the 4th of March, 1811;
- 2d. To purchase, receive, and retain, real and personal property, to an amount not exceeding fifteen millions of dollars, including the capital stock;
- 3d. To sell and dispose of the property;
- 4th. To sue, and be sued;
- 5th. To have a common seal; and
- 6th. To make by-laws, and do all acts appertaining to the corporation, under certain restrictions prescribed in the act.

These properties, with different modifications in some instances, belong to all corporations. Their importance strikes the eye.

That the power of creating corporations is not *expressly* given to Congress, is obvious.

If it can be exercised by them, it must be,

- 1st. Because the nature of the Federal Government implies it; or,
- 2d. Because it is involved in some of the specified powers of legislation; or,
- 3d. Because it is necessary and proper to carry into execution some of the specified powers:

1st. To be implied in the nature of the Federal Government, would beget a doctrine so indefinite as to grasp every power.

Governments having *no written* constitution may, perhaps, claim a latitude of power not always easy to be determined. Those which have written constitutions are circumscribed by a just interpretation of the words contained in them. Nay, farther; a legislature, instituted even by a written constitution, but without a special demarcation of powers, may, perhaps, be presumed to be left at large, as to all authority which is communicable by the people, and does not affect any of those paramount rights, which a free people cannot be supposed to confide even to their representatives. Essentially otherwise is the condition of a legislature whose powers are described. An example of the former is in the State Legislatures; of the latter, in the Legislature of the Federal Government, the characteristic of which has been confessed by Congress, in the twelfth amendment, to be, that it claims no powers which are not delegated to it.

This last observation straitens the federal powers, and opposes an opinion, not unpatronised, that Congress may exercise all authority to which the States are individually incompetent.

If any subject of government, from which the States are not excluded by the constitution, be beyond their jurisdiction within their own limits, let it be shown: it cannot be easily conceived.

But what if a subject should really exist? Is the argument less conclusive to say, that the States must *retain* it, because it is not given to the Federal

Government, than that the latter, although limited in itself, possesses it, because it is not within the verge of a State constitution? While, on the other hand, it ought not to be denied that the Federal Government superintends the general welfare of the States, it ought not to be forgotten, on the other, that it superintends it according to the dictates of the constitution.

The opinion above alluded to can have only one other object, namely, that every institution to which a single State can give efficacy only within its own boundaries, devolves on Congress. But the extravagance of such a position, is manifested by a single circumstance, that the cutting of canals through two or more States, at the will of Congress, is one of its least consequences.

2d. We ask, then, in the second place, whether, upon any principle of fair construction, the specified powers of legislation involve the power of granting charters of incorporation? We say charters of incorporation, without confining the question to the bank; because the admission of it in that instance, is an admission of it in every other, in which Congress may think the use of it equally expedient.

There is a real difference between the rule of interpretation, applied to a law and a constitution. The one comprises a summary of matter, for the detail of which numberless laws will be necessary; the other is the very detail. The one is, therefore, to be construed with a discreet liberality, the other, with a closer adherence to the literal meaning.

But, when we compare the modes of construing a State and the Federal constitution, we are admonished to be stricter with regard to the latter, because there is a greater danger of error in defining partial, than general powers.

The rule, therefore, for interpreting the specified powers, seems to be, that, as each of them includes those details, which properly constitute the whole of the subject to which the power relates, the details themselves must be fixed by reasoning. And the appeal may, on this occasion, be made to common sense and common language.

Those powers, then, which bear any analogy to that of incorporation, shall be examined separately in their constituent parts; and afterwards, in those traits which are urged to have the strongest resemblance to the favorite power.

*First.* Congress have power to lay and collect taxes, &c. The heads of this power are,

1st. To ascertain the subjects of taxation, &c.

2d. To declare the quantum of taxation, &c.

3d. To prescribe the mode of collection; and

4th. To ordain the manner of accounting for the taxes, &c.

*Second.* Congress have also power to borrow money on the credit of the United States.

The heads of this power, are,

1st. To stipulate a sum to be lent;

2d. To stipulate an interest, or no interest, to be paid; and

3d. To stipulate the time and manner of repayment, unless the loan be placed on an irredeemable fund.

*Third.* Congress have also power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

The heads of this power, with respect to foreign nations, are,

1st. To prohibit them or their commodities from our ports;

2d. To impose duties on them, where none existed before, or to increase existing duties on them;

3d. To subject them to any species of custom house regulations; or,

4th. To grant them any exemptions or privileges which policy may suggest.

The heads of this power, with respect to the several States, are little more than to establish the *forms* of commercial intercourse between them, and to keep the prohibitions which the constitution imposes on that intercourse, undiminished in their operation; that is, to prevent taxes on imports or exports; preferences to one port over another, by any regulation of commerce or reve-

nue; and duties upon the entering or clearing of the vessels of one State in the ports of another.

The heads of this power, with respect to Indian tribes, are,

1st. To prohibit the Indians from coming into, or trading within, the United States;

2d. To admit them with, or without, restrictions;

3d. To prohibit citizens of the United States from trading with them; or,

4th. To permit with, or without, restrictions.

*Fourth.* Congress have also power to dispose of, and make all needful rules and regulations respecting, the territory, or other property belonging to the United States.

The heads of this power, are,

1st. To exert an ownership over the territory of the United States, which may be properly called the property of the United States, as is the Western territory, and to institute a Government therein; or,

2d. To exert an ownership over the other property of the United States.

This property may signify,

1st. Personal property of the United States, howsoever acquired; or,

2d. Real property, not aptly denominated territory, acquired by cession or otherwise.

It cannot signify,

1st. *Debts* due from the United States;

2d. Nor money arising from the sources of revenue pointed out in the constitution. The disposal and regulation of money, is the final cause for raising it by taxes, &c.

*Fifth.* The preamble to the constitution has also been relied on as a source of power.

To this, it will be here remarked, once for all, that the preamble, if it be operative, is a full constitution of itself, and the body of the constitution is useless; but that it is declarative only of the views of the convention, which they supposed would be best fulfilled by the powers delineated; and that such is the legitimate nature of preambles.

With this analysis of the foregoing specified powers, compare each of the corporate powers, and where is the similitude? It lies, say the advocates of the bill, in the power to lay and collect taxes, &c.; because it facilitates the payment of them: in that of borrowing money, because it creates an ability to lend; in that of regulating commerce, because it increases the medium of circulation, and thus encourages activity and industry. In that of disposing and regulating property, because the contributions and the interest of the United States in the bank, are property of the United States. Of each of these reasons, something will be said in their order.

The incorporation of a bank can facilitate the payment of taxes, only by creating a faculty to pay, or by supplying a deficient medium, or by rendering the transportation of money to the seat of government more convenient. But, to lay and collect taxes, is, in fact, to demand and receive a public debt, resting the mode of procuring the money on the resources of the debtors; and, as to its transportation, surely there are many other vehicles besides bank bills.

To borrow money, presupposes the accumulation of a fund to be lent; and is secondary to the creation of an ability to lend.

By regulating commerce, in order to increase the medium of circulation, cannot be intended any of the commercial powers designated above; these being very remote from the incorporation of a bank. Nor can it be imagined, that it is intended to reach the emission of paper money. What construction remains, by which to regulate commerce, can increase the medium? Only the emission of coin, which is licensed in terms by another clause.

To dispose of, or to regulate, property, even bank stock itself, is utterly distinct from the incorporation of a bank: for the contributions on which the bank stock arises, go upon the principle, that a bank already exists; how else can contributions be made to it?

But, in truth, the serious alarm is in the concentered force of these sentiments. If the laying and collecting of taxes brings with it every thing which, in the opinion of Congress, may facilitate the payment of taxes; if to borrow money sets political speculation loose, to conceive what may create an ability to lend; if to regulate commerce is to range in the boundless mazes of projects for the apparently best scheme to invite from abroad, or to diffuse at home, the precious metals; if to dispose of, or to regulate, property of the United States, is to incorporate a bank, that stock may be subscribed to it by them, it may, without exaggeration, be affirmed, that a similar construction on every specified federal power, will stretch the arm of Congress into the whole circle of State legislation.

The general qualities of the Federal Government, independent of the constitution and the specified powers, being thus insufficient to uphold the incorporation of a bank, we come to the last inquiry, which has been already anticipated, whether it be sanctified by the power to make all laws, which shall be necessary and proper for carrying into execution the powers vested by the constitution. To be necessary is to be incidental, or, in other words, may be denominated the natural means of executing a power.

The phrase "and proper," if it has any meaning, does not enlarge the powers of Congress, but rather restricts them. For no power is to be assumed under the general clause, but such as is not only necessary, but proper, or perhaps expedient also. But as the friends to the bill ought not to claim any advantage from this clause, so ought not the enemies to it, to quote the clause as having a restrictive effect. Both ought to consider it as among the surplusage which as often proceeds from inattention as caution.

However, let it be propounded as an eternal question to those who build new powers on this clause, whether the latitude of construction, which they arrogate will not terminate in an unlimited power in Congress.

In every respect, therefore, under which the Attorney General can view the act, so far as it incorporates the bank, he is bound to declare his opinion to be against its constitutionality.

EDMUND RANDOLPH.

*February 12th, 1791.*

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ATTORNEY GENERAL'S OPINION.

No. 2.

The Attorney General holding it to be his duty to address to the President of the United States, as the grounds of an official opinion, no arguments, the truth of which he does not acknowledge, has reserved for this purpose several topics, which have more or less influenced the friends and enemies of the bank bill; and which ought, therefore, to be communicated to the President.

1st. The enemies of the bill have contended that a rule of construction, adverse to the power of incorporation, springs out of the constitution itself; that, after the grant of certain powers to Congress, the constitution, as if cautious against usurpation, specially grants several other powers, more akin to those before given, than the incorporation of a bank is to any of those from which it is deduced. This position, they say, has been exemplified in four instances:

1. A power is given to regulate commerce; and yet is added a power to establish uniform laws on the subject of bankruptcies throughout the United States; to fix the standard of weights and measures; and to establish post offices and post roads.

2. A power is given to coin money; and yet is added a power to regulate the value thereof, and of foreign coin; and to provide for the punishment of counterfeiting the current coin of the United States.

3. A power is given to declare war; and yet is added a power to grant letters of marque and reprisal; to make rules concerning captures on land and



water; to raise and support armies; to provide and maintain a navy; and to make rules for the government and regulation of the land and naval forces.

4. A power is given to provide for calling forth the militia, to execute the laws of the Union; and yet is added a power to call them forth to suppress insurrections.

Whosoever will attentively inspect the constitution will readily perceive the force of what is expressed in the letter of the convention, "That the constitution was the result of a spirit of amity and mutual deference and concession." To argue, then, from its style or arrangement, as being logically exact, is, perhaps, a scheme of reasoning not absolutely precise.

But, if the constitution were ever so perfect, considered even as a composition, the difficulties which the above doctrine has stated may be solved by the following remarks:

These similar powers, on which stress is laid, are either incidental, or substantive, that is, independent powers.

If they be incidental powers, and the conclusion be, that, because some incidental powers are expressed, no others are admissible, it would not only be contrary to the common forms of construction, but would reduce the present Congress to the feebleness of the old one, which could exercise no powers not expressly delegated. So that the advocates for the power of incorporation, on the principle of incidentality to some specified power, would, notwithstanding this supposed rule of interpretation, be as much at liberty to insist on its being an incidental power as ever.

If these similar powers be substantive and independent, (as on many occasions they are, that is, as they can be conceived to be capable of being used, independently of what is called the principal power,) it ought not to be inferred that they were inserted for any other purpose, than to bestow an independent power, where it would not otherwise have existed.

The only remaining signification, which the doctrine now controverted can have, is, that the incorporation of a bank, being more wide from a connexion with the specified powers of legislation than the additional ones were from the principal powers, to which they were supposed to belong, the power of incorporation being omitted, or rather not specially mentioned, cannot be assumed. Even this answer is not adequate to those, who derive the power of incorporation from the nature of the Federal Government.

Hence the rule contended for by the enemies of the bill is defective every way. It would be still more so with respect to those (if any such there be) who construe the words, "*necessary and proper*," so as to embrace every expedient power.

2d. An appeal has been also made by the enemies of the bill to what passed in the federal convention on the subject. But ought not the constitution to be decided on by the import of its own expressions? What may not be the consequence if an almost unknown history should govern the construction?

3d. The opinions too of several respectable characters have been cited, as delivered in the state conventions. As these have no authoritative influence, so ought it to be remembered, that observations were uttered by the advocates of the constitution, before its adoption, to which they will not, and, in many cases, ought not to adhere.

4th. On the other hand, the friends to the bill have relied on the congressional acts as to West Point, the government of the Western Territory, and the power of removal from office given to the President.

The two first are within express powers, as will occur, by adverting to the power to exercise authority over places purchased for forts, &c. and to the power to dispose of, and make needful rules and regulations respecting the property of the United States. The last is a point with a great weight of reason on each side. If it be founded on the general *nature* of executive authority, the power is probably not tenable, without resorting to the doctrines of the friends to the bill. But it appears to be a power not specifically given to any person, (except on an impeachment,) and may, therefore, incidentally belong to Congress to confer on the President. However, if this step be an error, it is never too late to correct it.

5th. It has been also pretended, that even the infirm old Congress incorporated a bank; and can a less power be presumed to be vested in the Federal Government, which has been formed to remedy their weakness? This argument is so indefinite, the time of the incorporation was so pressing, and the States had such an unlimited command over Congress and their acts, that the public acquiescence ought not to be the basis of such a power under the present circumstances.

6th. Congress, it is further said, may provide for the general welfare, and this includes the power of incorporation: but they are to provide for the general welfare in laying and collecting taxes. Is the incorporation of a bank a tax bill? The meaning of the power, taken together, seems to be, that Congress may lay taxes for the purpose of expending money for the public welfare, even to subscribe it to a bank. But is this like the *creation* of a bank? It implies that a bank has been already created.

7th. It has been also asserted, that Congress have an exclusive legislation at the Seat of Government. This will not be true, until they go to the place of the permanent residence.

The Attorney General has not collected any other information on this subject, although more may, perhaps, have been said by the partisans for and against the bank, than is here noticed.

EDMUND RANDOLPH.

February 12th, 1791.

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OPINION OF THOMAS JEFFERSON, SECRETARY OF STATE, ON THE SAME SUBJECT.

The bill for establishing a national bank undertakes, among other things,

1. To form the subscribers into a corporation.
2. To enable them, in their corporate capacities, to receive grants of land; and so far is against the laws of *mortmain*.\*
3. To make *alien* subscribers capable of holding lands; and so far is against the laws of *alienage*.
4. To transmit these lands, on the death of a proprietor, to a certain line of successors; and so far changes the course of *descents*.
5. To put the lands out of the reach of forfeiture or escheat; and so far is against the laws of *forfeiture and escheat*.
6. To transmit personal chattels to successors, in a certain line; and so far is against the laws of *distribution*.
7. To give them the sole and exclusive right of banking under the national authority; and so far is against the laws of *monopoly*.
8. To communicate to them a power to make laws paramount to the laws of the States; for so they must be construed, to protect the institution from the control of the State Legislatures; and so, probably, they will be construed.

I consider the foundation of the constitution as laid on this ground, that, "all powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, or to the people." (12th amendment.) To take a single step beyond the boundaries thus specially drawn around the powers of Congress, is to take possession of a boundless field of power, no longer susceptible of any definition.

The incorporation of a bank, and other powers assumed by this bill, have not, in my opinion, been delegated to the United States by the constitution:

\*Though the constitution controls the laws of mortmain, so far as to permit Congress itself to hold lands for certain purposes, yet not so far as to permit them to communicate a similar right to other corporate bodies.

I. They are not among the powers specially enumerated; for these are,

1. A power to *lay taxes* for the purpose of paying the debts of the United States; but no debt is paid by this bill, nor any tax laid. Were it a bill to raise money, its origination in the Senate would condemn it by the constitution.

2. "To borrow money." But this bill neither borrows money, nor insures the borrowing it. The proprietors of the bank will be just as free, as any other money holders, to lend, or not to lend, their money to the public: the operation proposed in the bill, first to lend them two millions, and then borrow them back again, cannot change the nature of the latter act, which will still be a payment, and not a loan, call it by whatever name you please.

3. "To regulate commerce with foreign nations, and among the States, and with the Indian tribes." To erect a bank, and to regulate commerce, are very different acts. He who erects a bank, creates a subject of commerce in its bills; so does he, who makes a bushel of wheat, or digs a dollar out of the mines; yet neither of these persons regulates commerce thereby. To make a thing which may be bought and sold, is not to prescribe regulations for buying and selling. Besides, if this was an exercise of the power of regulating commerce, it would be void, as extending as much to the internal commerce of every State, as to its external; for the power given to Congress by the constitution does not extend to the internal regulation of the commerce of a State, (that is to say, of the commerce between citizen and citizen,) which remains exclusively with its own legislature; but to its external commerce only. That is to say, its commerce with another State, or with foreign nations, or with the Indian tribes: accordingly the bill does not propose this measure as a "regulation of trade," but, as "productive of considerable advantage to trade;" still less are these powers covered by any other of the special enumerations.

II. Nor are they within either of the general phrases, which are the two following:

1. "To lay taxes to provide for the general welfare of the United States;" that is to say, to lay taxes *for the purpose* of providing for the general welfare: for the laying of taxes is the *power*, and the general welfare the *purpose* for which the power is to be exercised. They are not to lay taxes *ad libitum*, for any purpose they please, but only to pay the debts, or provide for the welfare of the Union. In like manner, they are not to do any thing they please to provide for the general welfare, but only to lay taxes for that purpose. To consider the latter phrase, not as describing the purpose of the first, but as giving a distinct and independent power to do any act they please, which might be for the good of the Union, would render all the preceding and subsequent enumerations of power completely useless: it would reduce the whole instrument to a single phrase, that of instituting a Congress with power to do whatever would be for the good of the United States; and, as they would be the sole judges of the good or evil, it would be also a power to do whatever evil they pleased. It is an established rule of construction, where a phrase will bear either of two meanings, to give it that which will allow some meaning to the other parts of the instrument, and not that which would render all the others useless. Certainly no such universal power was meant to be given to them. It was intended to lace them up straitly within the enumerated powers; and those without which, as means, those powers could not be carried into effect. It is known that the very power now proposed as a *means*, was rejected *as an end* by the convention which formed the constitution: a proposition was made to them to authorize Congress to open canals, and an amendatory one to empower them to incorporate; but the whole was rejected, and one of the reasons of rejection urged in the debate was, that then they would have power to erect a bank, which would render the great cities, where there were prejudices or jealousies on this subject, adverse to the reception of the constitution.

2. The second general phrase is, "to make all laws necessary and proper for carrying into execution the enumerated powers." But they can all be carried into execution without a bank. A bank, therefore, is not necessary, and, consequently, not authorised by this phrase.

It has been much urged, that a bank will give great facility, or convenience, in the collection of taxes. Suppose this were true, yet the constitution allows only the means which are "necessary," not those which are merely convenient for effecting the enumerated powers. If such a latitude of construction be allowed to this phrase, as to give any non enumerated power, it will go to every one; for there is no one, which ingenuity may not torture into a convenience, *in some way or other, to some one* of so long a list of enumerated powers: it would swallow up all the delegated powers, and reduce the whole to one phrase, as before observed. Therefore it was that the constitution restrained them to the *necessary* means; that is to say, to those means, without which the grant of the power would be nugatory.

But let us examine this *convenience*, and see what it is. The report on the subject (page 3) states the only *general* convenience to be the preventing the transportation and re-transportation of money between the States and the treasury, (for I pass over the increase of circulating medium, ascribed to it as a merit, and which, according to my ideas of paper money, is clearly a demerit.) Every State will have to pay a sum of tax-money into the treasury; and the treasury will have to pay, in every State, a part of the interest on the public debt, and salaries to the officers of Government resident in that State. In most of the States there will still be a surplus of tax-money to come up to the Seat of Government for the officers residing there. The payment of interest and salary in each State, may be made by treasury orders on the State collector. This will take up the greater part of the money he has collected for his State, and, consequently, prevent the great mass of it from being drawn out of the State. If there be a balance of commerce in favor of that State against the one in which the Government resides, the surplus of taxes will be remitted by the bills of exchange drawn for that commercial balance; and so it must be if there was a bank. But if there be no balance of commerce, either direct or circuitous, all the banks in the world could not bring up the surplus of taxes, but in the form of money. Treasury orders, then, and bills of exchange, may prevent the displacement of the main mass of the money collected, without the aid of any bank; and where these fail, it cannot be prevented, even with that aid.

Perhaps, indeed, bank bills may be a more *convenient* vehicle than treasury orders; but a little *difference* in the degree of *convenience* cannot constitute the *necessity*, which the constitution makes the ground for assuming any non enumerated power.

Besides, the existing banks will, without a doubt, enter into arrangements for lending their agency; and the more favorably, as there will be a competition among them for it; whereas the bill delivers us up bound to the national bank, who are free to refuse all arrangement, but on their own terms, and the public not free, on such refusal, to employ any other bank. That of Philadelphia, I believe, now does this business by their post notes, which by an arrangement with the treasury are paid by any State collector to whom they are presented. This expedient alone suffices to prevent the existence of that *necessity*, which may justify the assumption of a non enumerated power as a means for carrying into effect an enumerated one. The thing may be done, and has been done, and well done, without this assumption: therefore, it does not stand in that degree of *necessity*, which can honestly justify it.

It may be said that a bank, whose bills would have currency all over the States, would be more convenient, than one, whose currency is limited to a single State. So it would be still more convenient that there should be a bank, whose bills should have a currency all over the world; but it does not follow, from this superior conveniency, that there exists any where a power to establish such a bank, or that the world may not go on very well without it.

Can it be thought that the constitution intended, that, for a shade or two of *convenience*, more or less, Congress should be authorized to break down the most ancient and fundamental laws of the several States, such as those against mortmain, the laws of alienage, the rules of descent, the acts of distribution, the laws of escheat and forfeiture, the laws of monopoly? Nothing, but a ne-

cessity invincible by any other means, can justify such a prostration of laws, which constitute the pillars of our whole system of jurisprudence. Will Congress be too strait-laced to carry the constitution into honest effect, unless they may pass over the foundation laws of the State Governments, for the slightest convenience to theirs?

The negative of the President is the shield provided by the constitution, to protect against the invasions of the Legislature: 1st. The rights of the Executive. 2d. Of the Judiciary. 3d. Of the States and State Legislatures. The present is the case of a right remaining exclusively with the States, and is consequently, one of those intended by the constitution to be placed under his protection.

It must be added, however, that, unless the President's mind, on a view of every thing, which is urged for and against this bill, is tolerably clear that it is unauthorized by the constitution; if the *pro* and the *con* hang so even as to balance his judgment, a just respect for the wisdom of the Legislature, would naturally decide the balance in favor of their opinion: it is chiefly for cases, where they are clearly misled by error, ambition, or interest, that the constitution has placed a check in the negative of the President.

THOMAS JEFFERSON.

February 15, 1791.

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*From President Washington to Alexander Hamilton, Secretary of the Treasury.*

PHILADELPHIA, February 16, 1791.

SIR: "An act to incorporate the subscribers to the Bank of the United States" is now before me for consideration.

The constitutionality of it is objected to. It, therefore, becomes more particularly my duty to examine the ground on which the objection is built. As a mean of investigation, I have called upon the Attorney General of the United States, in whose line it seemed more particularly to be, for his official examination and opinion. His report is, that the constitution does not warrant the act. I then applied to the Secretary of State for his sentiments on this subject. These coincide with the Attorney General's; and the reasons for their opinions having been submitted in writing, I now require, in like manner, yours, on the validity and propriety of the above recited act: and that you may know the points, on which the Secretary of State and the Attorney General dispute the constitutionality of the act, and that I may be fully possessed of the arguments *for and against* the measure, before I express any opinion of my own, I give you an opportunity of examining and answering the objections contained in the enclosed papers. I require the return of them, when your own sentiments are handed to me, (which I wish may be as soon as is convenient;) and, further, that no copies of them be taken, as it is for my own satisfaction they have been called for.

G. WASHINGTON.

*To the Secretary of the Treasury.*

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MONDAY.

The Secretary of the Treasury presents his respects to the President of the United States, to request his indulgence for not having yet furnished his reasons on a certain point. He has been ever since sedulously engaged in it, but finds it will be impossible to complete before Tuesday evening, or Wednesday morning early. He is anxious to give the point a *thorough examination*.

PHILADELPHIA, 23d February, 1794. 1791

The Secretary of the Treasury presents his respects to the President, and sends him the opinion required, which occupied him the greatest part of last night.

The bill for extending the time of opening subscriptions passed yesterday, unanimously, to an order for engraving.

OPINION OF ALEXANDER HAMILTON, ON THE CONSTITUTIONALITY  
OF A NATIONAL BANK.

The Secretary of the Treasury having perused, with attention, the papers containing the opinions of the Secretary of State and Attorney General, concerning the constitutionality of the bill for establishing a national bank, proceeds, according to the order of the President, to submit the reasons which have induced him to entertain a different opinion.

It will naturally have been anticipated that, in performing this task, he would feel uncommon solicitude. Personal considerations alone, arising from the reflection that the measure originated with him, would be sufficient to produce it; the sense which he has manifested of the great importance of such an institution, to the successful administration of the department under his particular care, and an expectation of serious ill consequences to result from a failure of the measure, do not permit him to be without anxiety on public accounts. But the chief solicitude arises from a firm persuasion, that principles of construction, like those espoused by the Secretary of State and Attorney General, would be fatal to the just and indispensable authority of the United States.

In entering upon the argument, it ought to be premised, that the objections of the Secretary of State and Attorney General, are founded on a general denial of the authority of the United States to erect corporations. The latter, indeed, expressly admits, that, if there be any thing in the bill which is not warranted by the constitution, it is the clause of incorporation.

Now, it appears to the Secretary of the Treasury, that this *general principle* is *inherent* in the very definition of government, and *essential* to every step of the progress to be made by that of the United States; namely, that every power vested in a government, is, in its nature, *SOVEREIGN*, and includes, by *force of the term*, a right to employ all the means requisite, and fairly applicable, to the attainment of the *ends* of such power, and which are not precluded by restrictions and exceptions specified in the constitution, or not immoral, or not contrary to the essential ends of political society.

This principle, in its application to government in general, would be admitted as an axiom; and it will be incumbent upon those who may incline to deny it, to prove a distinction, and to show, that a rule which, in the general system of things, is essential to the preservation of the social order, is inapplicable to the United States.

The circumstance, that the powers of sovereignty are, in this country, divided between the National and State Governments, does not afford the distinction required. It does not follow from this, that each of the portions of *power* delegated to the one or to the other, is not sovereign with regard to its *proper objects*. It will only follow from it, that each has sovereign power as to *certain things*, and not as to *other things*. To deny that the Government of the United States has sovereign power as to its declared purposes and trusts, because its power does not extend to all laws, would be equally to deny that the State Governments have sovereign power in *any case*, because their power does not extend to *every case*. The tenth section of the first article of the constitution, exhibits a long list of very important things which they may not do; and thus the United States would furnish the singular spectacle of



a political society without *sovereignty*; or of a people governed without government.

If it would be necessary to bring proof to a proposition so clear, as that which affirms that the powers of the Federal Government, as to its objects, are sovereign, there is a clause of its constitution which would be decisive: it is that which declares, that the constitution, and the laws of the United States made in pursuance of it, and all treaties made, or which shall be made, under their authority, shall be the *supreme law of the land*. The power which can create the supreme law of the land, in any case, is doubtless sovereign as to such case.

This general and indisputable principle puts at once an end to the *abstract* question, whether the United States have power to *erect a corporation*; that is to say, to give a *legal or artificial capacity* to one or more persons, distinct from the natural? For it is unquestionably incident to sovereign power, to erect corporations; and, consequently, to that of the United States, in *relation to the objects* intrusted to the management of the Government.

The difference is this: where the authority of the Government is general, it can create corporations in *all cases*; where it is confined to certain branches of legislature, it can create corporations only in those cases.

Here, then, as far as concerns the reasonings of the Secretary of State and the Attorney General, the affirmative of the constitutionality of the bill might be permitted to rest. It will occur to the President, that the principle here advanced has been untouched by either of them.

Nevertheless, for a more complete elucidation of the point, the arguments which they had used against the power of the Government to erect corporations, however foreign they are to the great fundamental rule which has been stated, shall be particularly examined. And after showing that they do not tend to impair its force, it shall also be shown, that the power of incorporation, incident to the Government in certain cases, does fairly extend to the particular case which is the object of the bill.

The first of these arguments is, that the foundation of the constitution is laid on this ground, "that all powers, not delegated to the United States by the constitution, nor prohibited to it by the States, are reserved for the States or to the People;" whence, it is meant to be inferred, that Congress can, in no case, exercise any power not included in those, nor not enumerated in the constitution. And it is affirmed, that the power of erecting a corporation is not included in any of the enumerated powers.

The main proposition here laid down, in its true signification, is not to be questioned. It is nothing more than a consequence of this republican maxim, that all government is a delegation of power; but how much is delegated in each case, is a question of fact, to be made out by fair reasoning and construction, upon the particular provisions of the constitution—taking as guides, the general principles and general ends of government.

It is not denied that there are implied, as well as *express* powers; and that the former are as effectually delegated as the latter: and, for the sake of accuracy, it shall be mentioned, that there is another class of powers, which may be properly denominated *resulting* powers. It will not be doubted, that, if the United States should make a conquest of any of the territories of its neighbors, they would possess sovereign jurisdiction over the conquered territory. This would rather be a result from the whole mass of the powers of the Government, and from the nature of political society, than a consequence of either of the powers specially enumerated.

But, be this as it may, it furnishes a striking illustration of the general doctrine contended for. It shows an extensive case, in which a power of erecting corporations is either implied in, or would result from, some, or all of the powers, vested in the National Government. The jurisdiction acquired over such conquered territory, would certainly be competent to every species of legislation.

To return: It is conceded, that implied powers are to be considered as delegated equally with express ones.

Then it follows, that, as a power of erecting a corporation may as well be *implied* as any other thing, it may as well be employed as an *instrument* or mean of carrying into execution any of the specified powers, as any other instrument or mean whatever. The only question must be, in this, as in every other case, whether the mean to be employed, or, in this instance, the corporation to be erected, has a natural relation to any of the acknowledged objects or lawful ends of the Government? Thus, a corporation may not be erected by Congress for superintending the police of the city of Philadelphia, because they are not authorized to regulate the police of that city. But one may be erected in relation to the collection of taxes, or to the trade with foreign countries, or to the trade between the States, or with the Indian tribes; because it is the province of the Federal Government to regulate those objects; and because it is incident to a general *sovereign* or *legislative* power to regulate a thing, to employ all the means which relate to its regulation, to the best and greatest advantage.

A strange fallacy seems to have crept into the manner of thinking and reasoning upon the subject. Imagination appears to have been unusually busy concerning it. An incorporation seems to have been regarded as some great independent substantive thing; as a political engine, and of peculiar magnitude and moment: whereas it is truly to be considered as a quality, capacity, or mean to an end. Thus, a mercantile company is formed with a certain capital, for the purpose of carrying on a particular branch of business. Here the business to be prosecuted is the end. The association, in order to form the requisite capital, is the primary mean. Suppose that an incorporation were added to this; it would only be to add a new quality to that association; to give it an artificial capacity, by which it would be enabled to prosecute the business with more safety and convenience.

That the importance of the power of incorporation has been exaggerated, leading to erroneous conclusions, will further appear, from tracing it to its origin. The Roman law is the source of it: according to which, a *voluntary* association of individuals, at any time, or for any purpose, was capable of producing it. In England, whence our notions of it are immediately borrowed, it seems part of the executive authority; and the exercise of it has been often delegated by that authority; whence, therefore, the ground of the supposition, that it lies beyond the reach of all those very important portions of sovereign power, legislative as well as executive, which belong to the Government of the United States.

To this mode of reasoning, respecting the right of employing all the means requisite to the execution of the specified powers of the Government, it is objected, that none but necessary and proper means are to be employed; and the Secretary of State maintains, that no means are to be considered as necessary but those without which the grant of the power would be nugatory. Nay, so far does he go in his restrictive interpretation of the word, as even to make the case of necessity, which shall warrant the constitutional exercise of the power, to depend on casual and temporary circumstances; an idea which alone refutes the construction. The expediency of exercising a particular power, at a particular time, must, indeed, depend on circumstances; but the constitutional right of exercising it must be uniform and invariable, the same to-day as to-morrow.

All the arguments, therefore, against the constitutionality of the bill, derived from the accidental existence of certain State banks, institutions which happen to exist to-day, and, for aught that concerns the Government of the United States, may disappear to-morrow, must not only be rejected as fallacious, but must be viewed as demonstrative that there is a radical source of error in the reasoning.

It is essential to the being of the National Government, that so erroneous a conception of the meaning of the word *necessary* should be exploded.

It is certain, that neither the grammatical, nor popular sense of the term, requires that construction. According to both, *necessary* often means no more than *needful, requisite, incidental, useful, or conducive to*. It is a com-

mon mode of expression to say, that it is necessary for a government or a person to do this or that thing, when nothing more is intended or understood than that the interest of the Government or person require, or will be promoted by, the doing of this or that thing. The imagination can be at no loss for exemplification of the use of the word in this sense.

And it is the true one in which it is to be understood, as used in the constitution. The whole turn of the clause containing it, indicates that it was the intent of the convention, by that clause, to give a liberal latitude to the exercise of the specified powers. The expressions have a peculiar comprehensiveness. They are, to make all laws necessary and proper for *carrying into execution the foregoing powers, and all other powers* vested by the constitution in the Government of the United States, or in any *department* or office thereof. To understand the word as the Secretary of State does, would be to depart from its obvious and popular sense, and to give it a *restrictive* operation; an idea never before entertained. It would be to give it the same force as if the word *absolutely*, or indispensably, had been prefixed to it.

Such a construction would beget endless uncertainty and embarrassment. The cases must be palpable and extreme, in which it could be pronounced with certainty, that a measure was absolutely necessary; or one, without which the exercise of a given power would be nugatory. There are few measures of any government which would stand so severe a test. To insist upon it, would be to make the criterion of the exercise of any implied power, a *case of extreme necessity*; which is rather a rule to justify the overleaping of the bounds of constitutional authority, than to govern the ordinary exercise of it.

It may be truly said of every Government, as well as that of the United States, that it has only a right to pass such laws as are necessary and proper to accomplish the objects intrusted to it: for no government has a right to do *merely what it pleases*. Hence, by a process of reasoning similar to that of the Secretary of State, it might be proved that neither of the State Governments has a right to incorporate a bank. It might be shown, that all the public business of the State could be performed without a bank; and, inferring thence that it was unnecessary, it might be argued, that it could not be done, because it is against the rule which has been just mentioned.

A like mode of reasoning would prove, that there was no power to incorporate the inhabitants of a town with a view to a more perfect police: for it is certain, that an incorporation may be dispensed with, though it is better to have one. It is to be remembered, that there is no express power in any State constitution to erect corporations.

The degree in which a measure is necessary, can never be a test of the *legal right* to adopt it. That must be a matter of opinion, and can only be a test of expediency. The relation between the *measure* and the *end*; between the *nature* of the *mean* employed towards the execution of a power, and the *object* of that power; must be the criterion of constitutionality; not the more or less of necessity or utility.

The practice of the Government is against the rule of construction advocated by the Secretary of State. Of this, the act concerning light houses, beacons, buoys, and public piers, is a decisive example. This, doubtless, must be referred to the power of regulating trade, and is fairly relative to it. But it cannot be affirmed, that the exercise of that power, in this instance, was strictly necessary; or, that the power itself would be *nugatory* without that of regulating establishments of this nature.

This restrictive interpretation of the word *necessary*, is also contrary to this sound maxim of construction; namely, that the powers contained in a constitution of government, especially those which concern the general administration of the affairs of a country, its finances, trade, defence, &c. ought to be construed liberally in advancement of the public good. This rule does not depend on the particular form of a government, or on the particular demarcation of the boundaries of its powers, but on the nature and objects of government itself. The means by which national exigencies are to be provided for; national inconveniencies obviated; national prosperity promoted; are of such

infinite variety, extent, and complexity, that there must, of necessity, be great latitude of discretion in the selection and application of those means. Hence, consequently, the necessity and propriety of exercising the authorities intrusted to a government, on principles of liberal construction.

The Attorney General admits the *rule*, but takes a distinction between a State and the Federal constitution. The latter, he thinks, ought to be construed with greater strictness, because there is more danger of error in defining partial than general powers.

But the reason of the *rule* forbids such a distinction. This reason is, the variety and extent of public exigencies, a far greater proportion of which, and of a far more critical kind, are objects of national, than of State administration. The greater danger of error, as far as it is supposeable, may be a prudential reason for caution in practice, but it cannot be a rule of restrictive interpretation.

In regard to the clause of the constitution immediately under consideration, it is admitted by the Attorney General, that no restrictive effect can be ascribed to it. He defines the word necessary, thus: "To be necessary, is to be *incidental*, and may be denominated the natural means of executing a power."

But while, on the one hand, the construction of the Secretary of State is deemed admissible, it will not be contended, on the other, that the clause in question gives any new or independent power. But it gives an explicit sanction to the doctrine of implied powers, and is equivalent to an admission of the proposition, that the Government, *as to its specified powers and objects*, has plenary and sovereign authority; in some cases, paramount to that of the States; in others, co-ordinate with it. For such is the plain import of the declaration, that it may pass all LAWS necessary and proper to carry into execution those powers.

It is no valid objection to the doctrine, to say, that it is calculated to extend the powers of the General Government throughout the entire sphere of State legislation. The same thing has been said, and may be said, with regard to every exercise of power, by *implication* or *construction*. The moment the literal meaning is departed from, there is a chance of error and abuse: and yet an adherence to the letter of its powers would at once arrest the motion of Government. It is not only agreed, on all hands, that the exercise of constructive powers is indispensable, but every act which has been passed, is more or less an exemplification of it. One has already been mentioned; that relating to light houses, &c. That which declares the power of the President to remove officers at pleasure, acknowledges the same truth in another, and a signal instance.

The truth is, that difficulties on this point are inherent in the nature of the federal constitution. They result inevitably from a division of legislative power. The consequence of this division is, that there will be cases clearly within the power of the National Government, others, clearly without its power; and a third class, which will leave room for controversy and difference of opinion, and concerning which a reasonable latitude of judgment must be allowed.

But the doctrine which is contended for, is not chargeable with the consequences imputed to it. It does not affirm that the National Government is sovereign in all respects, but that it is sovereign to a certain extent; that is, to the extent of the objects of its specified powers.

It leaves, therefore, a criterion of what is constitutional, and of what is not so. This criterion is the *end* to which the measure relates as a *mean*. If the end be clearly comprehended within any of the specified powers, and if the measure have an obvious relation to that end, and is not forbidden by any particular provision of the constitution, it may safely be deemed to come within the compass of the national authority. There is, also, this further criterion, which may materially assist the decision. Does the proposed measure abridge a pre-existing right of any State, or of any individual? If it does not, there is a strong presumption in favor of its constitutionality; and slighter re-

lations to any declared object of the constitution, may be permitted to turn the scale.

The general objections which are to be inferred from the reasonings of the Secretary of State and Attorney General, to the doctrine which has been advanced, have been stated; and, it is hoped, satisfactorily answered. Those of a more particular nature shall now be examined.

The Secretary of State introduces his opinion with an observation, that the proposed incorporation undertakes to create certain capacities, properties, or attributes, which are against the laws of alienage, descents, *escheat* and *forfeiture*, distribution and *monopoly*; and to confer a power to make laws paramount to those of the States. And nothing, says he, in another place, but a *necessity*, invincible by other means, can justify such a prostration of laws, which constitute the pillars of our whole system of jurisprudence, and are the foundation laws of the State Governments.

If these are truly the foundation laws of the several States, then have most of them subverted their own foundations: for there is scarcely one of them which has not, since the establishment of its particular constitution, made material alterations in some of those branches of its jurisprudence, especially the law of descents. But it is not conceived how any thing can be called the fundamental law of a State government, which is not established in its constitution, unalterable by the ordinary legislature. And, with regard to the question of necessity, it has been shown, that this can only constitute a question of expediency, not of right.

To erect a corporation, is to substitute a legal or *artificial*, for a *natural* person; and, where a *number* are concerned, to give them *individuality*. To that legal or artificial person, once created, the common law of every State, of itself, *annexes* all those incidents and attributes which are represented as a prostration of the main pillars of their jurisprudence. It is certainly not accurate to say, that the erection of a corporation is *against* those different *heads* of the State laws; because, it is rather to create a kind of person, or entity, to which they are inapplicable, and to which the general rule of those laws assigns a different regimen. The laws of alienage cannot apply to an artificial person, because it can have no country. Those of descent cannot apply to it, because it can have no heirs. Those of *escheat* are foreign from it, for the same reason. Those of *forfeiture*, because it cannot commit a crime. Those of distribution, because, though it may be dissolved, it cannot die. As truly might it be said, that the exercise of the power of prescribing the rule by which foreigners shall be naturalized, is against the law of alienage, while it is, in fact, only to put them into a situation to cease to be the subjects of that law. To do a thing which is against the law, is to do something which it forbids, and which is a violation of it.

But, if it were even to be admitted that the erection of a corporation is a direct alteration of the State laws, in the enumerated particulars, it would do nothing towards proving that the measure was unconstitutional. If the Government of the United State can do no act which amounts to an alteration of a State law, all its powers are nugatory: for almost every new law is an alteration, in some way or other, of an *old law*, either common or statute.

There are laws concerning bankruptcy in some States. Some States have laws regulating the value of foreign coins. Congress are empowered to establish uniform laws concerning bankruptcy throughout the United States, and to regulate the value of foreign coins. The exercise of either of these powers by Congress, necessarily involves an alteration of the laws of those States.

Again: every person, by the common law of each State, may export his property to foreign countries at pleasure; but Congress, in pursuance of the power of regulating trade, may prohibit the exportation of commodities; in doing which, they would alter the common law of each State, in abridgment of individual right.

It can, therefore, never be good reasoning to say, this or that act is unconstitutional, because it alters this or that law of a State; it must be shown that the act, which makes the alteration, is unconstitutional on other accounts; not *because* it makes the alteration.

There are two points in the suggestions of the Secretary of State, which have been noted, that are peculiarly incorrect. One is, that the proposed incorporation is against the laws of monopoly, because it stipulates an exclusive right of banking under the national authority: the other, that it gives power to the institution to make laws paramount to those of the States.

But with regard to the first point, the bill neither prohibits any State from erecting as many banks as it pleases, nor any number of individuals from associating to carry on the business; and, consequently, is free from the charge of establishing a monopoly: for monopoly implies a *legal impediment* to the carrying on the trade by others than those to whom it is granted.

And, with regard to the second point, there is still less foundation. The by-laws of such an institution as a bank, can operate only upon its own members; can only concern the disposition of its own property; and must essentially resemble the rules of a private mercantile partnership. They are, expressly, not to be contrary to law; and law must here mean the law of a State, as well as of the United States. There can never be a doubt, that a law of a corporation, if contrary to a law of a State, must be overruled as void, unless the law of the State is contrary to that of the United States; and then the question will not be between the law of the State and that of the corporation, but between the law of the State and that of the United States.

Another argument made use of by the Secretary of State is, the rejection, by the convention, of a proposition to empower Congress to make corporations, either generally, or for some special purpose. What was the precise nature or extent of this proposition, or what the reasons for refusing it, is not ascertained by any authentic document, or even by accurate recollection. As far as any such document exists, it specifies only canals. If this was the amount of it, it would, at most, only prove, that it was thought inexpedient to give a power to incorporate for the purpose of opening canals; for which purpose a special power would have been necessary, except with regard to the Western territory; there being nothing in any part of the constitution respecting the regulation of canals. It must be confessed, however, that very different accounts are given of the import of the proposition, and of the motives for rejecting it. Some affirm that it was confined to the opening of canals and obstructions in rivers; others, that it embraced banks; and others, that it extended to the power of incorporating generally. Some again allege, that it was disagreed to, because it was thought improper to vest in Congress a power of erecting corporations; others, because it was thought unnecessary to specify the power, and inexpedient to furnish an additional topic of objection to the constitution. In this state of the matter, no inference whatever can be drawn from it.

But, whatever may have been the nature of the proposition, or the reasons for rejecting it, nothing is included by it; that is, the proposition, in respect to the real merits of the question. The Secretary of State will not deny, that, whatever may have been the intentions of the framers of a constitution, or of a law, that intention is to be sought for in the instrument itself, according to the usual and established rules of construction. Nothing is more common than for laws to *express* and *effect* more or less than was intended. If, then, a power to erect a corporation, in any case, be deducible by fair inference from the whole, or any part, of the numerous provisions of the constitution of the United States, arguments, drawn from extrinsic circumstances regarding the intention of the convention, must be rejected.

Most of the arguments of the Secretary of State, which have not been considered in the foregoing remarks, are of a nature rather to apply to the expediency, than to the constitutionality of the bill. They will, however, be noticed in the discussion which will be necessary in reference to the particular heads of the powers of the Government, which are involved in the question.

Those of the Attorney General will now properly come under view.

His first observation is, that the power of incorporation is not *expressly* given to Congress. This shall be conceded, but in this sense only—that it is not declared in *express terms* that Congress may erect a *corporation*. But



this cannot mean that there are not certain *express* powers, which necessarily include it.

For instance, Congress have express power to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States; and to exercise like authority over all places purchased by consent of the legislature of the State in which the same shall be, for the erection of forts, arsenals, dock yards, and other needful buildings.

Here, then, is express power to exercise exclusive *legislation, in all cases whatsoever, over certain places*; that is, to do, in respect to those places, all that any government whatever may do: for language does not afford a more complete designation of sovereign power, than in those comprehensive terms. It is, in other words, a power to pass all laws whatsoever, and, consequently, to pass all laws for erecting corporations, as well as for any other purpose, which is the proper object of law in a free government. Surely, it can never be believed, that Congress, with *exclusive power of legislation, in all cases whatsoever*, cannot erect a corporation within the district which shall become the seat of Government, for the better regulation of its police; and yet there is an unqualified denial of the power to erect corporations, *in every case*, on the part both of the Secretary of State and of the Attorney General. The former, indeed, speaks of that power in these emphatical terms: that it is a *right remaining exclusively with the States*.

As far, then, as there is an express power to do any *particular act of legislation*, there is an express one to erect corporations in the case above described. But, accurately speaking, *no particular power*, is more than *implied* in a general one. Thus, the power to lay a duty on a *gallon of rum*, is only a particular, *implied* in the general power to lay and collect taxes, duties, imposts, and excises. This serves to explain in what sense it may be said, that Congress have not an express power to make corporations.

This may not be an improper place to take notice of an argument which was used in debate in the House of Representatives. It was there urged, that if the constitution intended to confer so important a power as that of erecting corporations, it would have been expressly mentioned. But the case which has been noticed, is clearly one in which such power exists, and yet without any specification or express grant of it, further than as every *particular, implied* in a general power, can be said to be so granted.

But the argument itself is founded upon an exaggerated and erroneous conception of the nature of the power. It has been shown, that it is not of so transcendent a kind as the reasoning supposes; and that, viewed in a just light, it is a mean which ought to have been left to *implication*, rather than an *end* which ought to have been *expressly* granted.

Having observed, that the power of erecting corporations is not expressly granted to Congress, the Attorney General proceeds thus:

If it can be exercised by them, it must be,

1. Because the nature of Federal Government implies it.
2. Because it is involved in some of the specified powers of legislation.
3. Because it is necessary and proper, to carry into execution some of the specified powers.

To be implied in the nature of the Federal Government, says he, would beget a doctrine so indefinite as to grasp at every power.

This proposition, it ought to be remarked, is not precisely or even substantially, that which has been relied upon. The proposition relied upon is, that the *specified powers of Congress* are, in their nature, sovereign; that it is incident to sovereign power to erect corporations; and that, therefore, Congress have a right, within the *sphere, and in relation to the objects of their power, to erect corporations*.

It shall, however, be supposed, that the Attorney General would consider the two propositions in the same light, and that the objection made to the one would be made to the other.

To this objection an answer has been already given. It is this: that the doctrine is stated with this express *qualification*, that the right to erect corporations does only extend to *cases* and *objects* within the *sphere* of the *specified* powers of the Government. A general legislative authority, implies a power to erect corporations in all cases; a particular legislative power, implies authority to erect corporations in relation to cases arising under that power only. Hence the affirming, that, as incident to sovereign power, Congress may erect a corporation in relation to the collection of their taxes, is no more to affirm that they may do whatever else they please, than the saying they have a power to regulate trade, would be to affirm, that they have a power to regulate religion; or than the maintaining, that they have sovereign *power* as to taxation, would be to maintain, that they have sovereign power as to every thing else.

The Attorney General undertakes, in the next place, to show, that the power of erecting corporations is not involved in any of the specified powers of legislation confided to the National Government.

In order to do this, he has attempted an enumeration of the particulars which he supposes to be comprehended under the several heads of the *POWERS* to lay and collect taxes, &c. to borrow money on the credit of the United States; to regulate commerce with foreign nations, between the States, and with the Indian tribes; to dispose of, and make all needful rules and regulations respecting the territory, or other property belonging to the United States: the design of which enumeration is to show, *what is* included under those different heads of power; and negatively, that the power of erecting corporations is not included.

The truth of this inference, or conclusion, must depend on the accuracy of the enumeration. If it can be shown that the enumeration is defective, the inference is destroyed. To do this, will be attended with no difficulty.

The heads of the power to lay and collect taxes, he states to be—

1. To ascertain the subject of taxation, &c.
2. To declare the quantum of taxation, &c.
3. To prescribe the mode of collection.
4. To ordain the manner of accounting for the taxes, &c.

The defectiveness of this enumeration consists in the generality of the third division, "*to prescribe the mode of collection*," which is in itself an immense chapter. It will be shown hereafter, that, among a vast variety of particulars, it comprises the very power in question, namely, to *erect corporations*.

The heads of the power to borrow money, are stated to be—

- I. To stipulate the sum to be lent.
- II. An interest or no interest to be paid.

III. The time and manner of repaying, unless the loan be placed on an irredeemable fund.

This enumeration is liable to a variety of objections. It omits, in the first place, the *pledging* or *mortgaging* of a fund for the security of the money lent; an usual, and, in most cases, an essential ingredient.

The idea of a stipulation of an *interest* or *no interest*, is too confined. It should rather have been said, to stipulate the consideration of the loan. Individuals often borrow upon considerations other than the payment of interest. So may Government; and so they often find it necessary to do. Every one recollects the lottery tickets and other *douceurs*, often given in Great Britain as collateral inducements to the lending of money to the Government.

There are, also, frequently collateral conditions, which the enumeration does not contemplate. Every contract which has been made for moneys borrowed in Holland, includes stipulations, that the sum due, shall be *free from taxes*, and from sequestration in time of war; and mortgages all the land and property of the United States for the reimbursement.

It is also known, that a lottery is a common expedient for borrowing money, which certainly does not fall under either of the enumerated heads.

The heads of the power to regulate commerce with foreign nations, are stated to be—

1. To prohibit them or their commodities from our ports.
2. To impose duties on them where none existed before, or to increase existing duties on them.
3. To subject them to any species of custom house regulation.
4. To grant them any exemptions or privileges which policy may suggest.

This enumeration is far more exceptionable than either of the former: it omits *every thing* that relates to the *Citizens*, vessels, or commodities, of the United States.

The following palpable omissions occur at once:

I. Of the power to prohibit the exportation of commodities, which not only exists at all times, but which, in time of war, it would be necessary to exercise, particularly with relation to naval and warlike stores.

II. Of the power to prescribe rules concerning the characteristics and privileges of an American bottom; how she shall be navigated; as, whether by citizens or foreigners, or by a proportion of each.

III. Of the power of regulating the manner of contracting with seamen, the policies of ships on their voyages, &c. of which the act for the government and regulation of seamen in the merchant service is a specimen.

That the three preceding articles are omissions, will not be doubted. There is a long list of items in addition, which admit of little, if any, question, of which a few samples shall be given.

I. The granting of bounties to certain kinds of vessels and certain species of merchandise; of this nature is the allowance on dried and pickled fish and salted provisions.

II. The prescribing of rules concerning the inspection of commodities to be exported. Though the States, individually, are competent to this regulation, yet there is no reason, in point of authority at least, why a general system might not be adopted by the United States.

III. The regulation of policies of insurance; of salvage upon goods found at sea; and the disposition of such goods.

IV. The regulation of pilots.

V. The regulation of bills of exchange, drawn by a merchant of *one* State upon a merchant of *another* State. This last rather belongs to the regulation of trade between the States, but is equally omitted in the specification under that head.

The last enumeration relates to the power to dispose of, and make *all needful* rules and regulations respecting the territory or *other property* belonging to the United States.

The heads of this power are said to be,

I. To exert an ownership over the territory of the United States which may be properly called the property of the United States, as in the Western territory, and to *institute a government* therein; or,

II. To exert an ownership over the other property of the United States.

This idea of exerting an ownership over the territory or other property of the United States, is particularly indefinite and vague. It does not at all satisfy the conception of what must have been intended by a power to make all needful *rules and regulations*; nor would there have been any use for a special clause, which authorized nothing more: for the right of exerting an ownership, is implied in the very definition of property.

It is admitted, that, in regard to the Western territory, something more is intended: even the institution of a government, that is, the creation of a body politic, or corporation of the highest nature; one which, in its maturity, will be able itself to create other corporations. Why, then, does not the same clause authorize the erection of a corporation in respect to the regulation or disposal of any other of the property of the United States?

This idea will be enlarged upon in another place.

Hence, it appears that the enumerations which have been attempted by the Attorney General, are so imperfect as to authorize no conclusion whatever. They, therefore, have no tendency to disprove, that each and every of the powers to which they relate, includes that of erecting corporations, which they certainly do, as the subsequent illustrations will more and more evince.

It is presumed to have been satisfactorily shown, in the course of the preceding observations:

I. That the power of the Government, as to the objects intrusted to its management, is, in its nature, sovereign.

II. That the right of erecting corporations, is one inherent in, and inseparable from, the idea of sovereign power.

III. That the position, that the Government of the United States can exercise no power but such as is delegated to it by its constitution, does not militate against this principle.

IV. That the word *necessary*, in the general clause, can have no *restrictive* operation, derogating from the force of this principle; indeed, that the degree in which a measure is, or is not, necessary, cannot be a *test of constitutional* right, but of expediency only.

V. That the power to erect corporations, is not to be considered as an independent and substantive power, but as an incidental and auxiliary one; and was, therefore, more properly left to implication, than expressly granted.

VI. That the principle in question does not extend the power of the Government beyond the prescribed limits, because it only affirms a power to incorporate for purposes *within the sphere of the specified powers*.

And, lastly, that the right to exercise such a power, in certain cases, is unequivocally granted in the most positive and comprehensive terms.

To all which it only remains to be added, that such a power has actually been exercised in two very eminent instances, namely, in the erection of two governments; one northwest of the river Ohio, and the other southwest; the last independent of any antecedent compact.

And there results a full and complete demonstration, that the Secretary of State and Attorney General are mistaken, when they deny, generally, the power of the National Government to erect corporations.

It shall now be endeavored to be shown, that there is a power to erect one of the kind proposed by the bill. This will be done by tracing a natural and obvious relation between the institution of a bank, and the objects of several of the enumerated powers of the Government; and by showing, that, *politically* speaking, it is necessary to the effectual execution of one or more of those powers. In the course of this investigation, various instances will be stated, by way of illustration, of a right to erect corporations under those powers.

Some preliminary observations may be proper.

The proposed bank is to consist of an association of persons, for the purpose of creating a joint capital, to be employed, chiefly and essentially, in loans. So far, the object is not only lawful, but it is the mere exercise of a right which the law allows to every individual. The Bank of New York, which is not incorporated, is an example of such an association. The bill proposes, in addition, that the Government shall become a joint proprietor in this undertaking; and that it shall permit the bills of the company, payable on demand, to be receivable in its revenues; and stipulates that it shall not grant privileges, similar to those which are to be allowed to this company, to any others. All this is incontrovertibly within the compass of the discretion of the Government. The only question is, whether it has a right to incorporate this company, in order to enable it the more effectually to accomplish ends which are in themselves lawful.

To establish such a right, it remains to show the relation of such an institution, to one or more of the specified powers of the Government.

Accordingly, it is affirmed, that it has a relation, more or less direct, to the power of collecting taxes; to that of borrowing money; to that of regulating

trade between the States; and to those of raising and maintaining fleets and armies. To the two former, the relation may be said to be immediate.

And, in the last place, it will be argued, that it is clearly within the provision which authorizes the making of all *needful rules and regulations* concerning the property of the United States, as the same has been practised upon by the Government.

A bank relates to the collection of taxes in two ways. *Indirectly*, by increasing the quantity of circulating medium and quickening circulation, which facilitates the means of paying; *directly*, by creating a *convenient species* of medium in which they are to be paid.

To designate or appoint the money or thing in which taxes are to be paid, is not only a proper, but a necessary *exercise* of the power of collecting them. Accordingly, Congress, in the law concerning the collection of the duties on imposts and tonnage, have provided that they shall be payable in gold and silver. But, while it was an indispensable part of the work to say in what they should be paid, the choice of the specific thing was mere matter of discretion. The payment might have been required in the commodities themselves. Taxes, in kind however ill judged, are not without precedents even in the United States; or it might have been in the paper money of the several States, or in the bills of the Bank of North America, New York, and Massachusetts, all or either of them; or it might have been in bills issued under the authority of the United States.

No part of this can, it is presumed, be disputed. The appointment, then, of the money or *thing* in which the taxes are to be paid, is an incident to the power of collection. And among the expedients which may be adopted, is that of bills issued under the authority of the United States.

Now, the manner of issuing these bills, is again matter of discretion. The Government might, doubtless, proceed in the following manner: it might provide that they should be issued under the direction of certain officers, payable on demand; and in order to support their credit, and give them a ready circulation, it might, besides giving them a currency in its taxes, set apart, out of any moneys in its treasury, a given sum, and appropriate it, under the direction of those officers, as a fund for answering the bills, as presented for payment.

The constitutionality of all this would not admit of a question, and yet it would amount to the institution of a bank, with a view to the more convenient collection of taxes. For the simplest and most precise idea of a bank, is, a deposit of coin or other property, as a fund for *circulating a credit* upon it, which is to answer the purpose of money. That such an arrangement would be equivalent to the establishment of a bank, would become obvious, if the place where the fund to be set apart was kept, should be made a receptacle of the moneys of all other persons who should incline to deposit them there for safe keeping; and would become still more so, if the officers, charged with the direction of the fund, were authorized to make discounts at the usual rate of interest, upon good security. To deny the power of the Government to add this ingredient to the plan, would be to refine away all government.

A further process will still more clearly illustrate the point. Suppose, when the species of bank which has been described, was about to be instituted, it were to be *bejurred*, that, in order to secure to it a due degree of confidence, the fund ought not only to be set apart and appropriated generally, but ought to be specifically vested in the officers who were to have the direction of it, and in their successors in office, to the end that it might acquire the character of *private property*, incapable of being resumed without a violation of the sanction by which the rights of property are protected, and occasioning more serious and general alarm, the apprehension of which might operate as a check upon the Government. Such a proposition might be opposed by arguments against the expediency of it, or the solidity of the reason assigned for it; but it is not conceivable what could be urged against its constitutionality.

And yet such a disposition of the thing would amount to the erection of a corporation; for the true definition of a corporation seems to be this: it is a *legal* person, or a person created by act of law; consisting of one or more natural persons, authorized to hold property, or a franchise in succession, in a legal, as contradistinguished from a natural, capacity.

Let the illustration proceed a step further. \* Suppose a bank, of the nature which has been described, without or with incorporation, had been instituted, and that experience had evinced, as it probably would, that, being wholly under a public direction, it possessed not the consequence requisite to the credit of its bills. Suppose, also, that, by some of those adverse conjunctures which occasionally attend nations, there had been a very great drain of the specie of the country, so as not only to cause general distress, for want of an adequate medium of circulation, but to produce, in consequence of that circumstance, considerable defalcations in the public revenues. Suppose, also, that there was no bank instituted in any State. In such a posture of things would it not be most manifest, that the incorporation of a bank like that proposed by the bill, would be a measure immediately relative to the effectual collection of the taxes, and completely within the province of a sovereign power of providing, by all laws necessary and proper, for that collection?

If it be said, that such a state of things would render that necessary, and, therefore, constitutional, which is not so now; the answer to this (and a solid one it doubtless is) must still be, that which has been already stated. Circumstances may affect the *expediency* of the measure, but can neither add to nor diminish its *constitutionality*.

A bank has a direct relation to the power of borrowing money, because it is an usual, and, in sudden emergencies, an essential instrument, in the obtaining of loans to Government.

A nation is threatened with a war; large sums are wanted on a sudden to make the requisite preparations; taxes are laid for the purpose; but it requires time to obtain the benefit of them; anticipation is indispensable. If there be a bank, the supply can at once be had; if there be none, loans from individuals must be sought. The progress of these is often too slow for the exigency: in some situations they are not practicable at all. Frequently when they are, it is of great consequence to be able to anticipate the product of them by advances from a bank.

The essentiality of such an institution, as an instrument of loans, is exemplified at this very moment. An Indian expedition is to be prosecuted. The only fund out of which the money can arise consistently with the public engagements, is a tax, which only begins to be collected in July next. The preparations, however, are instantly to be made. The money must, therefore, be borrowed; and of whom could it be borrowed, if there were no public banks?

It happens that there are institutions of this kind; but if there were none, it would be indispensable to create one.

Let it then be supposed, that the necessity existed, (as but for a casualty would be the case,) that proposals were made for obtaining a loan; that a number of individuals came forward and said, we are willing to accommodate the Government with this money; with what we have in hand, and the credit we can raise upon it, we doubt not of being able to furnish the sum required. But, in order to do this, it is indispensable that we should be incorporated as a bank. This is essential towards putting it in our power to do what is desired, and we are obliged on that account to make it the *consideration* or *condition* of the loan.

Can it be believed that a compliance with this proposition would be unconstitutional? Does not this alone evince the contrary? It is a necessary part of a power to borrow, to be able to stipulate the considerations or conditions of a loan. It is evident, as has been remarked elsewhere, that this is not confined to the mere stipulation of a franchise. If it may, (and it is not perceived why it may not,) then the grant of a corporate capacity may be stipulated as a consideration of the loan. There seems to be nothing unfit, or foreign from the nature of the thing, in giving individuality, or a corporate capacity,



to a number of persons who are willing to lend a sum of money to the Government, the better to enable them to do it, and make them an ordinary instrument of loans in future emergencies of state.

But the more general view of the subject is still more satisfactory. The legislative power of borrowing money, and of making all laws necessary and proper for carrying into execution that power, seems obviously competent to the appointment of the *organ* through which the abilities and wills of individuals may be most efficaciously exerted, for the accommodation of the Government, by loans.

The Attorney General opposes to this reasoning the following observation: Borrowing money presupposes the accumulation of a fund to be lent, and is secondary to the creation of an ability to lend. This is plausible in theory, but it is not true in fact. In a great number of cases, a previous accumulation of a fund equal to the whole sum required, does not exist, and nothing more can be actually presupposed, than that there exist resources, which, put into activity to the greatest advantage, by the nature of the operation with the Government, will be equal to the effect desired to be produced. All the provisions and operations of Government, must be presumed to contemplate things as they *really* are.

The institution of a bank has, also, a natural relation to the regulation of trade between the States, in so far as it is conducive to the creation of a convenient medium of exchange between them, and to the keeping up a full circulation, by preventing the frequent displacement of the metals in reciprocal remittances. Money is the very hinge on which commerce turns. And this does not mean, merely gold and silver; many other things have served the purpose, with different degrees of utility. Paper has been extensively employed.

It cannot, therefore, be admitted, with the Attorney General, that the regulation of trade between the States, as it concerns the medium of circulation and exchange, ought to be considered as confined to coin. It is even supposeable that the whole, or the greatest part of the coin of the country, might be carried out of it.

The Secretary of State objects to the relation here insisted upon, by the following mode of reasoning: To erect a bank, says he, and to regulate commerce, are very different acts. He who erects a bank, creates a subject of commerce. So does he who raises a bushel of wheat, or digs a dollar out of the mines; yet, neither of these persons regulates commerce thereby. To make a thing which may be bought and sold, is not to prescribe regulations for *buying* and *selling*. This is making the regulation of commerce to consist in prescribing rules for buying and selling.

This, indeed, is a species of regulation of trade; but it is one which falls more aptly within the province of the local jurisdictions, than within that of the General Government, whose care they must have presumed to have been intended to be directed to those general political arrangements concerning trade, on which its aggregate interests depend, rather than to the details of buying and selling.

Accordingly, such only are the regulations to be found in the laws of the United States, whose objects are to give encouragement to the enterprise of our own merchants, and to advance our navigation and manufactures.

And it is in reference to these general relations of commerce, that an establishment which furnishes facilities to circulation, and a convenient medium of exchange and alienation, is to be regarded as a regulation of trade.

The Secretary of State further urges, that, if this was a regulation of commerce, it would be *void*, as *extending* as much to the internal part of every State, as to its external. But what regulation of commerce does not extend to the internal commerce of every State? What are all the duties upon imported articles, amounting, in some cases, to prohibitions, but so many bounties upon domestic manufactures, affecting the interest of different classes of citizens, in different ways? What are all the provisions in the coasting act, which relate to the trade between district and district, of the same State? In short, what regulation of trade between the States, but must affect the inter-

nal trade of each State? What can operate upon the whole, but must extend to every part?

The relation of a bank to the execution of the powers that concern the common defence, has been anticipated. It has been noted, that, at this very moment, the aid of such an institution is essential to the measure to be pursued for the protection of our frontiers.

It now remains to show, that the incorporation of a bank, is within the operation of the provision which authorizes Congress to make all needful rules and regulations concerning the property of the United States. But, it is previously necessary to advert to a distinction which has been taken up by the Attorney General.

He admits, that the word property, may signify personal property, however acquired, and yet asserts that it cannot signify money arising from the sources of revenue pointed out in the constitution, "because," says he, "the disposal and regulation of money, is the final cause for raising it by taxes."

But it would be more accurate to say, that the *object* to which money is intended to be applied, is the *final cause* for raising it, than that the disposal and regulation of it, is such. The support of a government; the support of troops for the common defence; the payment of the public debt, are the true final causes for raising money. The disposition and regulation of it, when raised, are the steps by which it is applied to the *ends* for which it was raised, not the ends themselves. Hence, therefore, the money to be raised by taxes, as well as any other personal property, must be supposed to come within the meaning, as they certainly do within the letter, of authority to make all needful rules and regulations concerning the property of the United States.

A case will make this plainer. Suppose the public debt discharged, and the funds, now pledged for it, liberated; in some instances it would be found expedient to repeal the taxes; in others, the repeal might injure our own industry, our agriculture, and manufactures. In these cases, they would, of course, be retained. Here then, would be moneys arising from the authorized sources of revenue, which would not fall within the rule by which the Attorney General endeavors to except them from other personal property, and from the operation of the clause in question.

The moneys being in the coffers of Government, what is to hinder such a disposition to be made of them as is contemplated in the bill; or what an incorporation of the parties concerned, under the clause which has been cited?

It is admitted, that, with regard to the Western territory, they give a power to erect a corporation; that is, to constitute a government. And by what rule of construction can it be maintained, that the same words, in a constitution of government, will not have the same effect, when applied to one species of property, as to another, as far as the subject is capable of it? Or, that a legislative power, to make all needful rules and regulations; or to pass all laws necessary and proper, concerning the public property, which is admitted to authorize an incorporation in one case, will not authorize it in another? Will justify the institution of a government over the Western territory, and will not justify the incorporation of a bank for the more useful management of the money of the nation? If it will do the last, as well as the first, then, under this provision alone, the bill is constitutional, because it contemplates that the United States shall be joint proprietors of the stock of the bank.

There is an observation of the Secretary of State, to this effect, which may require notice in this place: Congress, says he, are not to lay taxes, ad libitum, *for any purpose they please*, but only to pay the debts, or provide for the welfare of the Union. Certainly no inference can be drawn from this, against the power of applying their money for the institution of a bank. It is true, that they cannot, without breach of trust, lay taxes for any other purpose than the general welfare; but, so neither can any other government. The welfare of the community is the only legitimate end for which money can be raised on the community. Congress can be considered as only under one restriction, which does not apply to other governments. They cannot rightfully apply the money they raise to any purpose merely or purely local. But, with this excep-

tion, they have as large a discretion, in relation to the application of money, as any legislature whatever.

The constitutional *test* of a right application, must always be—whether it be for a purpose of *general*, or *local* nature. If the former, there can be no want of constitutional power. The quality of the object, as how far it will really promote, or not, the welfare of the Union, must be matter of conscientious discretion; and the arguments for or against a measure, in this light, must be arguments concerning expediency or in expediency, not constitutional right. Whatever relates to the general order of the finances, to the general interests of trade, &c. being general objects, are constitutional ones for the *application of money*.

A bank, then, whose bills are to circulate in all the revenues of the country, is evidently a general object, and, for that very reason, a constitutional one, as far as regards the appropriation of money to it. Whether it will really be a beneficial one or not, is worthy of careful examination, but is no more a constitutional point, in the particular referred to, than the question whether the Western lands shall be sold for twenty or thirty cents per acre.

A hope is entertained, that, by this time, it has been made to appear to the satisfaction of the President, that the bank has a natural relation to the power of collecting taxes; to that of regulating trade; to that of providing for the common defence; and, that, as the bill under consideration contemplates the Government in the light of a joint proprietor of the stock of the bank, it brings the case within the provision of the clause of the constitution which immediately respects the property of the United States.

Under a conviction that such a relation subsists, the Secretary of the Treasury, with all deference, conceives that it will result, as a necessary consequence, from the position, that all the specified powers of Government are sovereign, as to the proper objects, that the incorporation of a bank is a constitutional measure, and that the objections taken to the bill, in this respect, are ill founded.

But, from an earnest desire to give the utmost possible satisfaction to the mind of the President, on so delicate and important a subject, the Secretary of the Treasury will ask his indulgence, while he gives some additional illustrations of cases in which a power of erecting corporations may be exercised, under some of those heads of the specified powers of the Government, which are alleged to include the right of incorporating a bank.

I. It does not appear susceptible of a doubt, that if Congress had thought proper to provide, in the collection law, that the bonds to be given for the duties, should be given to the collector of the district A, or B, as the case might require, to inure to him and his successors in office, in trust for the United States, that it would have been consistent with the constitution to make such an arrangement; and yet, this, it is conceived, would amount to an incorporation.

II. It is not an unusual expedient of taxation to farm particular branches of revenue, that is, to sell or mortgage the product of them for certain definite sums, leaving the collection to the parties to whom they are mortgaged or sold. There are even examples of this in the United States. Suppose that there was any particular branch of revenue which it was manifestly expedient to place on this footing, and there were a number of persons willing to engage with the Government, upon condition that they should be incorporated, and the funds vested in them, as well for their greater safety, as for the more convenient recovery and management of the taxes, is it supposeable that there could be any constitutional obstacle to the measure? It is presumed that there could be none; it is certainly a mode of collection which it would be in the discretion of the Government to adopt, though the circumstances must be very extraordinary that would induce the Secretary to think it expedient.

III. Suppose a new and unexplored branch of trade should present itself with some foreign country; suppose it was manifest that, to undertake it with advantage, required a union of the capitals of a number of individuals, and that those individuals would not be disposed to embark without an incorporation,

as well to obviate the consequences of a private partnership, which makes every individual liable, in his whole estate, for the debts of the company, to their utmost extent, as for the more convenient management of the business; what reason can there be to doubt, that the national Government would have a constitutional right to institute and incorporate such a company? None.

They possess a general authority to regulate trade with foreign countries. This is a mean which has been practised, to that end, by all the principal commercial nations, who have trading companies, to this day, which have subsisted for centuries. Why may not the United States *constitutionally* employ the means usual in other countries, for attaining the ends intrusted to them?

A power to make all needful rules and regulations concerning territory, has been construed to mean a power to erect a government. A power to regulate trade, is a power to make all needful rules and regulations concerning trade. Why may it not, then, include that of erecting a trading company, as well as, in other cases, to erect a government?

It is remarkable that the State conventions who had proposed amendments in relation to this point, have, most, if not all of them, expressed themselves nearly thus: Congress shall not grant monopolies, nor *erect any company* with exclusive advantages of commerce! Thus, at the same time expressing their sense, that the power to erect trading companies, or corporations, was inherent in Congress, and objecting to it no further than as to the grant of *exclusive* privileges.

The Secretary entertains all the doubts which prevail concerning the utility of such companies; but he cannot fashion to his own mind a reason to induce a doubt that there is a constitutional authority in the United States to establish them. If such a reason were demanded, none could be given, unless it were this, that Congress cannot erect a corporation; which would be no better than to say they cannot do it, because they cannot do it; first presuming an inability without reason, and then assigning that inability as the cause of itself.

Illustrations of this kind might be multiplied without end. They shall, however, be pursued no further.

There is a sort of evidence on this point, arising from an aggregate view of the constitution, which is of no inconsiderable weight. The very general power of laying and collecting taxes, and appropriating their proceeds; that of borrowing money indefinitely; that of coining money, and regulating foreign coins; that of making all needful rules and regulations respecting the property of the United States. These powers combined, as well as the reason and nature of the thing, speak strongly this language: that it is the manifest design and scope of the constitution, to vest in Congress all the powers requisite to the effectual administration of the finances of the United States. As far as concerns this object, there appears to be no parsimony of power.

To suppose, then, that the Government is precluded from the employment of so usual and so important an instrument for the administration of its finances, as that of a bank, is to suppose what does not coincide with the general tenor and complexion of the constitution, and what is not agreeable to impressions that any mere spectator would entertain concerning it. Little less than a prohibiting clause can destroy the strong presumptions which result from the general aspect of the Government. Nothing but demonstration should exclude the idea that the power exists.

To all questions of this nature, the practice of mankind ought to have great weight against the theories of individuals.

The fact, for instance, that all the principal commercial nations have made use of trading corporations or companies, for the purpose of *external commerce*, is a satisfactory proof that the establishment of them, is an incident to the regulation of commerce.

This other fact, that banks are an usual engine in the administration of national finances, and an ordinary, and the most effectual, instrument of loans, and one which, in this country, has been found essential, pleads strongly against the supposition, that a government clothed with most of the important prerogatives of sovereignty, in relation to its revenues, its debt, its credit, its

defence, its trade, its intercourse with foreign nations, is forbidden to make use of that instrument as an appendage to its own authority.

It has been stated, as an auxiliary test of constitutional authority, to try whether it abridges any pre-existing right of any State or any individual. The proposed measure will stand the most severe examination on this point. Each State may still erect as many banks as it pleases; every individual may still carry on the banking business to any extent he pleases.

Another criterion may be this; whether the institution or thing has a more direct relation, as to its uses, to the objects of the reserved powers of the State Government, than to those of the powers delegated by the United States? This rule, indeed, is less precise than the former; but it may still serve as some guide. Surely, a bank has more reference to the objects intrusted to the national Government than to those left to the care of the State Government. The common defence is decisive in this comparison.

It is presumed, that nothing of consequence in the observations of the Secretary of State and Attorney General, has been left unnoticed.

There are, indeed, a variety of observations of the Secretary of State, designed to show, that the utilities ascribed to a bank, in relation to the collection of taxes and to trade, could be obtained without it. To analyze which, would prolong the discussion beyond all bounds. It shall be forborne for two reasons: first, because the report concerning the bank, may speak for itself in this respect; and, secondly, because all those observations are grounded on the erroneous idea, that the *quantum* of necessity or utility is the test of a constitutional exercise of power.

One or two remarks only shall be made; one is, that he has taken no notice of a *very essential* advantage to trade in general, which is mentioned in the report as peculiar to the existence of a bank circulation, equal, in the public estimation, to gold and silver. It is this that renders it unnecessary to lock up the money of the country to accumulate for months successively, in order to the periodical payment of interest. The other is this: that his arguments to show that treasury orders and bills of exchange, from the course of trade, will prevent any considerable displacement of the metals, are founded on a particular view of the subject. A case will prove this. The sums collected in a State, may be small in comparison with the debt due to it. The balance of its trade, direct and circuitous with the Seat of Government, may be even, or nearly so. Here, then, without bank bills, which, in that State, answer the purpose of coin, there must be a displacement of the coin, in proportion to the difference between the sum collected in the State, and that to be paid in it. With bank bills no such displacement would take place; or, as far as it did, it would be gradual and insensible. In many other ways, also, would there be at least a temporary and inconvenient displacement of the coin, even where the course of trade would eventually return it to its proper channels.

The difference of the two situations, in point of convenience to the treasury, can only be appreciated by one who experiences the embarrassments of making provision for the payment of the interest on a stock, continually changing place in thirteen different places.

One thing which has been omitted, just occurs, although it is not very material to the main argument. The Secretary of State affirms, that the bill only contemplates repayment, not a loan to the Government. But here he is certainly mistaken. It is true, the Government invests in the stock of the bank, a sum equal to that which it receives on loans. But let it be remembered, that it does not, therefore, cease to be a proprietor of the stock, which would be the case, if the money received back were in the nature of a payment. It remains a proprietor still, and will share in the profit or loss of the institution, according as the dividend is more or less than the interest it is to pay on the sum borrowed. Hence that sum is manifestly, and in the strictest sense, a loan.

ALEXANDER HAMILTON.

Philadelphia, February 23, 1791.

WEDNESDAY NOON, 23d February, 1791.

SIR: I have this moment received your sentiments with respect to the constitutionality of the bill "to incorporate the subscribers to the Bank of the United States."

This bill was presented to me by the the joint committee of Congress, at 12 o'clock on Monday, the 14th instant. To what precise period, by legal interpretation of the constitution, can the President retain it in his possession, before it becomes a law by the lapse of ten days?

GEO. WASHINGTON.

To the Secretary of the Treasury.

FEBRUARY, 23, 1791.

SIR: In answer to your note of this morning just delivered to me, I give it as my opinion, that you have ten days, exclusive of that on which the bill was delivered to you, and Sundays; hence, in the present case, if it is returned on Friday, at any time while Congress are sitting, it will be in time.

It might be a question, if returned after their adjournment on Friday.

I have the honor to be, with perfect respect, sir,

Your most obedient servant,

A. HAMILTON.

To the President of the United States.

PHILADELPHIA, February 24, 1791.

SIR: I have just heard from the Senate, that the bill supplementary to that for incorporating the bank went through a second reading, and a question was taken upon it, and only three or four *dissentients*; among these were Mr. Carroll and Mr. Monroe.

It would have been passed this day without doubt, but the opponents insisted on the rule of the House, which made it impossible. It will be passed the first thing to-morrow.

The yeas and nays were taken, in order to *please* the members.

I have the honor to be,

Most respectfully and affectionately, sir, &c.

A. HAMILTON.

To the President of the United States.

THURSDAY, February 25, 1791.

SIR: The bill supplementary to the Bank bill, passed the House of Representatives yesterday. General Schuyler informs me, that the friends of the bank proposed that it should pass to a second reading immediately, and that Mr. Carroll opposed it, and moved that it should be printed—that, by a rule of the House, it was of necessity to comply with Mr. Carroll's objection, a departure requiring unanimous consent. That, accordingly, the bill was deferred till to-day, and in the mean time, ordered to be printed.

It will, doubtless, pass, if there are not *studied* delays on the part of the *opposers of the bank*.

I have the honor to be, with perfect respect, &c.

A. HAMILTON.

To the President of the United States.



## SUPPLEMENTARY BILL.

HOUSE OF REPRESENTATIVES, *February 9, 1791.*

*Ordered,* That a committee be appointed to prepare and bring in a bill or bills supplementary to the foregoing act, and that Mr. Smith, of S. C. Mr. Williamson, and Mr. Vining, be the said committee.

On the 10th, Mr. SMITH, from the said committee, presented a bill, which, on the 23d of February, passed the House, and afterwards the Senate, and was approved by the President on the 2d of March, 1791.

It regulated the time of subscription to the stock of the bank, the amount of specie to be paid, &c.

[See the act in 1st vol. U. S. Laws, p. 177, Story's edition.]

## SUPPLEMENTS TO THE ACT OF 1791, INCORPORATING THE UNITED STATES BANK.

The first supplementary act upon this subject which was passed, was that of the 2d of March, 1791, heretofore referred to, varying the time of subscriptions, and the amount of specie payments, &c.

On the 27th of June, 1798, an act was passed "to punish frauds committed on the Bank of the United States," by which the forging or uttering of counterfeit bills, notes, orders, or checks, by or upon the bank, subjected the offender to imprisonment at hard labor, for a period not less than three, nor more than ten years. [See Laws of U. S. of 1798, chap. 78.]

By an act passed the 23d of March, 1804, power was given to the President and Directors of the Bank, to establish offices of discount and deposit "in any part of the territories or dependencies of the United States," in the manner and on the terms prescribed by the original act. [See U. S. laws, 1804, chap. 32.]

An additional act, "to punish frauds committed on the bank," was passed on the 24th of February, 1807. [See chap. 75, in Story's edition of U. S. laws, vol. 2d, p. 1048.]

## CHAPTER III.

### PROCEEDINGS ON THE MEMORIAL OF THE STOCKHOLDERS OF THE BANK FOR A RENEWAL OF THE CHARTER OF 1791.

By the limit fixed in the original act of incorporation, the legal existence of the bank, as a corporate body, was to cease on the 4th of March, 1811. In anticipation of that event, its directors thought it advisable, at an early period, to apply to Congress for a renewal of their powers. The circumstances connected with its origin, and its relation to the political parties, by whom the Government, at different periods of its existence, had been administered, might have suggested a doubt whether an extension of the charter would be granted. In its enactment, a large majority of Congress had, indeed, concurred, and it had enjoyed, in the outset, the entire confidence of the Executive Government of the Union; but a political revolution had been effected, and those who had given it being, were themselves, by the will of the People, divested of a controlling power. Two, among the early opposers of the bank, had successively filled the Executive chair. How far these changes in the aspect and relative condition of parties, affected the destinies of this institution, it is not for the editors to determine; but, doubtless, they were not without their influence.

The following proceedings and debates, which took place, both in the House and the Senate, on the bill to renew the charter, are of a highly interesting and instructive character, and may enable the reader to decide questions upon which the editors will not presume to speculate.

10TH CONGRESS, }  
1st Session.

HOUSE OF REPRESENTATIVES, *March 26, 1808.*

A memorial of the stockholders of the Bank of the United States, praying a renewal of their charter, was presented and read: whereupon,

A motion was made, by Mr. JOSEPH CLAY, "that it be referred to the Secretary of the Treasury, with instruction to him to examine the matter thereof, and report his opinion thereupon to the House."

Mr. RANDOLPH moved to postpone the consideration of the reference of the memorial, till Monday following, which motion the SPEAKER decided, was not in order.

A motion was then made by Mr. DAVID R. WILLIAMS, that the memorial be referred to a Committee of the Whole House, which, superseding the motion for a reference to the Secretary of the Treasury, the question was taken thereon, and decided in the affirmative.

*Resolved*, That the said memorial be the order of the day for Monday next.

The subject, however, was not further acted on in this House during the session. p 120

IN SENATE, *April 20, 1808.*

Mr. GREGG presented the memorial of the stockholders of the Bank of the United States, praying a renewal of their charter, for reasons stated at large in their memorial, which was read.

*Ordered*, That it be referred to the Secretary of the Treasury, to consider and report thereon at the next session of Congress.

10TH CONGRESS, }  
2d Session.

MARCH 3, 1809.

The President of the Senate communicated the report of the Secretary of the Treasury, on the memorial of the stockholders of the Bank of the United States, referred to him on the 20th of April last, which is as follows:

*Report of the Secretary of the Treasury on the subject of a National Bank, made to the Senate, March 2, 1809.*

The Secretary of the Treasury, to whom was referred the memorial of the stockholders of the Bank of the United States, praying for a renewal of their charter, which will expire on the 4th day of March, 1811, respectfully submits the following report:—

The Bank of the United States was incorporated by act of March 2d, 1791, with a capital of ten millions of dollars, divided into 25,000 shares, of 400 dollars each. Two millions of dollars were subscribed by the United States, and paid in ten equal annual instalments. Of the eight millions of dollars subscribed by individuals, two millions were paid in specie, and six millions in six per cent. stock of the United States. Two thousand four hundred and ninety-three of the shares belonging to Government, were sold in the years 1796 and 1797, at an advance of 25 per cent.; two hundred and eighty-seven were sold in the year 1797, at an advance of 20 per cent.; and the other two thousand two hundred and twenty shares, in the year 1802, at an advance of 45 per cent.; making, together, exclusively of the dividends, a profit of 671,860 dollars to the United States. The greater part of the six per cent. stock originally paid by the stockholders, has since been sold by the bank; a portion has been redeemed by Government, by the operation of the annual reimbursement, and the bank retains at present only a sum of \$2,231,598 in six per cent. stock.

About eighteen thousand shares of the bank stock, are held by persons residing abroad, who are, by the charter, excluded from the right of voting. The stockholders resident within the United States, and who have the exclusive control over the institution, hold only seven thousand shares, or little more than one-fourth part of its capital. They appoint, annually, twenty-five directors of the bank itself, which is established at Philadelphia; and those directors have the entire management of the discounts and other transactions of the institution in that city, and the general superintendence and appointment of the directors and cashiers of the offices of discount and deposite, established in other places. There are at present eight of those offices, viz: at Boston, New York, Baltimore, Norfolk, Charleston, Savannah, the City of Washington, and New Orleans. The two last were established at the request of the Secretary of the Treasury.

The profits of a bank arise from the interest received on the loans made either to Government or to individuals; and they exceed six per cent. or the rate of interest at which the loans are made, because every bank lends not only the whole of its capital, but also a portion of the moneys deposited for safe keeping in its vaults, either by Government or by individuals. For every sum of money thus deposited, the party making that deposite, either receives the amount in bank notes, or obtains a credit on the books of the bank. In either case, he has the same right at any time to withdraw his deposite; in the first case, on presentation and surrender of the bank notes; in the other case, by drawing on the bank for the amount. Bank notes and credits on the books of the bank, arise, therefore, equally from deposites, although the credits alone are, in common parlance, called deposites; and the aggregate of those credits, and of the bank notes issued, constitutes the circulating medium substituted by the banking operations to money; for payments from one individual to another are equally made by drafts on the bank, or by the delivery of bank notes. Experience has taught the directors what portion of the money thus deposited, they may lend; or, in other words, how far they may, with safety, extend their discounts beyond the capital of the bank, and what amount of specie it is necessary they should keep in their vaults. The profits, and, therefore, the dividends of a bank, will increase in proportion as the directors will increase loans of the moneys deposited, and suffer the amount of specie on hand to diminish. Moderate dividends, when not produced by some particular cause, which checks the circulation of bank paper, are the best evidence of the safety of the institution, and of the wisdom of its direction.

The annexed table of all the dividends made by the Bank of the United States since its establishment, shows that they have, on an average, been at the rate of  $8\frac{3}{4}$  (precisely  $8\frac{3}{4}$ ) per cent. a year, and proves that the bank has not, in any considerable degree, used the public deposits for the purpose of extending its discounts.

From what has been premised, it appears that the property of a bank in full operation, consists of three general items, viz: 1st, outstanding debts, consisting principally of the notes payable at sixty days, which have been discounted at the bank: 2dly, specie in the vaults: 3dly, buildings necessary for the institution. On the other hand, the bank owes, 1st, to the stockholders, the amount of the capital stock originally subscribed, payable only in case of the dissolution of the institution: 2dly, to Government or individuals, the whole amount of moneys deposited, payable on demand, and including both the credits on the bank books, commonly called deposits, and the bank notes in circulation. The account is balanced by the amount of undivided profits and accruing discounts, which constitute the fund for defraying current expenses, for paying subsequent dividends, and for covering contingent losses.

The following statement of the situation of the Bank of the United States, including its branches, exhibits the true amount of public stock which is still held by the institution, of the cost of its buildings and lots of ground, and of the undivided surplus or contingent fund subsequent to the dividend made in January last. But the amount of loans to individuals or discounts, of specie in the vaults, and of moneys deposited, including both the credits on the bank books, commonly called deposits, and the bank notes in circulation, is taken on a medium; and, so far as relates, on the credit side of the account, to specie on hand, and, on the debit side, to deposits, is several millions of dollars less than it happens to be at this moment; both having been swelled much beyond the average by the embargo, and by the unusually large balance in the treasury, which is principally deposited in the bank. Some minor items, arising from accidental circumstances, are omitted for the sake of perspicuity.

## Cr.

## I. Debts due to the bank, viz:

1. Six per cent. stock of the United States, being the residue of that part of the original subscription paid in public stocks, which is still held by the bank,	\$2,230,000
2. Loans to individuals, consisting chiefly of discounted notes, payable at sixty days, and, in some instances, of bonds and mortgages taken, in order to secure doubtful debts,	15,000,000
3. Due by banks incorporated by the States,	800,000
	18,030,000

II. Specie in the vaults,	5,000,000
III. Cost of lots of ground, and buildings erected,	480,000

Total Cr.	\$23,510,000
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## Dr.

I. Capital stock of the bank, payable to the stockholders whenever the institution may be dissolved, \$10,000,000

## II. Moneys deposited, viz:

1. Credits on the bank books, commonly called deposits, including the deposits both by Government and by individuals,	8,500,000
2. Bank notes in circulation,	4,500,000
	13,000,000

Total Dr.	\$23,000,000
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Balance, being the amount of undivided profits, commonly called the "contingent fund," and applicable to cover losses which may arise from bad debts or other contingencies, and to extra dividends, - - - - - \$510,000

It sufficiently appears from that general view, that the affairs of the Bank of the United States, considered as a moneyed institution, have been wisely and skilfully managed.

The advantages derived by Government from the bank, are nearly of the same nature with those obtained by individuals, who transact business with similar institutions, and may be reduced to the following heads:

1. *Safe keeping of the public moneys.* This applies not only to moneys already in the treasury, but also to those in the hands of the principal collectors, of the commissioners of the loans, and of several other officers, and affords one of the best securities against delinquencies.

2. *Transmission of public moneys.* As the collections will always, in various quarters of the extensive territory of the Union, either exceed or fall short of the expenditures in the same places, a perpetual transmission of money, or purchase of remittances at the risk and expense of the United States, would become necessary, in order to meet those demands; but this is done by the bank at its own risk and expense, for every place where one of its branches is established, which embraces all payments of any importance.

3. *Collection of the revenue.* The punctuality of payments introduced by the banking system, and the facilities afforded by the bank to the importers indebted for revenue bonds, are amongst the causes which have enabled the United States to collect with so great facility, and with so few losses, the large revenue derived from the impost.

4. *Loans.* Although the prosperity of past years has enabled Government, during the present administration, to meet all the public demands, without recurring to loans, the bank had, heretofore, been eminently useful in making the advances, which, under different circumstances, were necessary. There was a time when, exclusively of the six per cent. stock held by the institution as part of the original subscription, the loans obtained by Government from the bank, amounted to 6,200,000 dollars. And a similar disposition has been repeatedly evinced, whenever the aspect of public affairs has rendered it proper to ascertain whether new loans might, if wanted, be obtained.

The numerous banks now established, under the authority of the several States, might, it is true, afford considerable assistance to Government in its fiscal operations. There is none, however, which could effect the transmission of public moneys with the same facility, and to the same extent, as the Bank of the United States is enabled to do, through its several branches. The superior capital of that institution offers, also, a greater security against any possible losses, and greater resources in relation to loans. Nor is it eligible, that the General Government should, in respect to its own operations, be entirely dependent on institutions over which it has no control whatever. A national bank, deriving its charter from the National Legislature, will, at all times, and under every emergency, feel stronger inducements, both from interest and from a sense of duty, to afford to the Union every assistance within its power.

The strongest objection against the renewal of the charter seems to arise from the great portion of the bank stock held by foreigners—not on account of any influence it gives them over the institution, since they have no vote—but of the high rate of interest payable by America to foreign countries, on the portion thus held. If the charter is not renewed, the principal of that portion, amounting to about 7,200,000 dollars, must, at once, be remitted abroad; but, if the charter is renewed, dividends, equal to an interest of about 8½ per cent. a year, must be annually remitted in the same manner. The renewal of the charter will, in that respect, operate, in a national point of view, as a foreign loan, bearing an interest of 8½ per cent. a year.

That inconvenience might, perhaps, be removed, by a modification in the charter, providing for the repayment of that portion of the principal by a new subscription to the same amount, in favor of citizens; but it does not, at all events, appear sufficient to outweigh the manifest public advantages derived from the renewal of a charter.

The conditions in favor of the public, on which this should be granted, are the next subject of consideration.

The nett profit annually derived by the stockholders, from a renewal of the charter, is equal to the difference between the annual dividends and the market rate of interest. Supposing this to continue at six per cent. during the period granted by the extension of the charter, and the dividends to be on an average at the rate of  $8\frac{1}{2}$  per cent., that profit will be  $2\frac{1}{2}$  per cent. a year. If the charter be extended twenty years, the value of the privilege will be equal to an annuity of  $2\frac{1}{2}$  per cent. on the capital, that is to say, of 250,000 dollars, for twenty years; and such annuity being payable semi-annually, is worth almost 2,890,000 dollars. This, however, would be much more than any bank would give for a charter, as it would leave it nothing but the right of dividing at the rate of six per cent. a year, which the stockholders have without a charter. It is believed, that they would not be willing to give even half that sum for the extension; and that about 1,250,000 dollars may be considered as the maximum, which could be obtained, if it was thought eligible to sell the renewal of the charter for a fixed sum of money.

It is, however, presumed, that the decision on the conditions, which may be annexed to an extension of the charter, will be directed by considerations of a much greater importance than the payment of such sum into the treasury.

The object will, undoubtedly, be to give to the institution all the public utility of which it is susceptible, and to derive from it permanent and solid advantages, rather than mere temporary aid. Under these impressions, the following suggestions are respectfully submitted:

- I. That the bank should pay interest to the United States, on the public deposits, whenever they shall exceed a certain sum, which might perhaps be fixed at about three millions of dollars.
- II. That the bank should be bound, whenever required, to lend to the United States a sum not exceeding three-fifths of its capital, at a rate of interest not exceeding six per cent.; the amount of such loan or loans to be paid by the bank in instalments, not exceeding a certain sum, monthly, and to be reimbursed at the pleasure of Government.
- III. That the capital stock of the bank should be increased to thirty millions of dollars, in the following manner, viz:
  1. Five millions of dollars to be subscribed by citizens of the United States, under such regulations as would make an equitable apportionment amongst the several States and Territories.
  2. Fifteen millions to be subscribed by such States as may desire it, and under such equitable apportionment amongst the several States as may be provided by law; and a branch to be established in each subscribing State, if applied for by the State.
  3. The payments, either by individuals or States, to be either in specie or in public stock of the United States, at such rates as may be provided by law.
  4. The subscribing States to pay their subscription in ten annual instalments, or sooner if it suits their convenience, but to receive dividends in proportion only to the amount of subscription actually paid; and their shares of bank stock not to be transferable.
- IV. That some share should be given in the direction to the General and State Governments, the General Government appointing a few directors in the general direction, and the Government of each subscribing State appointing a few directors in the direction of the branch established in such State.



The result of that plan would be, 1st., that the United States, receiving an interest on the public deposits, might, without inconvenience, accumulate during years of peace and prosperity, a treasure sufficient to meet periods of war and calamity, and thereby avoid the necessity of adding, by increased taxes, to the distresses of such periods. Secondly, that they might rely on a loan of eighteen millions of dollars, on any sudden emergency. Thirdly, that the payment of the greater part of the proposed increase of capital, being made in ten annual instalments, that increase would be gradual, and not more rapid than may be required by the progressive state of the country. Fourthly, that the bank itself would form an additional bond of common interest and union amongst the several States.

All which is respectfully submitted.

ALBERT GALLATIN.

TREASURY DEPARTMENT, *March 2d*, 1809.

*Dividends on United States' Bank Stock.*

No.		Rate per cent.	No.		Rate per cent.
1	July, 1792	4	18	January, 1801	6
2	January, 1793	4	19	July, "	4
3	July, "	3 $\frac{1}{2}$	20	January, 1802	4 $\frac{1}{2}$
4	January, 1794	3 $\frac{1}{2}$	21	July, "	4 $\frac{1}{2}$
5	July, "	4	22	January, 1803	4 $\frac{1}{2}$
6	January, 1795	4	23	July, "	4
7	July, "	4	24	January, 1804	4 $\frac{1}{2}$
8	January, 1796	4	25	July, "	4
9	July, "	4	26	January, 1805	4
10	January, 1797	4	27	July, "	4
11	July, "	4	28	January, 1806	4
12	January, 1798	5	29	July, "	4
13	July, "	4	30	January, 1807	6
14	January, 1799	4	31	July, "	4
15	July, "	4	32	January, 1808	4
16	January, 1800	4	33	July, "	4
17	July, "	4	34	January, 1809	4

10TH CONGRESS, }  
1st Session. }

HOUSE OF REPRESENTATIVES, *December 4*, 1809.

Mr. NICHOLAS moved the following resolution:

*Resolved*, That provision be made by law for a general national establishment of banks throughout the United States, and that the profits arising from the same, together with such surplusses of revenue as may accrue, be appropriated for the "general welfare," in the construction of public roads and canals, and the establishment of seminaries for education, throughout the United States.

The resolution was read, and ordered to lie on the table.

JANUARY 29, 1810.

On motion of Mr. SEYBERT,

*Ordered*, That the memorial of the stockholders of the Bank of the United States, presented on the 26th March, 1808, be referred to Mr. Montgomery,

Mr. Dana, Mr. Bassett, Mr. Seaver, Mr. Seybert, Mr. Gold, and Mr. Taylor, to consider and report thereon to the House.

FEBRUARY 6, 1810.

The House proceeded to consider the resolution of Mr. NICHOLSON,\* of the 4th December last, for the establishment of banks, and the application of their profits; whereupon, a division of the question on the said resolution was called for by Mr. SAWYER, to the word "States," inclusive, in the second line of the resolution.

A motion was made by Mr. ROSS, that the first member contained within the same, to the word "States," inclusive, in the second line, be referred to a Committee of the Whole House;

Which was determined in the negative.

A motion was then made by Mr. SAWYER, that the said first member be referred to a select committee;

Which was also determined in the negative.

FEBRUARY 19, 1810.

Mr. MONTGOMERY, from the committee appointed on the 29th ultimo, on the memorial of the stockholders of the Bank of the United States, made the following report thereon; which was read and referred to a Committee of the Whole House to-morrow.

#### REPORT OF THE COMMITTEE.

The committee to whom was referred the petition of the stockholders of the Bank of the United States, beg leave to submit the following report:

That, in proceeding to the consideration of the said petition, your committee instructed their chairman to address a letter to the Secretary of the Treasury, requesting him to furnish such information or observations as he might think proper, in relation to the subject matter thereof, as connected with the financial and commercial interests of the United States. In reply to which, the Secretary, by his letter to the chairman, referred your committee to his former report on the said subject, made to the Senate of the United States, in obedience to the order of that House.

Your committee have been attended by agents of the petitioners, who, in addition to the matters contained in the petition, have suggested to your committee, that the object of the petitioners was to obtain the renewal of the charter in its present form; that, for this renewal, the bank was willing to make compensation, either by loans, at a rate of interest, or by a sum of money to be agreed upon, or by an increase of the capital stock, by a number of shares to be taken and subscribed for by the United States, to an amount adequate to the compensation to be agreed upon for such renewal.

These agents also suggested that they were fully authorized and empowered to offer and conclude the terms specifically connected with these propositions.

Your committee, not feeling themselves authorized to enter into such terms, and judging that the extent of those propositions would better apply to the details of a bill, than to the adoption of a principle to be first settled by the House, have, therefore, forbore to inquire into the extent of the propositions, and, without expressing an approbation or rejection of those offers, or giving an opinion as to the plan and reasoning of the Secretary of the Treasury, your committee, in order that the opinion of the House on this great national question, may be declared, previous to entering into the details connected with the subject, recommend the following resolution:

\* In the Journal of the House for the day on which this resolution was first offered, it is attributed to Mr. Nicholas, who was a member from Virginia; it is here imputed to Mr. Nicholson, who was from New York.

*Resolved*, That it is proper to make provision for continuing the establishment of the Bank of the United States, with offices of discount and deposit, under the regulations necessary for the beneficial administration of the national finances, during such time and on such conditions, as may be defined by law.

FEBRUARY 22, 1810.

Mr. LOVE moved the following resolution:

*Resolved*, That it is expedient to inquire into the propriety of establishing a national bank.

The said resolution being read, was referred to the Committee of the Whole House, to whom is committed the report of a select committee on the memorial of the stockholders of the Bank of the United States.

MARCH 22, 1810.

On motion of Mr. LOVE,

*Ordered*, That the Committee of the Whole House to which is committed a resolution submitted by him, on the 22d ultimo, for the establishment of a national bank, be discharged from the further consideration thereof, and that the same be referred to Mr. Love, Mr. Montgomery, Mr. Smilie, Mr. Quincy, Mr. Desha, Mr. Root, and Mr. Marion.

MARCH 29, 1810.

On motion of Mr. TAYLOR,

*Ordered*, That the Committee of the Whole House to which is committed the report of a select committee, on the memorial of the stockholders of the Bank of the United States, be discharged from the consideration thereof, and that the said report be referred to Mr. Taylor, Mr. Mumford, Mr. Pitkin, Mr. J. Porter, Mr. Gray, Mr. Howard, and Mr. Cook, with instruction to report by bill.

APRIL 2, 1810.

Mr. LOVE, from the committee appointed on the 22d ultimo, presented a bill to establish a national bank, which was read the first time.

On motion, the said bill was read the second time, and committed to Committee of the Whole House on Thursday next.

Mr. LOVE also made a written report in relation to the principles of the said bill, which was read, as follows:

The committee to whom was referred on the 22d of March last, a resolution relative to the establishment of a national bank, beg leave further to report:

That they have had the subject thereof under consideration, and in every view they have been able to take of it, perceive great difficulties to occur; nor is a majority of them by any means satisfied, that the bill they have agreed should be reported to the House, presents the best mode for the establishment of a national bank. They have been induced, however, to direct their chairman to report the same for the consideration of the House, without thereby intending to pledge their opinions in support of it, in preference to any other system or project which may be devised, on this very important subject.

The said bill is as follows:

#### A BILL TO ESTABLISH A NATIONAL BANK.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a bank shall be established in the city of Washington, in the District of Columbia, with branches thereof in the territories of the United States, and in the States, respectively, on application of the Legislatures thereof, in manner hereinafter mentioned, the capital of which shall not exceed fifteen millions of dollars, to be divided into

shares of four hundred dollars each; and that, for the purpose of constituting three millions of the capital stock of said bank, the Secretary of the Treasury be, and he hereby is, authorised, to cause to be created certificates of stock, signed by the Register of the Treasury, in favor of any citizen of the United States, or the territories thereof, for the sum of three millions of dollars, or any less sum, to bear an interest of six per centum per annum, from the time of delivery to the purchasers; which debt shall be reimbursable at the pleasure of the United States, at any time after ten years, and not sooner; no certificate for which shall be issued for a less sum than four hundred dollars, and when for a larger sum, shall be to an amount, the principal of which shall be capable of simple divisions into sums of four hundred dollars; the same shall be receivable in subscriptions to the capital stock of the national bank aforesaid; and, for every four hundred dollars of the principal thereof, the subscriber, being a citizen of the United States or territories, shall be entitled to one share of the capital stock of the said bank, and may subscribe accordingly, in books to be opened for that purpose in the city of Washington, aforesaid, on the first day of January, in the year one thousand eight hundred and eleven, under the superintendence of three persons, who shall be appointed, by the President of the United States, commissioners for receiving subscriptions to the said bank, any two of whom may act, and receive subscriptions as aforesaid, until the fourth day of March, in the year one thousand eight hundred and eleven. The sale of the stock aforesaid, shall be made by the Secretary of the Treasury, in such portions, and at such times, as he shall find necessary or expedient, for the best price he can obtain, either for money or the six per cent. funded debt of the United States, as the exigencies of the Government may render proper; and a credit or credits, for such newly created stock, shall be given to the purchaser thereof, on the books of the treasury, in like manner as for the present domestic funded debt, which said credits or stock shall thereafter be transferable, except as herein before mentioned, only on the books of the treasury of the United States, by the proprietor or proprietors of such stock, his, her, or their attorney, and may be so disposed of by the national bank company, their agent or attorney, to any person, or persons, whatsoever, or his, her, or their assigns, in manner aforesaid; and, for the reimbursement of the principal of the said stock and payment of the interest thereon quarter yearly at the treasury, the faith of the Government of the United States is hereby pledged. So much of the proceeds of the sales of the said stock as shall be received in money, shall be, and hereby is, appropriated towards the discharge of any of the current expenses of the Government, which the Secretary of the Treasury may deem most proper.

SEC. 2. *And be it further enacted,* That if the whole of the said sum of three millions of dollars shall not have been issued in stock, in manner aforesaid, on or before the first day of January, in the year one thousand eight hundred and eleven, and, also, in case none of the same shall have been then issued, then, for the whole, or any part thereof, (as the case may be,) subscriptions shall be opened, within sixty days thereafter, in such of the principal towns in the United States as the President of the United States shall direct, under the superintendence of such persons as he shall appoint, not less than three; and a majority of the said persons at the said places, respectively, shall be sufficient to perform the duties of their appointment. It shall be the duty of the said commissioners to advertise the time and place for receiving such subscriptions within the said towns, respectively, in some newspaper printed therein, for the space of twenty days, at least, before they shall open books to receive subscriptions as aforesaid; they shall keep the subscription open for the term of three days, and no longer, if the subscriptions for the amount of stock, directed by the President of the United States to be taken at such places, respectively, are completed in that time, but if they shall not be completed at the expiration of that time, they shall keep them open for the term of sixty days, unless the subscription is sooner completed; but if the subscription is completed before the expiration of three days from the time it

is opened, then, and immediately after the same shall be so filled, no person, copartnership, or body politic, shall, during the remainder of the term aforesaid, be permitted to subscribe for more than five shares; and it shall be lawful for any citizen of the United States, copartnership, or body politic, within the United States, in person, or by attorney, to subscribe for any number of shares, not exceeding one hundred in one day, and all the subscriptions made, and shares obtained in consequence thereof, shall be deemed and held to be for the sole use and benefit of the person or persons, copartnership, or body politic, subscribing, or in whose behalf the subscriptions, respectively, shall be declared to be made at the time of making the same, any bargain, contract, promise, or agreement, to the contrary notwithstanding. And in case the amount of subscriptions, at any of the said places, shall exceed the number of shares appointed to be taken at such place, in the first three days, the excess, thus created, shall be reduced within the number of shares authorised to be subscribed at such place, or places, respectively, in manner following, that is to say: from the subscription, and subscriptions highest in amount, the commissioners shall subtract a share, or shares, until the same shall be made equal to the subscription, or subscriptions, next highest in amount; and, as often as the case shall require, they shall proceed to subtract a share, or shares, from the subscription, or subscriptions, remaining, from time to time, highest in amount, until the aggregate of all the subscriptions be reduced to the number of shares authorised to be subscribed at the places which shall be appointed respectively; and if by and after the operation of the said subtraction, as often as the same shall be necessarily made, a greater number of shares may be allowed to one or more of the subscribers than to the rest, or if the number of shares shall eventually be greater than the number of shares authorised at such places, respectively, so that, at least one share cannot be allowed to each subscriber, then, and in either of the before mentioned cases, the commissioners for such place shall ascertain by lot, in whom the greater number of shares, or the right of subscribing for and retaining one share, (as the case may be) shall be vested, and the subscriber, in whose favor the lot may thereupon fall, shall be deemed, to all intents and purposes, the lawful subscriber, and subscribers, for such share, or shares, respectively; and the amount of the share, or shares, subscribed for, in manner aforesaid, shall be paid by the several and respective subscribers, in gold or silver coin, at its lawful value, one-fourth thereof at the time of subscribing, one-fourth in sixty days thereafter, one-fourth in one hundred and twenty days thereafter, and one-fourth in one hundred and eighty days from the time of the first election of directors, or at any time sooner, that such subscriber, or subscribers, may choose; the sums so received, respectively, shall be paid over by the said commissioners to the order of the Secretary of the Treasury. And in case any subscriber, as aforesaid, shall fail to pay any of the sums due from him, her, or them, according to the terms of subscription, he, she, or they, shall not be entitled to any dividend or dividends, or to vote on any such share, until the payment of the sum due thereon, with interest from the time such payment became due, shall be fully paid up and satisfied; and in case such failure shall continue for the space of six months, such share, or shares, and the sums which shall have been paid thereon, shall be wholly forfeited to the use of the said bank, and the same shall be sold under such regulations as the directors may establish. And the commissioners, aforesaid, shall, at the expiration of the three first days, and once in every ten days thereafter, as long as the subscription continues open, transmit to the Secretary of the Treasury a fair list of all the subscriptions, and the names of the subscribers making them.

SEC. 3. *And be it further enacted,* That, for the purpose of constituting five millions more of the capital stock of the said bank, the President of the United States shall, immediately after the passage of this act, notify the Governors of each State thereof, and the Legislatures of the States which shall enact laws authorising a subscription, in conformity to the provisions of this act, may at a time to be appointed by the President of the United States, (not

exceeding six, or less than three months, from the time of such legislative act being notified to him,) cause to be subscribed at such place as such legislature shall direct within such State, and on behalf of such State, or any citizen of the United States or the territories thereof, to whom such State may assign or dispose of the right of subscribing, the following number of shares, to consist of four hundred dollars each, to wit: the State of New Hampshire, four hundred shares; the State of Massachusetts, fifteen hundred shares; the State of Connecticut, six hundred shares; Rhode Island, one hundred and fifty shares; Vermont, two hundred and fifty shares; the State of New York, fifteen hundred shares; New Jersey, six hundred shares; Pennsylvania, sixteen hundred shares; Delaware, one hundred and fifty shares; Maryland, eight hundred shares; Virginia, eighteen hundred shares; North Carolina, one thousand shares; South Carolina, six hundred shares; Georgia, five hundred shares; Kentucky, six hundred shares; Tennessee, three hundred shares; and Ohio, one hundred and fifty shares—and the amount payable on the shares so respectively subscribed by the States, or any of them, or any of their assignees, being citizens of the United States, shall be paid in gold or silver coin, at their current value; the first payment on each of which shares, shall be made at the time of subscribing, to the amount of forty dollars, into the hands of such persons, not less than three at each place of subscription, whom the States shall respectively authorize to receive the subscription, to the said capital stock, of the appointment of which commissioners, as soon as made, the proper authority of the States shall notify the Secretary of the Treasury, who shall immediately direct the said commissioners to place the same to the credit of the national bank company, in such bank or place of safe deposit as the Secretary of the Treasury shall appoint, which deposit shall be subject to his order for the use of said bank company, until the first election of directors of the said bank to be thereafter made at the Seat of Government of the United States, and the balance of the sum due on each share as aforesaid, shall be paid into the national bank at Washington, or any of the branches thereof, in gold or silver coin, at their value, at such times, and in such portions as the stockholders so subscribing shall choose: *Provided*, That the subscribers or stockholders aforesaid, shall not be permitted to pay at any one time less than forty dollars on each share, and shall not be entitled to any greater portion of the dividends made by the said bank, than according, and in proportion to the sum actually paid on the shares upon which such dividend is claimed, but shall be entitled to such dividend, according to the portion paid on such share, when any dividend shall be declared after the expiration of six months from the time of any payment made, and not sooner. The mode of opening such subscriptions in the States, respectively, and carrying them into effect, except as is by this act otherwise directed, shall be according to the rules and provisions which such State so subscribing shall direct and establish: *Provided*, That any forfeitures which accrue of the rights of subscribers to such stock, shall be and enure to the use of the national bank company only.

SEC. 4. *And be it further enacted*, That such States as shall assent to the provisions of this act, and choose to avail themselves thereof, shall, on or before the first day of January, in the year one thousand eight hundred and twelve, notify by the proper authority, the President of the United States thereof, and shall also by any law passed authorising the subscriptions aforesaid, express the assent of the legislature thereof to the establishment of a branch of the national bank within such State, and at such place as the directors of the said bank at the Seat of the Government of the United States shall appoint: *Provided*, The capital assigned to such branch by the directors aforesaid, shall not exceed the amount of capital subscribed for within such State respectively: *And provided, also*, That, in case any of the States of the Union shall fail to comply with the terms of this act, or to notify the President of the United States, on or before the first day of January, one thousand eight hundred and twelve, of their assent to them, it shall be lawful for Congress to extend the time for such assent to be given, until the first day of January, in the year one thousand eight hundred and thirteen, and no longer; and in case



the States of the Union, or any of them, do not assent to the terms of this act, at or before the last mentioned period, for the whole amount of the sum hereby proposed to be subscribed by the States, or for any part thereof, then subscriptions may be opened for a part, or the whole, (as the case may be,) by order of a general meeting of the stockholders of the said bank, in such manner, at such place, and at such time thereafter, as shall by the company of the said bank, or the president and directors thereof, at the Seat of Government, be appointed.

SEC. 5. *And be it further enacted,* That, for the purpose of constituting four millions more of the capital stock of the said bank, it shall be lawful for the President of the United States, and he is hereby authorised, at any time within two years after the passing of this act, to cause a subscription to be made on behalf of the United States, to an amount not exceeding four millions of dollars, to be borrowed from the bank aforesaid, at any time after it goes into operation, or sooner, from any person or body corporate, at a rate of interest not exceeding — per cent. and reimbursable in ten years, by equal annual instalments, or at any time sooner, or in any greater proportions that the Government may think fit; the first instalment to become due in one year from the time the said bank goes into operation, at which time the first payment borrowed as aforesaid, shall be made to the said bank, or such other person or body corporate from whom the same may be borrowed by the United States; and the sum so borrowed, with the interest quarter yearly thereon, shall be reimbursable and paid out of any moneys in the treasury, not otherwise appropriated.

SEC. 6. *And be it further enacted,* That, for the purpose of constituting three millions more of the capital stock of the national bank, it shall be lawful for the bank companies, or associations, which have been organized within the District of Columbia, or such of them as may choose, on or before the fourth day of March, in the year one thousand eight hundred and eleven, in pursuance of an order of the stockholders of the said banks, or either of said banks, at a general meeting, to notify the Secretary of the Treasury of their intention to subscribe their capital stock to the national bank, and if such company or their agent or agents shall, in sixty days thereafter, pay into the national bank, if it shall have commenced its operations, and if not, shall, in sixty days after the first election of directors at Washington, pay one-third of the amount of the stock subscribed, in specie, and the remaining two-thirds in good notes due in ninety days, or a shorter period, which notes shall be endorsed and guaranteed by the president of such bank on behalf of the company, then such sums so paid in, shall entitle those for whose use the same may be paid, to a share in the said bank for every four hundred dollars so paid; and it shall be lawful for the Secretary of the Treasury to make any further arrangement with the said companies, or associations, which, to him, shall seem right, and shall be agreed on between them, in order effectually to incorporate the funds of such bank company, or association, into the capital of the national bank, in the manner most convenient and profitable to the said companies and the national bank; and, in case the said sum of three millions of dollars, or any part thereof, shall not be subscribed by the said bank companies, or associations, in manner herein provided, and at the times herein mentioned, or, if no notice of an intention to do so is given by the time aforesaid, it shall be lawful for the President of the United States, at any time after the fourth of March, in the year one thousand eight hundred and twelve, with the assent of the stockholders of the national bank, previously expressed at a general meeting, to cause to be constituted the said three millions of dollars of the said stock, or so much thereof as shall not have been so subscribed by the said banks, or associations, on the same terms and conditions, (with such alterations only as may be necessary in point of form) as by the first and second sections of this act, subscriptions of stock to the national bank are provided and directed to be received.

SEC. 7. *And be it further enacted,* That the subscribers, their successors and assigns, being bodies corporate and politic, within the United States, or

the territories thereof, or being citizens of the United States, or the territories thereof, shall be, and are hereby, erected and made a corporation and body politic, by the name and style of the president, directors and company of the national bank, and by that name shall be, and are hereby, made able and capable in law, to have, purchase, receive, possess, enjoy, and retain, to them and their successors, land, rents, tenements, hereditaments, goods, chattels, and effects of what kind soever, to an amount not exceeding, in the whole, ten millions of dollars, exclusive of the amount of the capital stock aforesaid, and the same to sell, grant, alien, demise, or dispose of; to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatsoever; and also to make, have, and use a common seal, and the same to break, alter, and renew at their pleasure, and also to ordain, establish, and put in execution such by-laws and ordinances, as shall seem necessary and convenient for the government of the said corporation, not being contrary to law or to this charter; and for the making whereof, general meetings may be called by the directors, in the manner hereinafter specified; and generally to do and execute all and singular the acts, matters, and things which to them it shall or may appertain to do, subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions in this act prescribed and declared.

SEC. 8. *And be it further enacted*, That, for the well ordering the affairs of the said bank, there shall be elected, annually, on the first Monday in January, at the Seat of Government, directors, who shall be citizens of the United States at the time of election, and shall be stockholders in the said bank, all of whom shall be elected by the stockholders of said bank; and, at the same time, the President of the United States shall appoint — other persons, on behalf of the Government, as directors of said bank at Washington; and the Secretary of the Treasury, for the time being, shall be a director of said bank, *ex-officio*. At the same time, there shall be chosen, annually, in the different States, or such of them in which branches of the national bank shall be established, at the places where such branches are respectively established, by the stockholders, — directors; and there shall be appointed, under the authority of such State, — other directors, and by the Secretary of the Treasury, on behalf of the United States, — other directors, and the said directors, so chosen and appointed, for the said bank and branches, respectively, shall, at the first meeting held by them, respectively, choose one of their number as a president of such bank, or branch bank; and the president and directors so chosen and appointed, shall serve by virtue thereof, from the time they shall be notified of their election, till the expiration of the succeeding first Monday in January, and from thence, until they shall be notified of a subsequent election having been made, and no longer. The first elections shall be held at the time and in the manner herein after directed: *Provided*, That in case it should at any time happen that an election of directors shall not be made, on any day when, pursuant to this act, it ought to have been made, the said corporation shall not, therefore, be deemed to be dissolved, but it shall be lawful on any other day, within one hundred days thereafter, to hold and make an election of directors, by order of the Secretary of the Treasury, who shall advertise the same in a public manner, at the place where such election is to take place, at least ten days before such election, at which election the same rules shall be observed as at other elections, and such further rules as the said corporation shall direct. And in case of the death, resignation, or absence from the United States, of a director in the bank aforesaid, or any of the branches thereof, his place shall be filled by a new choice, for the remainder of the term for which he was elected, by the vote of a majority of the directors at the place where such vacancy shall happen. Every person voting at any election of directors, shall, previous to giving his or her vote, make oath, or solemnly affirm, that he, or she, is a citizen of the United States; that the share or shares on which he or she offers to vote, is, or are, really and *bona fide* his or her own property, and not held in trust, or for the use, benefit, or emolument, of any other person or persons

whatsoever; and when any person offers to vote as a proxy, an affidavit to the same effect, of the person whom he represents, shall be sufficient, if made before a proper authority; and to take any such oath falsely, shall be perjury, and punishable as such on prosecution, by indictment or information.

SEC. 9. *And be it further enacted,* That, in case the certificates of stock authorized by the first section of this act to be created, shall have been sold, either in whole, or in part, at the time herein limited for the sale thereof, immediately thereafter, or as soon as the whole of said stock is sold (as the case may be) books shall be opened, under the direction of the Secretary of the Treasury, for the purpose of receiving subscriptions to the capital of the said bank, in the stock so sold, if any, and certificates of a share in the national bank, for each four hundred dollars of the principal of said public stock, shall be granted to the holder or holders thereof, who shall present the same for subscription, on or before the fourth day of March, in the year one thousand eight hundred and eleven; which public stock, so paid in, and constituting a part of the funds of the said bank, may, to the amount of one million of dollars thereof, if the Secretary of the Treasury shall deem it necessary, in order to expedite the commencement of the operations of the said bank, be sold for specie for the use of the said bank; and, as soon as the sum of one million of dollars shall be received by the Secretary of the Treasury, for the use of the said bank, in that, or in any of the ways directed by this act, for obtaining subscriptions thereto, notice thereof shall be given by the Secretary of the Treasury, in some newspaper printed in the city of Washington, and also in some newspaper printed at the Seat of Government of each State, that such sum has been received, and shall also notify a time, not less than fifty days from the time of such publication, for making the first election and appointment of directors for the said bank at Washington: *Provided,* That it shall not be at an earlier period than the fourth day of March, in the year one thousand eight hundred and eleven, and an election for the directors for the said Bank of Washington shall accordingly be made. And the directors so appointed and elected at Washington, in pursuance of the directions of this act, shall be capable of serving as such, until the next election shall be made under the provisions of this act; and the said directors shall forthwith commence the operations of the said bank, and provide for the establishment of such branches thereof, as shall be authorized by any of the States of the Union, in pursuance of the provisions of this act; and in case the bank companies, or associations, in the District of Columbia, shall subscribe according to the terms of this act, shall establish a branch of the national bank in the town of Alexandria, and another in Georgetown, and shall appoint, within twenty days from the time of the terms of subscription being complied with by the said bank companies, or either of them, the time and place when an election shall be held by the stockholders for ——— directors of such branch banks, respectively, within the District of Columbia, as shall be established by them, ——— in addition, to whom shall be appointed by the Secretary of the Treasury, who, immediately after the first election, and at every election and appointment thereafter, shall choose one of their own body as president; and successive elections and appointments shall be held and made in the same manner, and under the same regulations, as near as may be, for the said branches, as in the State branches they are directed to be held, the Secretary of the Treasury performing all the duties, which the States respectively may perform in such elections, and regulating all other matters and things respecting the said branches, as may be agreed on by him with the said companies or associations: *Provided,* That the bank company, or association, organized in the city of Washington, if they shall choose to incorporate themselves with the national bank, shall be incorporated into the principal bank to be established there; and the Secretary of the treasury may, moreover, provide for the continuance of the operation of the said banks, according to their present establishments, until their funds shall, under the provisions of this act, be actually transferred to the national bank, after which time, such associations and companies shall be considered as dissolved.

**SEC. 10.** *And be it further enacted,* That the directors of the bank at Washington, shall allot to the said bank and the branches thereof, the portion of capital which each shall, from time to time, be justly entitled to, subject to the restrictions in this act provided, and may establish offices of discount and deposit, as branches of the national bank, in any of the territories of the United States, (except the District of Columbia, in which branches shall only be established in manner aforesaid,) and shall regulate the amount of capital to be placed in any of the said branches; and in the said territories, (except that of Columbia,) where branches are by them established, shall appoint nine directors for each annually, and regulate the time and other things relative to their service, and shall appoint a cashier and principal clerk of said territorial branches, when by them established; but the directors of the said branch, or branches, of discount and deposit, respectively, shall appoint all other officers and servants, of such branch bank, or banks. The directors of the said bank, at Washington, shall appoint such officers, clerks, and servants, as shall be necessary to execute the business of the said bank, and the branches of the said bank, in the several States, and in the District of Columbia, shall appoint their officers, clerks, and servants, under them, for the purposes of executing the necessary business of their banks respectively; but the salaries of such officers, clerks, and servants, and of the compensation to be allowed to the presidents of the different banks, shall be fixed on, and increased, or diminished, by the president and directors of the principal bank: *Provided,* Such salaries and compensations, shall not be determined on, except when the Secretary of the Treasury shall be present, and shall give his vote on the subject; and the directors of the bank at Washington, shall do every other matter and thing, not contrary to law, or the provisions of this act, which may be necessary for the establishment and regulation of the said banks of discount and deposit, in the said Territories, or States.

**SEC. 11.** *And be it further enacted,* That the following rules, restrictions, limitations, and provisions, shall form, and be fundamental articles of the constitution of said corporation, viz:

1. The number of votes to which each stockholder shall be entitled, except the United States, and the States respectively, shall be according to the number of shares he shall hold, in the proportions following, that is to say: For one share, and not more than two shares, one vote: for every two shares above two, and not exceeding ten, one vote: for every four share above ten, and not exceeding thirty, one vote: for every six shares above thirty, and not exceeding sixty, one vote: for every eight shares above sixty, and not exceeding one hundred, one vote: and for every ten shares above one hundred, one vote. But no person, co-partnership, or body politic, shall be entitled to a greater number than thirty votes. And after the first election, no share, or shares, shall confer a right of suffrage, which shall not have been holden three calendar months previous to the day of election. None but citizens of the United States, shall vote at any election, by proxy, or in person, nor shall be a director of the national bank, or any of its branches.

2. Not more than three-fourths of the directors in office, chosen by the stockholders, the president excepted, shall be eligible, or capable of appointment for the next succeeding year. But, the director who shall be president at the time of an election, may always be re-elected, or re-appointed, as the case may be.

3. None but a stockholder, being the owner of two shares, and being a citizen of the United States, and resident therein, shall be capable of being chosen or appointed as a director.

4. No director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders, at a general meeting. The stockholders shall make such compensation to the president of the principal bank at Washington, for his extraordinary attendance at the bank, as shall appear to them reasonable.

5. Not less than a majority of directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in

case of sickness, or necessary absence; in which case, his place may be supplied by any other director, whom he, by writing, under his hand, shall nominate for the purpose.

6. A number of stockholders, not less than fifty, who, together, shall be proprietors of two hundred shares, or upwards, shall have power, at any time, to call a general meeting of the stockholders, for purposes relative to the institution, giving at least, ten weeks' notice, in two public gazettes, of the place where the bank is kept, and specifying, in such notice, the object, or objects, of such meeting.

7. Every cashier, or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with condition for his good behavior.

8. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation, in relation to the convenient transaction of its business, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted, in the course of its dealings, or purchased, at sales upon judgments, which shall have been obtained for such debts.

9. The total amount of the debts, which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, shall not exceed the sum of fifteen million of dollars, over and above the moneys then actually deposited in the bank, for safe keeping, unless the contracting of any greater debt, shall have been previously authorised by a law of the United States. And it is hereby enacted, that it shall not be lawful for the said bank to contract any debt with the United States, to a greater amount than thirty millions of dollars, or with any State, than twice the amount of capital subscribed, in such State; and, in case of excess, the directors, under whose administration it shall happen, shall be liable for the same, in their natural and private capacities, and an action of debt may, in such case, be brought against them, or any of them, their, or any of their heirs, executors, or administrators, in any court of record of the United States, or either of them, by any creditor, or creditors, of the said corporation, and may be prosecuted to judgment, and execution, any condition, covenant, or agreement, to the contrary notwithstanding. But, this shall not be construed to exempt the said corporation, or the lands, tenements, goods or chattels of the same, from being also liable for, and chargeable with, the said excess. Such of the said directors, who may have been absent, when the said excess was contracted, or created, or who may have dissented from the resolution, or act, whereby the same was so contracted, or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the President of the United States, and to the stockholders, at a general meeting, which they shall have power to call for that purpose.

10. The said corporation, shall not, directly or indirectly, deal, or trade, in any thing except bills of exchange, gold or silver bullion, or in the sale of goods, really and truly pledged for money lent, and not redeemed in due time, or of goods which shall be the produce of its lands. Neither shall the said corporation take more than at the rate of six per centum per annum, for, or upon its loans, or discounts.

11. No loan shall be made by the said corporation, for the use or on account of the Government of the United States, to an amount exceeding one hundred thousand dollars, or of any particular State, to an amount exceeding fifty thousand dollars, or of any foreign prince or State, unless previously authorized by a law of the United States.

12. The stock of the said corporation shall be assignable and transferable according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same; except that no stock shall be assignable or transferable either in law or equity, to any person or persons who are not citizens of the United States, or a body politic or corporate within the same.

13. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and of his, her, or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon, in his, her, or their own name or names. And bills or notes, which may be issued by order of the said corporation, signed by the president and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her, or their order, or to bearer, though not under the seal of the said corporation, shall be binding and obligatory upon the same, in the like manner, and with the like force and effect, as upon any private person or persons, if issued by him or them, in his, her, or their private or natural capacity or capacities; and shall be assignable and negotiable, in like manner, as if they were so issued by such private person or persons: That is to say, those which shall be payable to any person or persons, his, her, or their order, shall be assignable by endorsement, in like manner, and with the like effect, as foreign bills of exchange now are; and those which are payable to bearer shall be negotiable and assignable by delivery only.

14. Half yearly dividends shall be made of so much of the profits of the bank, as shall appear to the directors advisable; and once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of profit, if any, after deducting losses and dividends.

The directors of the bank, and its several branches, shall keep fair and regular entries of all their proceedings, in a book to be provided for that purpose, and on any question, where two directors shall require it, the yeas and nays of the directors voting, shall be duly inserted on their minutes, and be subject to inspection at a general meeting of the stockholders. No cashier of any of the said banks shall be allowed to carry on any other business, or to deal in any manner, in any of the public stock or funds, under the penalty of ten thousand dollars for every such offence, to be recovered in any court of the United States, within whose jurisdiction it shall happen, by indictment or information, one half to the use of the informer, and the other half to the use of the United States, and shall, on proof, to the satisfaction of the directors, of any such offence, be immediately dismissed from office.

Sec. 12. *And be it further enacted,* That there shall be appointed, as soon as the said bank commences its operations, by the President of the United States, a superintendent of the said bank and its branches, whose duty it shall be, to require and receive from the directors of the said bank, a statement, at least once a month, of the amount and nature of the capital stock of said corporation; a list of all the stockholders of the said bank; a statement of the debts due to the same, and of the moneys deposited therein; of the notes in circulation and of the cash on hand, and shall have a right to inspect such general accounts, or require copies thereof from the books of the said corporation, as shall relate to such statements, but shall not have the right to inspect the account of any private person with the bank. And the said superintendent shall, at all times, when required, furnish to Congress or to the Secretary of the Treasury, any information in his power or possession, relative to the said bank or its branches. He shall, moreover, when he deems it proper, furnish any information to the Secretary of the Treasury on the subject of said banks, and shall give his opinion in writing or in person, at a meeting of the directors of any of the said banks, on any subject touching the affairs thereof, which he may deem proper, but shall not, in any case whatever, have a right to vote. He shall keep an office and reside at the Seat of Government, and be entitled to such compensation for his services as the president and directors



of the bank at Washington shall think proper to allow, and shall hold his office during the pleasure of the President of the United States.

SEC. 13. *And be it further enacted*, That the bills or notes of the said corporation, originally made payable, or which shall have become payable on demand, shall be demandable during the continuance of this act, in gold or silver coin, at their current value, and shall be receivable in all payments to the United States.

SEC. 14. *And be it further enacted*, That this charter, and the corporation hereby created, shall continue until the year one thousand eight hundred and forty, unless by the consent of the stockholders, at a general meeting, and a future law of Congress, the capital stock of the said bank should be increased to thirty millions of dollars, giving to the States respectively, and to the United States, the same proportions, and providing, in every respect, similar regulations, so far as circumstances may admit, for the increase aforesaid, as are provided by this act for the establishment of the national bank; and, in like manner, if the capital should be so increased, the term of continuance of the charter of the said corporation may be extended to the year one thousand eight hundred and fifty.

APRIL 4, 1810.

A motion was made by Mr. LOVE, that the House do come to the following resolutions:

“*Resolved*, That the Secretary of the Treasury be requested to furnish this House with the names and titles of the stockholders of the Bank of the United States, if any document in his office will afford that information, and if not, to endeavor to obtain that information from the bank aforesaid, and lay it before this House as soon as possible.

“That the Secretary of the Treasury be requested to furnish this House, with the number of shares voted on at the last election of directors, and the names of those voting, if to be obtained.

“That he be requested to state to this House, by what information he was enabled, in his report of March, 1809, made to the Senate of the United States, to fix the average of dividends of said bank, at eight three-eighths, precisely eight thirteen-thirty-fourths per cent. per annum, and also state the amount of public stock or other public debt, held by the said bank company on each first day of January, since its operations commenced.

“*Resolved*, That the Secretary of the Treasury be requested to inform this House what is the amount of capital retained in Philadelphia by the Bank of the United States, and what amount thereof, distributed to the branches of that bank, respectively; what have been the average amounts of deposits of public money, in each of those banks, in any preceding year, or for the year 1808, if as practicable to obtain it as any other; and whether the sum of 800,000 dollars, stated in his said report, to be due from the State banks to the United States Bank Company, was due on account of deposits of public money, or not.”

A motion was made by Mr. QUINCY, to amend the first resolution thereof, by inserting the word “foreign” before the word “stockholders.”

The said resolutions were read and ordered to lie on the table.

APRIL 7, 1810.

Mr. TAYLOR, from the committee to whom was referred on the 29th ultimo, the report of a select committee on the memorial of the stockholders of the Bank of the United States, presented a bill continuing in force for a term of twenty years, the act entitled “An act to incorporate the subscribers to the Bank of the United States,” on the terms and conditions therein named, which was received and read the first time.

On motion, the said bill was read the second time, and committed to a Committee of the Whole House on Monday next.

The said bill is as follows:

*A bill continuing in force, for a term of twenty years, the act, entitled "An act to incorporate the subscribers to the Bank of the United States," on the terms and conditions therein mentioned.*

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled.* That the act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed the twenty-fifth day of February, in the year of our Lord seventeen hundred and ninety-one, subject to the provisions and conditions in this act to be made, be, and the same is hereby continued in force, for and during the further term of twenty years, from and after the fourth day of March next: *Provided,* That the President and Directors of the said Bank of the United States, shall, on or before the thirty-first day of December next, pay into the treasury of the United States one million two hundred and fifty thousand dollars, as the price and equivalent for the renewal and continuance of their charter as aforesaid; and the better to enable the said President and Directors of the said bank to pay the said sum of money, the said President and Directors of the Bank of the United States shall be, and they are hereby authorised to add to the capital stock of said bank two thousand five hundred shares, and to sell and dispose of the same, at such time, and in such manner, and at such price as they may think proper, and for the most advantage for the interest of their said company: *Provided, also,* That the said President and Directors of the said bank shall, at all times, from and after the passage of this act, and during the continuance of the same, be bound and obliged to make a loan or loans to the United States, if required and authorised by law, of any sum or sums of money, not exceeding in the whole, at any one time, five millions of dollars, and at a rate of interest not exceeding six per centum per year: *Provided,* That it shall be the duty of the Secretary of the Treasury of the United States to make his application in writing, to the President and Directors of said bank, for such loan or loans, at least three calendar months previous to the time when such loan or loans shall be required; and that the said President and Directors of the said bank, shall not be required to make a loan of more than two million five hundred thousand dollars during the present year, nor more than the last mentioned sum during any other year: *Provided, also,* That the President and Directors of the said bank, shall, from and after the fourth day of March, eighteen hundred and eleven, pay to the United States an interest at the rate of three per centum per year on all sums of money above the sum of three millions of dollars, which shall accumulate to the credit of the Treasurer of the United States in the said bank, or in any of the branches of said bank, and which shall remain there for one whole year: *Provided,* That it shall be the duty of the Secretary of the Treasury of the United States, from time to time, to give notice in writing to the President and Directors of the said bank, at least sixty days before the term or time at which said interest, to be paid as aforesaid, shall be considered to commence and begin to accrue; which notice in writing, shall specify the precise amount of the deposit, so to remain for one whole year as aforesaid: *Provided, also,* That the United States shall be authorised, at any time during the continuance of this act, to increase the capital stock of said bank in such manner as may hereafter be prescribed by law, and for which the United States shall become the subscriber and owner, to an amount not exceeding in the whole ——— shares, and not exceeding in any one year ——— shares: *Provided,* That the shares thus to be added and subscribed for, on behalf of the United States, shall not be sold by the United States at a price less than ——— for each share: *And provided, also,* That nothing in this act contained, nor in the act intended to be continued in force by this act, shall be construed to restrict or prevent the United States from incorporating any bank or banks in the District of Columbia: *Provided,* That any bank to be incorporated by the United States in the District of Columbia, shall be restricted from extending any branch thereof beyond and without the limits of the said territory.

**SEC. 2.** *And be it further enacted by the authority aforesaid,* That it shall be the duty of the President and Directors of the said bank, on or before the

— day of — next, to signify to the President of the United States, their acceptance on behalf of the Bank of the United States, of the terms and conditions in this act contained, and if they shall fail to do so, on or before the day above mentioned, that then this act shall cease to be in force.

APRIL 13, 1810.

The House resolved itself into a Committee of the Whole on the said bill; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. M<sup>A</sup>CON reported, that the committee had, according to order, had the said bill under consideration, made some progress therein, and directed him to ask leave to sit again.

And on the question, Shall the Committee have leave to sit again on the said bill? It was determined in the negative.

APRIL 20, 1810.

The House proceeded to consider the said bill.

A motion was made by Mr. SWOPE, to amend the said bill, by striking out, in the ninth line and first section, from the word "next" to the word "share," in the sixty-second line, for the purpose of inserting the following:

*Provided*. That on the 4th day of March, 1811, the President and Directors of the said Bank of the United States, shall be, and they are hereby, authorized to add to the capital stock of the said bank, twelve thousand five hundred shares, and for which the United States shall become the subscriber and owner: *Provided, also*, That the President and Directors of the said bank shall receive in payment therefor, the sum of five millions of dollars in stock of the United States, bearing an interest of three per cent. per annum, payable quarter yearly, and redeemable at the pleasure of the Government, which stock as aforesaid, the Secretary of the Treasury is hereby authorized to issue and pay over to the President and Directors, on receiving from them a transfer, in behalf of the United States, of the twelve thousand five hundred shares as aforesaid: *Provided, a'so*, That the United States shall be authorized at any time after the 4th of March, 1821, to increase the capital stock of the said bank in such manner as may be hereafter prescribed by law, and for which the United States shall become the subscriber and owner, to an amount not exceeding twelve thousand five hundred shares: *Provided, nevertheless*, That such addition to the capital shall not be made at the time aforesaid, unless the average dividends for the three years preceding that period, shall have amounted to eight per centum, on the capital stock of said bank; and after the said fourth day of March, 1811, the Secretary of the Treasury shall be a director of the said bank *ex officio*.

And, after debate thereon, the House adjourned.

APRIL 21, 1810.

The House resumed the consideration of the motion made by Mr. SWOPE yesterday.

A division of the question on the said amendment was called for, when a motion was made by Mr. LOVE, that the said bill be postponed indefinitely, which was determined in the negative. Yeas 46, nays 67.

The question was then taken on the first member of the motion of Mr. SWOPE, to wit: to strike out, in the 9th line, first section, from the word "next" to the word "share," in the 62d line, and determined in the negative.

The second member of the said motion failed, of course.

A motion was then made by Mr. LOVE, to amend the said bill, by striking out the following words contained in the first section thereof, beginning with the following words: "That the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' passed the 25th day of February, in the year of our Lord 1791, subject to the provisions and conditions in this act to be made, be, and the same is hereby, continued in force," &c. and terminating with the following: "*Provided*, That any bank to be incorporated by the United States in the District of Columbia, shall be restricted from

extending any branch thereof beyond and without the limits of the said territory," for the purpose of inserting the following:

"In case no law shall be acted by Congress before the fourth day of March, one thousand eight hundred and eleven, authorizing the further continuation of the charter of the company of the United States Bank, the said company shall, notwithstanding, be authorized, and they hereby, are authorized, to continue for the space of two years from that date, their loans which shall, on that day be in existence, by renewing the same or otherwise, in the manner now practised in the said bank and the branches thereof; to sue and be sued, and do all other matters and things which the said company is now able to do. *Provided*, That the said company shall not issue or alter any bank note signed by the President of the said bank, or in any other manner create or alter, after the said fourth day of March, any note or other currency under the authority of the said company or directors, or any of them; and that, after that date, the notes which may be in circulation shall not be receivable in payments due to the United States, unless made so by a law hereafter enacted."

A division of the question on the said amendment was called for, and on the question so to strike out, it was determined in the negative. Yeas 34, nays 73.

The second member of the said motion failed of course.

The bill was amended on motion of Mr. TAYLOR, at the Clerk's table.

A motion was then made by Mr. TROUP, to amend the bill, by striking out the first proviso in the first section of the bill, which was determined in the negative. Yeas 35, nays 75.

A motion was then made by Mr. TAYLOR, to extend the term to twenty-five years, and debate arising thereon, the House adjourned.

APRIL 23, 1810.

Mr. TAYLOR called for the consideration of the aforesaid bill, when, on motion of Mr. RHEA,

*Ordered*, That the consideration of the said bill be postponed till to-morrow.

NOTE.—No further proceedings were had upon this bill.

11th CONGRESS. 2  
3d Session. 5

DECEMBER 18, 1810.

Mr. FINDLEY presented a petition of the stockholders of the Bank of the United States, praying the renewal of their charter of incorporation, which was read and ordered to be referred to a select committee; and Mr. Burwell, Mr. Findley, Mr. Southard, Mr. Mitchel, Mr. Franklin, Mr. Butler, Mr. J. C. Chamberlain, Mr. W. Chamberlain, Mr. Mosely, Mr. N. R. Moore, Mr. Miller, Mr. Smelt, Mr. Johnson, Mr. Morrow, Mr. Jackson, Mr. Garnett, and Mr. Poindexter, were appointed the said committee.

DECEMBER 19, 1810.

Mr. LOVE offered the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to lay before this House, information, first, of the amount of debts due from individuals and bodies corporate to the Bank of the United States, distinguishing the amount due by bond, mortgage, or other specialty, from that payable by notes, bills of exchange, or other security not under seal, to the said bank and its branches, and what portion of said debts are considered as standing accommodation to the customers of said bank and its branches: Second, of the amount of notes of said bank and its branches, now in circulation: Thirdly, whether the revenue of the United States, or what portions of it are ordered to be deposited in the said bank and its branches; whether any portion of it is ordered to be deposited in other, and if so, what other banks; and what will be the probable amount of deposits in favor of the United States in any of the said banks or their branches, and which of them on the first day of March, in the year 1811.

The said resolution was read and ordered to lie on the table.

JANUARY 3, 1811.

The House, on motion of Mr. LOVE, proceeded to consider the preceding resolution, which, being read, was agreed to by the House.

And on the 10th January, the Secretary of the Treasury communicated to the House, the following answer to this call:

The Secretary of the Treasury, in obedience to a resolution of the House of Representatives, of the 3d instant, respectfully reports:!

That the annexed statements, marked A, B, and C,\* contain all the information which the returns made to the treasury afford, on the subjects embraced by the resolution aforesaid.

It appears by the statement A, that the debts due from individuals and bodies corporate, to the Bank of the United States, consisted, at the respective dates of the several returns, of the following items, viz:

Bills and notes discounted, and bonds due by individuals,	\$15,126,187 04
Balance due by other banks in account, after deducting the sums due by the Bank of the United States and its branches, to several other banks,	1,318,024 29
Bank notes of other banks, on hand,	511,909 06
Treasury drafts not yet collected,	31,466 01
Overdrawn,	32,579 07
Converted six per cent. stock,	23,066 23

To which, adding the loan to the United States,	-	-	17,043,231 70
			2,750,000 00

Makes, for the aggregate of debts due to the bank,	-	\$19,793,231 70
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In a few instances, which are noted in the statement A, the amount due on bonds, and also that of notes discounted, which have been put in suit, is distinctly stated in the returns made to the treasury; but the aggregate alone is given in most of them, and they do not, in any instance, distinguish the amount "considered as standing accommodation to the customers of the bank and its branches." A recurrence to the 16th regulation of the 7th section of the act incorporating the bank, will show, that the only statements that can be required by the officer at the head of the treasury, are those of the *amount* of the capital stock of the corporation, of the debts due to the same, of the moneys deposited therein, of the notes in circulation, and of the cash in hand; and that he has no right to ask for the account of any private individuals, or for any other than the above mentioned general statements. Nor has the Secretary of the Treasury any knowledge whatever of the accounts and operations of the bank, but what is derived from the official statements transmitted to him in conformity with the above mentioned provision in the charter.

The statement B shows the amount of notes of the said bank and its branches, in circulation at the date of the latest returns, to have been \$5,157,378 83.

The Treasurer's accounts, annually laid before Congress, show correctly the amount of public moneys deposited in the various banks, on the last day of each quarter. But that amount is daily fluctuating, and cannot be stated with perfect precision, except on the quarterly statements of those accounts. The Treasurer furnishes, however, the Secretary of the Treasury with a weekly estimate of the cash on hand, and where deposited, as taken from the latest received returns. A copy of that furnished on the 7th instant, marked C, is herewith transmitted, together with remarks, showing what portions of the revenue are generally deposited in the Bank of the United States and its branches, and what portions are deposited in other banks.

\* For the said statements, see American State Papers, published by Gales & Seaton, vol. 2 of Finance, pages 462 and 463.

It is probable that the amount of specie in the treasury will, on the first day of March next, exceed 2,500,000 dollars, and that the proportion deposited in the banks, other than that of the United States and its branches, will not materially vary from what it is at present. But it is impracticable to form any correct estimate of the probable amount at that time in each place, respectively, since that is always regulated by the want of funds in each place, for the current service, according to which the public moneys are daily transferred by drafts, from place to place, as the occasion may require.

All which is respectfully submitted,

ALBERT GALLATIN.

TREASURY DEPARTMENT, January 9, 1811.

JANUARY 4, 1811.

Mr. BURWELL, from the committee appointed on the 18th ultimo, presented a bill continuing, for a further time, the charter of the Bank of the United States, which was read a first and second time, and committed to a Committee of the Whole House, on Monday next, as follows:

*A bill continuing in force for the term of ——— the act, entitled "An act to incorporate the subscribers to the Bank of the United States," on the terms and conditions therein mentioned.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed the 25th day of February, in the year of our Lord 1791, be, and the same is hereby, continued in force, subject to the provisions and conditions in this act specified, for, and during, the further term of ——— years, from and after the 4th day of March, next.

SEC. 2. *Provided, however, and be it further enacted,* That the president and directors of the said Bank of the United States, shall, on or before the ——— day of ——— next, pay into the Treasury of the United States, for the use thereof, one million two hundred and fifty thousand dollars.

SEC. 3. *And be it further enacted,* That the president and directors of the said bank, shall, at all times, from and after the passing of this act, and during the continuance of the same, be holden and bound to make a loan or loans to the United States, if required and authorized by law, of any sum or sums of money, not exceeding in the whole, at any one time, five millions of dollars, reimbursable at the pleasure of the United States, and at a rate of interest not exceeding six per centum per year: *Provided,* That it shall be the duty of the Secretary of the Treasury to make his application in writing to the president and directors of the said bank, for such loan or loans, at least three calendar months prior to the time when such loan or loans shall be required: *Provided, also,* That the sum of two millions and seven hundred and fifty thousand dollars, borrowed during the year 1810, shall be considered part thereof, and that no greater amount shall be required, in any quarter of a year, than one million of dollars. *And provided, further,* That all such loans shall be reimbursable at or before the expiration of the said term of ——— years, unless it shall be otherwise agreed between the said corporation and the United States.

SEC. 4. *And be it further enacted,* That if the said president and directors shall, on any occasion, fail to furnish any loan or loans, to be required by the United States, in the manner herein before enacted, their corporation shall forthwith be dissolved, and the powers thereof shall cease and determine, any thing in this act, or in the act hereby continued in force, to the contrary thereof, in anywise notwithstanding.

SEC. 5. *And be it further enacted,* That the directors, chosen by the stockholders of the said corporation, on the first Monday of January, in the present year, and the president, chosen by the directors at the first meeting after



such election, shall be capable of serving, by virtue of such elections, until the first Monday in January, 1812.

SEC. 6. *And be it further enacted*, That the act, entitled "An act to punish frauds committed on the Bank of the United States," passed the 24th day of February, 1807, be, and the same is hereby, continued in force, during the continuance of the said corporation; and the same shall at all times hereafter, and in all respects, be deemed and taken to apply to the said corporation, in the same manner that it has been deemed and taken to apply to the same heretofore.

SEC. 7. *And be it further enacted*, That the president and directors of the said bank, shall, after the 4th day of March next, pay to the United States an interest, at the rate of three per cent. per year, on all sums of money above the sum of \_\_\_\_\_ millions of dollars, which shall accumulate to the credit of the Treasurer of the United States in said bank, or the branches of the same, and which shall remain there for \_\_\_\_\_: *Provided*, It shall be the duty of the Secretary of the Treasury, from time to time, to give notice, in writing, to the president and directors, at least \_\_\_\_\_ days before the term, or time at which the said interest shall begin to accrue and be computed; which notice in writing, shall specify the exact amount of the deposit so to remain for the whole year as aforesaid.

SEC. 8. *And be it further enacted*, That the United States shall be authorized, at any time during the continuance of this act, to increase the capital stock of the said corporation, in manner as may be hereafter prescribed by law, and for which the United States shall be the subscriber and owner, to an amount not exceeding in the whole \_\_\_\_\_ shares, and not exceeding in any one year \_\_\_\_\_ shares: *Provided*, That during the time the United States shall so hold stock in the said corporation, they shall have a right to appoint, in such manner as shall be hereafter declared by law, a number not exceeding \_\_\_\_\_ of the directors: *And provided, also*, That the shares thus to be subscribed and added, by and on behalf of the United States, shall not be sold at a price less than \_\_\_\_\_ per centum advance on each share.

SEC. 9. *And be it further enacted*, That the twelfth section of the before mentioned act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed March 2d, 1791, be, and the same is hereby repealed.

SEC. 10. *And be it further enacted*, That it shall be the duty of the president and directors of the said bank, on or before the \_\_\_\_\_ day of \_\_\_\_\_ next, to signify to the President of the United States, in writing, their acceptance on behalf of the said corporation, of the terms and conditions in this act contained; and if they shall fail to do so, on or before the day above mentioned, then this act shall cease to be in force.

JANUARY 16, 1811.

Mr. WRIGHT offered the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to lay before Congress, a list of the directors of the Bank of the United States, and of the several branches; and a statement of the stock held by foreigners, and in what countries; and of the stock held by citizens, and in what States and Territories.

On suggestion of Mr. EPPES, the resolution was modified by adding to the information required, a statement of the specie deposited in the Bank of the United States and its branches, in the States and Territories, distinguishing between the deposits of the United States, and those of individuals.

As amended, the resolution was agreed to.

The House then resolved itself into a Committee of the Whole, on the bill to renew the charter of the Bank of the United States, Mr. W. ALSTON in the chair.

Mr. BURWELL moved to strike out the first section of the bill.

He supported his motion in a speech of great length, in which he denied the constitutionality and expediency of the bill, as follows:

Mr. BURWELL. I have made you this motion, sir, because it allows the greatest latitude of discussion upon the important points which are preliminary to the examination of the details. It tries the principle of the bill, and may save much tedious and useless labor. Should a majority decide in favor of the Bank of the United States, as an honest man, I will aid in forming a system best adapted to the state of the country, and most subservient to the purposes of such an institution. The gentleman from Connecticut (Mr. MOSELY) has done justice to my conduct, and the fairness with which the subject has been treated. I have been anxious to present the question fairly, not from any doubt or indecision as to the course I should pursue, but from its magnitude, and the sensibility it has excited. It will be recollected by the committee, when the gentleman from Philadelphia presented the memorial, upon which the Secretary of the Treasury founded his report, on that, as on all subsequent occasions, my opposition was manifested; and I will add, that the particular intention which my duty has compelled me to bestow on the bank, has confirmed most stongly former impressions.

The remarks I shall make, are intended to show that Congress possesses no power to incorporate a bank; to show its effect on the Government; and to satisfy the committee that the exercise of the power, even if possessed, is inexpedient. While, sir, I feel the most ardent desire to consult the convenience of the Government, and promote the prosperity of the community in general, I have not lost sight of the limits within which I am restrained by the constitution of the United States, and considerations of sound policy. It is my most deliberate conviction the constitution of the country gives no authority to Congress to incorporate a bank, and endow the stockholders with chartered immunities, and, even if its dissolution should produce ruin to the merchants, and, what is of equal importance, embarrassment to the Government, they would not be paramount to the sacred obligation of supporting the constitution, though I am persuaded the dreadful evils which have been predicted from the annihilation of the bank, will soon vanish, and that no material shock will be produced by that cause. The construction which the constitution has received by the various persons who have, at different times, administered it, has been rigid or liberal, according to their confidence in the General or State Governments. The unqualified extent given to its general powers, and the inclusion of incidental powers, as flowing from, and belonging to, particular enumerated grants, have constituted the essential points of difference among those who have divided upon the principles of the constitution: this has been the case, not only in the exercise of authority when the right was questionable, but in cases where the right was undeniable, tending, by its operation, to increase the weight of the General Government. In giving to the constitution that rigid construction which sound policy requires, a just regard to the harmony of the States, and the perpetuation of their Union dictates, I cannot find any part of it authorising the exercise of a power, which, from its nature, is obnoxious, its tendency alarming, and its influence in the hands of those who manage its concerns, irresistible. The power to establish a bank, cannot be deduced from the general phrases "to provide for the common defence and general welfare," because they merely announce the object for which the General Government was instituted; the *only* means by which this object is to be attained, are specifically enumerated in the constitution, and if they are not ample, it is a defect which Congress are incompetent to supply. I think this inference the stronger, inasmuch as those means were granted to us by those who had acted under the confederation, and experienced its defects, and knew precisely to what extent power was requisite to provide for the common defence and general welfare. In relation to this particular subject, the proceedings of the convention itself, furnish the plainest evidence, by rejecting the proposition to vest in Congress the right to grant incorporations. I readily admit the motive of deliberative bodies cannot always be known; various considerations might have operated; they might have supposed the power already vested; but it is incumbent on those who can place faith in an inter-

pretation so repugnant to the cautious and guarded phraseology of the instrument, to demonstrate it. If the right to incorporate exists, it is a general grant of power, equally applicable to all the objects of incorporations, and cannot be assumed as a means to carry into effect any particular grant of authority. To my mind it is much more natural to suppose a power to create monopolies had been surrendered to quiet the fears of those who saw in the constitution the germ which would, sooner or later, palsify the vitals of the State authority. If the general phrases are not explained in the manner just mentioned, and powers so extensive and important are derived from them, it would be ridiculous to consider the jurisdiction of Congress restricted; they would confer equal authority to establish monopolies in all the various branches of individual industry and commercial enterprise. Sir, I will conclude this part of the subject by reminding you how essential it is, when we are giving an interpretation to the constitution to which the States are parties, to assume only what clearly belongs to us; moderation will inspire confidence, selfishness will excite disgust and suspicion.

The parts of the constitution which bear any analogy to this subject, are,  
 1st. Congress shall have power to lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defence and general welfare, &c.

2d. To borrow money on the credit of the United States.

3d. To regulate commerce with foreign nations, and among the several States, and with Indian tribes. And, 4th. To make all laws which shall be necessary and proper to carry the foregoing powers, and all other powers vested by the constitution in the General Government, into effect. It will not be denied, that, if the establishment of a bank comes within the meaning of the power to lay and collect taxes, to pay the debts of the United States, and to regulate commerce, or is *necessary* and *proper* to carry the foregoing powers into effect, it would be a fair subject for legislation by Congress. But can any one pretend, that a bank would be a mode, contemplated by the constitution, to lay and collect taxes on the people, for the purpose of raising revenue? Would it comport with that wise principle of uniformity, and those guarded restrictions against unequal burthens on the people, which constitute the most valuable safeguard to the citizen? To understand these terms, we must give them a meaning which has been affixed by their usual import. When we speak of the power to lay taxes, we understand by it, a demand of money from the community, regulated by fixed and equitable principles, indiscriminate as to persons, and the species of property taxed. To suppose that *every* law which imposed burthens, or brought money into the treasury, was constitutional, would destroy our equal system of Government, and substitute a capricious despotism. It would revive the exploded doctrine of free gifts, benevolences, and that shameful train of extortions practised by the old governments of Europe. Does it fall within the power to pay the debts of the United States? This clause relates entirely to the application of the funds, after they have been accumulated; it is in conformity with that article which pledges the public faith for debts which had been contracted, as well as those which might be created in pursuance of the authority to borrow money upon the faith of the United States. If the power to incorporate a bank, grew out of the obligation to pay the debts of the United States, its charter should be so worded as to cease whenever they were extinguished; and it would be no longer for Congress to fix a definite period for its expiration. If the right of incorporation was ever meant to be given, it would most naturally follow from the regulation of commerce; yet no one has contended Congress could create insurance companies within the States. Those who contend the bank is constitutional, consider it as *necessary* and *proper* in collecting the revenue. That it may be an useful instrument, I do not deny; it forms depositories convenient to the Government; but you should recollect, depositories, equally safe and convenient, can be procured without being purchased at the expense of exorbitant and invidious privileges, to a particular class in the community. I apprehend the constitution means something extremely different. When it em-

powers the General Government to *collect* taxes, it relates exclusively to the authority thus given to Congress, of employing compulsory process, in coercing the payment of taxes; it enables Congress to create, within the jurisdiction of the States, officers of the revenue, and through them, to exercise over the persons and property of the citizens, a concurrent jurisdiction, from which they otherwise would be precluded, and from which they *had* been precluded before the adoption of the constitution; it enables them to impose penalties and forfeitures, and to inflict punishment for resistance to their authority. But, sir, admit for a moment the bank may be formed to collect the revenue; ought it not to be exclusively used for that object? Whence the power to make it an instrument of commerce? Why invest it with a capital, immense in amount, and sovereign in its control over the external and internal commerce of the country? Sir, I must again call your attention to the limited nature of our Government; we must administer it as we find it, and not as we think it ought to be. Under this view of the subject, so long as I understand the right to "lay taxes," to consist in drawing supplies from the people for public purposes, and not to tax one portion for the benefit of another; and "to collect" them, the right to enforce payment; I cannot construe them to authorize the establishment of a bank. Sir, a bank has been improperly considered a *means* of executing some power expressly given to Congress. The nature of incorporations is so clearly a distinct class of political power, that, before they can be converted into means incidental to an object, without the jurisdiction of the General Government, they must be shown to be absolutely *necessary*. Permit me to ask how has it been ascertained that a bank is necessary to the operations of the Government? Has the experiment been tried? Upon a question involving a breach of the constitution, it would be safer to be guided by experience than conjecture.

Sir, I am well aware that I can add nothing new upon the constitutional points. This subject was more thoroughly examined in 1791, and more ably elucidated than any other since the adoption of the Government. The celebrated speech of Mr. Madison, to which I ascribe my conviction, has been recently presented to us in the newspapers, and gentlemen must be familiar with it. I cannot give additional weight to the arguments, but I thought it proper to call the attention of the committee to that part of the subject, by the remarks I have made.

I said, sir, it must be shown that the bank is necessary to the operations of the Government; without its aid our fiscal concerns cannot be managed. So far from subscribing to the necessity of the bank, I believe the revenue would be equally safe in the State banks, and could be distributed with inconsiderable difficulty; the revenue received in most of the States is nearly equal to the expenditure within them, and when a deficiency occurred in any one, it could be supplied by arrangements with the different banks, by transportation or inland bills of exchange, in the same manner that the public engagements are fulfilled abroad. I will venture to assert, the Secretary of the Treasury will find no difficulty in contracting with individuals and corporate institutions, upon the most ample security, to transfer the public revenue, upon terms equally advantageous to the United States. Among the several States commercial intercourse is great, and daily increasing; the constant traffic which the different portions of the country maintain with one another, will give facility to the operations of the Government; and obviate the obstacles which are anticipated. The very commerce which enables the treasury to remit, with ease, immense sums to every part of Europe, is the result of this interchange among the States, and insures equal facility at home: where, then, is the *necessity* for this bank? The accommodation of the bank to the Government, in times of emergency, and the use of its resources to support public credit, have been urged as motives for its establishment: how far such considerations weaken constitutional objections, it is needless to state. If, sir, the bank becomes a source of supply to the Government, to an adequate extent, it ceases to be one to the merchants. It, therefore, cannot answer in both capacities. The same necessity which throws the Government upon the

charity of the banks. renders it incapable of discharging the obligation, and while the funds of the institution are locked up in the Government, its commercial functions must cease. The relief which sudden and temporary embarrassments require, can, at all times, be administered by the State banks, and, therefore, supersedes the necessity of aid from this bank. Whenever, by disasters, the ordinary sources of supply are exhausted, or the unavoidable objects of expenditure exceed the revenue, a more copious and permanent aliment will be found in the wealth and capital of the citizens than by loans from banks. Instead of diverting the active and productive capital from useful channels, the sluggish and inert mass will be drawn forth, in its aid, to support public credit, and cherish private enterprize. But, sir, is it prudent to rely upon an institution that may refuse you assistance? What will be the influence of such an institution on the Government and the country at large? It cannot escape your recollection, that the establishment of the Bank of the United States was the origin of a system which assumed, as its basis, the enlargement of the national jurisdiction. Whether the principles of expediency to which it owes its birth be regarded, or the overweening influence it established over the moneyed institutions and merchants of the States, the charge, to say the least, is plausible. The close and intimate connexion between the Government and the bank; the dependence of the former for loans, and the latter for public deposits, have given the Executive branch its full share of influence and odium, shows incontestibly it was created to augment the power of the General Government, and the Executive in particular. Yes, sir, it was the commencement of those political animosities which have poisoned the sources of social intercourse; it was the origin of that doctrine of constructive power which abrogates the constitution, and nullifies the restrictions imposed upon Congress. So long as it exists, the body politic will experience the agitations and convulsive throes of well grounded jealousy in the States.

Sir, in the administration of this Government, two things alone are necessary to ensure its durability. You must, 1st, avoid every measure which will produce uneasiness among the States; or, 2d, that will extend the jurisdiction of the United States Government to subjects purely local. I do not mean that the rightful authority of Congress is to be abandoned for fear of giving offence; but whenever called on to take a step which will produce uneasiness, you should be *perfectly* satisfied the letter and spirit of the constitution bear you out. Do not gentlemen perceive the tendency of this measure to involve us with the States upon delicate points? Has not the United States Bank produced serious alarm? Will not the alarm be increased by its continuance at this time? Yes, sir, some of the States have already taxed this institution, others have waited under the expectation we shall render a collision unnecessary. Suppose the charter renewed, and the stockholders should be taxed in such a manner as to destroy, virtually, the privileges you have guaranteed to them? Are you to leave them unprotected, or will you draw the sword in their behalf? While you have time, avoid a situation not less perilous than the most serious foreign war. Since the establishment of the bank, the States have created banks; their people have accumulated capital, and they will not tamely witness the perpetuation of an institution whose strength can, at any moment, overthrow whatever State bank they may mark for destruction. However paradoxical it may appear, I consider the General Government strengthened by narrowing its jurisdiction: it will produce disunion whenever they interfere with local concerns. The habits, local interests, and passions of this country vary, and no one is a competent judge of what will suit the feelings of the State out of which he lives. But, sir, there are general principles in which our feelings and interests are identified. These are subjects upon which we may safely act, and trust to the co-operation of every man and State in the Union. Does the bank affect the people locally? The answer is obvious: it not only undertakes to fix the amount of capital, but interferes with the rights of property most essentially. It may change the fundamental principles of State law as to the liability of property for debts, and the mode of recovering them. Let me caution you against the renewal of the

charter; it is pregnant with the most baneful consequences to the tranquility of the country. Is it not better to sacrifice this golden calf upon the altar of concord, restore confidence and harmony among individuals as well as States, and to reunite the lovers of the constitution.

In the report of the Secretary of the Treasury, the convenience of obtaining loans from the bank is mentioned as an inducement to establish a national bank. To me, the abuse of this convenience is more dreaded than any other evil which will follow from the measure. Where have you seen a national bank, connected with the government, which has not ultimately ruined the circulating medium of the nation? It is a notorious fact, that money has depreciated seriously from the unlimited circulation of paper, and, if the Government should be compelled, by necessity, to use the funds of the bank, they must permit the increased circulation of its paper, although its money capital remains stationary. In this situation, the Government must tolerate an operation which will increase the evil of which we complain. The example of England is a salutary monition to us, and we ought to profit from it. In that country, there was a time when the stability of the bank was a national phrase. "as good as the Bank of England." How is it now? The funds of the bank have been borrowed by the Government, its paper circulation increased, and Parliament has been compelled to make it a tender for the payment of all contracts. Who, sir, can estimate the complicated mischiefs of a depreciated paper currency, without specie for its redemption? Should we be involved in war, or our property seized abroad, nothing can prevent universal bankruptcy; one wide spread ruin will pervade the continent. At this time the country is inundated with paper, bottomed upon the whole floating and real property of the community: should an alarm exist, can these funds be converted into money to redeem its credit? Certainly not. Will it not be prudent to diminish the extent of this evil by putting down this bank, which is the fountain from which the whole system flows? It is of little importance, as it regards the internal trade of a country, what constitutes the representation of property. Paper, iron, or any thing else which passes current, will answer every purpose of barter and trade: but, in its commerce abroad, it is indispensable that the circulating medium should be equally valuable, and readily acknowledged among all commercial nations; otherwise, all the operations of commerce, carried on with money, will be abandoned, or prosecuted under disadvantages equal to the difference in the value of the currency at home and abroad. In countries actively engaged in business, this branch of trade is not only great in amount, but by far the most profitable. How unwise, therefore, not only to substitute for the precious metals paper currency, whose value is confined to the United States, but to augment the quantity until it depreciates even among ourselves.

I cannot sufficiently express my apprehension at a state of things which exposes us to irreparable injury, whenever a foreign nation shall interrupt our commerce, or my regret at the daily ascendancy of this fatal policy. In my opinion, sir, the true corrective will be applied, if the Government, instead of receiving the paper of a particular bank in payment for the revenue, shall require specie as the only tender. Such an operation would secure to the country its due proportion of the precious metals, would restrain within rational and useful limits, the circulation of paper, would insure stability to the moneyed institutions, save the people from the dreadful scene of bank swindling which is exhibited, and restore that equality of trade with foreign nations, which depends upon the fixed value of the circulating medium. I am far from intimating that banks are useless, when established with a due regard to the actual wants of the country. Measured by that standard, they form the chief resource of industry, lubricate the wheels of commerce, and accelerate their motion—but the constitution has wisely entrusted this measurement to the States; they are the most competent judges. If the Bank of the United States tended to restrain the multiplication of banks, and the ruinous emission of paper, I acknowledge it would be a powerful argument in its favor—it would go far to satisfy me of its expediency. But, instead of producing



this effect, we have seen them, like mushrooms in a genial soil, spring up under its fostering protection. The Bank of the United States has an interest in the multiplication of similar institutions, because they all tend to secure it from danger, and enable it to increase the discounts to the greatest amount. Before the United States Bank can be affected, all the other banks must be ruined; because the advantage of public deposits and the great extent of capital, will afford the means of averting the storm. What has been the fact upon this subject? Have not the most shameful systems of bank swindling been practised? The State of Massachusetts found it necessary either to suppress her banks or limit their discounts. They found, upon examining the vaults of the banks, the whole of them did not contain specie equal to the paper issued by a single one. Yes, sir, instead of finding a sound body, they found a corpse rotten and decayed; the specie had fled, and the public were left without the prospect of remuneration. Have you forgotten the Bank of Rhode Island? This bank had issued notes to the amount of \$800,000 upon a capital of \$45. Will gentlemen tell me, the Bank of the United States has checked, or will keep down in future, similar impositions? I am justified in considering this bank instrumental in depreciating the currency of the country, and banishing its substantial capital.

There is no branch of industry more materially injured by the artificial state of credit, and the depreciated currency of the country, than manufactures. The precarious condition of commerce has naturally turned the public attention to this subject; and we may hope the time is not distant, when the United States will furnish the articles of substantial utility for themselves. The war in Europe, by deranging the operations of the manufacturer, and the taxes with which his industry has been burthened, have conspired to give a vigorous impulse to them here. But, sir, we shall probably witness their destruction, by the rapid depreciation of paper, which arises from the price of labor, and impedes the accomplishment of this most desirable object. The exchange of labor between the inhabitants of America and the old world, has always been disadvantageous. We have not only paid full profits upon the capital and labor employed in the production of what is consumed, but we have paid the taxes which the prodigal Governments of Europe have laid upon them.

Upon this subject a strong appeal has been made to our feelings; it has been said the dissolution of the bank will produce the most serious pressure in the community, and will devote numbers to ruin. I am confident no man would be more gratified than myself, to afford relief to those who may suffer, if I was not precluded by constitutional difficulties. While I admit the sufferings of individuals will be great, I am equally convinced the picture is highly colored, and the facts exaggerated.

The time when the charter expires has been known to every person; the presumption against its renewal, strong. How can you, therefore, believe the creditors of the bank have made no provision to meet the event? It is scarcely possible to conceive that funds have not been provided to extricate themselves. When I say the presumption against the renewal of the charter has been strong, I do not allude so much to the sentiment in this House, as to the solemn declaration of the President of its unconstitutionality.

[Mr. Macon called Mr. Burwell to order, for using the name of the President in debate.]

Sir, the violation of order has been inadvertently committed; his name was not used to produce any effect here, because I really am unacquainted with his present opinions, except as I infer them from his speech in '91. I cannot suppose he would use one set of arguments then, and act upon another now.

Under such circumstances, it would be criminal in this House to yield constitutional objections, and surrender important considerations of policy, to shelter those who have shut their eyes to the law. The Legislature cannot resist with too much firmness such an appeal; it is placing them at the mercy of a few, and sacrificing the general good to the clamors or follies of the improvident.

It has been said that \$8,000,000 in *specie* will be required from circulation, to meet the demands of the bank, and that the amount cannot be procured in the United States. I venture to assert, upon the statement furnished by the bank agents, the sum will not exceed \$2,500,000 over and above the *specie* in the vaults of the bank. After paying and settling with the community, the bank will owe to the stockholders \$10,400,000. If they retain the *specie* now in the vaults, amounting to \$5,000,000, the demand upon the community will be lessened to that extent; if it is paid out to meet the return of their notes in circulation, it passes into other banks and will return to them; so that in either case it will constitute a fund to pay the stockholders, and reduce their demand to \$5,100,000; from this sum must be deducted \$500,000, the amount of real estate belonging to the corporation, \$2,750,000 loaned to the Government, and about \$300,000 in suit; leaving a balance not exceeding \$2,500,000. Will it be said that this sum cannot be raised in a country whose *export of specie* for the last year amounted to \$8,000,000? Will it be said the system of banks has reduced us to this low ebb, and yet we are called upon to perpetuate the evil? From this view of the subject, it appears that the creditors of the bank will be compelled to raise \$7,500,000.

Can gentlemen seriously believe, that this sum will ruin the country? If, sir, we judge from the number of banks springing into existence, in the different States, the conclusion is irresistible, that there is a redundancy of capital, more than ample to accommodate all the debtors of the bank. Scarcely a single legislature has separated, without granting charters. You have this morning, deposited in Committee of the Whole, the cemetery for the District, five banks, with an aggregate capital of three and an half millions. This thing must be downright cheaterly, or there is a redundancy of capital. If it is fraudulent, the sooner the delusion is dissipated, the better.

I shall, for the present, admit these applications are evidences of capital, and contend they will operate effectually to relieve the community. But, sir, it will be found, from the statement of the bank agents, the directors have contracted debts, nearly, or quite equal to the amount due them, and that they will find difficulty in meeting the claims against them. These claims will naturally be transferred to those who are indebted, or deposited in State banks, where they will constitute funds, upon which accommodation can be extended. The moment you destroy the bank, the notes it has issued, to the amount of \$5,000,000, will return: the deposits, amounting to nearly eight millions and an half, will come into the market; these, added to the private capital which can be spared, will supply the means of sustaining the shock.

I feel confident the removal of public deposits will go far to remedy the evil. The loan obtained from the bank, and payable the 1st of January, will add to the facility of satisfying the claims of the bank. Even the funds of the institution itself, will rapidly glide into channels of profit, and contribute to the object. Thus, sir, this omnipotent association, whose influence pervades the continent; whose nod dispenses protection, or ruin, like an angry cloud, will be disarmed by the conducting powers of the State banks; there will be no explosion. Its substance will be secreted, mixed with their juices and strengthened the general system.

In the public discussions upon this subject, we have been told, the quantity of *specie* has been reduced below the actual wants of trade; and that the portion of stock held by foreigners, will be carried abroad in money. Those who endeavor to alarm us in this way, are either ignorant themselves, or they calculate largely upon our credulity. It is, sir, a melancholy fact, that *specie* has been almost banished from circulation, by paper, and from the vaults of the Banks by exportations abroad, in a commerce which does not replace it. It is equally true, that this bank has contributed, more than any other, to produce this deplorable result. But it is evident, the exportation must be limited in amount, or the import of *specie* commensurate, if we do not continue the present system, which threatens us with a currency exclusively paper.

As to the exportation of specie, by the foreign stockholders, nothing can be more absurd. Have not the motives which induced them to invest their property in the United States, been strengthened? Yes, sir, funds in every part of Europe, are fluctuating and insecure; the gripe of taxation has embraced them, and you must think worse of the judgment of these proprietors than I do, if you suppose they will quit a country whose institutions are safe, and whose property is advancing rapidly in value. But, laying aside considerations which, of themselves, are sufficient pledges, the rate of exchange renders the remittance of specie, particularly silver, altogether improbable. Would any man in his senses ship specie to England, when he can purchase bills of exchange, eight or ten per cent. below par? Will he lose four per cent. insurance, freight, and commissions, when he can make eight or ten by remittances in bills of exchange? These questions carry conviction to every man, unless he supposes money is worth more than this difference over the paper currency of the country. Although the exchange is in favor of Holland, four per cent. it would be cheaper to lose that amount, than pay fifteen or twenty per cent. insurance, &c. for the transportation of specie, subject to risk from British cruisers, and seizure from French rulers in port. No one will say that the Dutch have any motives to draw their funds from the United States.

After showing, I hope to your satisfaction, that specie cannot be remitted in the actual state of things, I will suppose foreign stockholders should transfer their capital; how would that operation affect this country? From what I have said, it appears that the one million held in Holland, and six millions in England, if withdrawn from the United States, would only be an exchange of funds with the American merchant, and would not affect the money in circulation. I confidently believe, the present embarrassments of merchants arise from the spoiliations of the belligerents, and principally from the accumulation of funds in England, which they cannot withdraw but at a great loss. For some time past shipments have been almost confined to England; the prices have been good, and the proceeds far above the demand for English merchandise; added to this, whenever shipments have been made elsewhere, the profitable purchases of bills have increased their funds in Great Britain.

The fact is clearly demonstrated from the state of exchange, which, for the first time, is greatly in our favor. If, then, the stockholders should remit their funds by bills of exchange, it would bring six millions into the market, and not only relieve the American merchant from the unfavorable state of exchange, but would at once furnish the means of meeting his engagements and relieving his embarrassments: it would be a loss of that much capital to the United States; but, we can bear the loss, as is evident from the rapidity with which new capital is supplied to form new banks. Should they give a preference to moneyed institutions here, the community would be equally relieved.

It may be asked, if foreign capital remains, shall we not be exposed to its influence? I do not, sir, object to the use of foreign capital by individuals, but I never will consent to organize it under the patronage of the Government. In the hands of an individual, its influence is comparatively insignificant. Combined in the form of a national bank, it becomes truly formidable to the best interests of the nation; besides, I well know that individuals, who can obtain money at an interest less than the profit it yields, cannot be prevented by law from borrowing. In this form, it may subserve the purposes of industry, but cannot control public opinion, or obstruct public measures. If, sir, the pressure upon the community should not be removed in the mode I have suggested, the bank will naturally proceed in the collection of its debts, in a manner best calculated to secure itself. I cannot imagine, measures will be adopted which will force the merchants, either to fail, or to refuse payment. Such conduct on the part of the bank, would be wantonly cruel and unjust, and would probably terminate in the greatest losses. In the event of such a procedure, the merchants would compel the bank to resort to the ordinary course for the recovery of debts, and, under such circumstances, I do not apprehend their credit would be affected with other banks. The alarming scarcity of

specie, produced by the facility which the bank has furnished, to procure it for exportation, and speculations in bills sold by the agents of the British for the use of their troops in Canada, and the West Indies, cannot be too strongly impressed on the mind of the committee, or too soon stopped by the Government. It is true, that a temporary inconvenience results from the latter mode of exportation, because it is soon brought back in return for provisions, supplied by the Middle States. It must be known, sir, to you, why the import of specie, which nurtured the East India trade, has ceased, since the revolution in Spanish America, which opened the direct trade to the English for supplies of British and East India manufactures, and the facility of shipping specie direct to Spain, without the intervention of bills of exchange obtained in this country, on Europe, the supply of American produce to the Spanish colonies, has never been more than sufficient to keep up the necessary quantity for our own use, and for the India trade, to an extent limited by our own wants; hence, the disadvantages of the paper system, which furnishes the means of prosecuting this trade after its utility is done away. Gentlemen will tell me this evil will correct itself, and that the merchants will not persist in a branch of business, unprofitable for want of markets. I readily admit this position to be correct; but, before all those sanguine adventurers will be convinced, who are tempted by the accommodation of the bank, we shall be so far drained of our real capital, as to be incapable of sustaining public confidence, in the stability of our money institutions. There is one effect, from the extent to which the banking system has been pushed in this country, which deserves serious attention. I think the capital of the banks should rather fall short, than exceed the demand of those engaged in trade; whenever there is an excess of capital, the competition will be among the banks to lend, and they will advance funds to those who are not entitled to credit. This fictitious credit, given to individuals without property, will expose the farmers and planters to the most serious injury; because, whenever they fail, their property will go entirely into the coffers of the bank, or the hands of their endorsers. In Baltimore, where the bank capital has always exceeded the demand, by solvent customers, and where, to give full employment to their funds, the banks have been induced to accommodate mere speculators; failures have happened to the amount of a million, without property to pay the creditors twenty cents in the dollar. This has been the effect of excessive bank capital. [A gentleman from Maryland corrected Mr. Burwell, by stating that the failures had exceeded, in the aggregate, the sum he had mentioned, but in no single instance had the loss to creditors exceeded 600,000 dollars.] I stand corrected; only 600,000 dollars; why, sir, this moderate sum would ruin a whole country, if it had fallen upon the farmers. If the apprehensions of the public should coerce you to renew the charter at this time, I shall consider it perpetual. The same means which secured it now, will not be forgotten, or neglected, hereafter. You may rest assured, the magic terror of bankruptcy will be revived, when there is occasion. Perhaps the growing wealth of the people, may hereafter raise them above the control of the bank, with ten millions capital, but if you should unfortunately adopt the favorite project of some, to establish a grand national bank, with a capital stock equal to 30,000,000 dollars; if, afterwards, you keep pace with the growth of the nation, you may indeed despair of all control over it in future. It will become so interwoven with the fiscal transactions of society, and so intimately blended with the existence of the Government, that their duration will be co-equal; the dangerous power of a bank, extended over the continent, with a capital which would necessarily embrace in its funds, all the individuals of wealth and influence, would produce the same effect with a national debt, to that amount; and when you recollect, that this machine will be controlled and managed by the executive branch of the Government, you cannot but feel the most serious apprehension of the consequences. Sir, I do not discuss this question with party feelings; I look forward to the time when the bank and Government, will feel in unison, and act in concert; the opposition of the bank is temporary, and will soon yield to its obvious interest. It is that period to which my fears are directed.

Who can doubt that the present misunderstanding is the result of momentary csuses? Yes, sir, the quarrel is an unnatural one, explanations will take place, reconciliation will ensue, and then we may deplore their intimate friendship, infinitely more than their hostility now.

Banks are commercial institutions; the first impulse of their nature is to make money, and support the power which can promote their profits; the individuals concerned in them will feel political passions, and may indulge them, but they will learn, from experience, the wisdom of suppressing their passions when they hazard the loss of profit and patronage. I have, therefore, felt no disposition to know any thing about the directors, or to hear the instances of political intolerance and individual favoritism. It would be silly to found our views of the tendency of such an institution upon its conduct during a particular period. I am against giving any set of men such exorbitant power over the persons and property of the community; I am opposed to a moneyed aristocracy which can hunt down whoever may be offensive to them, and not from hostility to the particular persons who now compose the bank. Sir, the time may arrive when the Government may fall into the hands of men whose policy may, in my estimation, lead to the destruction of the constitution, and the corruption of public virtue. Would you wish to see such men bolstered up by the influence of a national bank? Would you be satisfied to see the good sense of the country hood-winked by money influence? A corporation, possessed of such ample funds, could control presses or establish them to support the most iniquitous men, and advocate the most detestable principles. You should bear in mind that this influence cuts both ways; and it is better to leave public opinion unfettered, trusting to the sound sense and discretion of the People, free from the operation of all extraneous power.

What would the world say if you should demolish this bank to create another? Is there a man in the community who would not condemn you, and justly reprobate a policy so short sighted and selfish? Such conduct would give full scope to swindling and speculation; and scenes which stain with shame the history of this Republic, would be renewed. Sir, the system of paper credit, against which I have entered my protest, and to which I attribute the artificial and insecure state of this country, deserves nothing from you. You need not violate the constitution to preserve and extend it; without your fostering care, enough will remain to alarm those who prefer solid wealth to the mere appearance of it; although those who think the wealth of a nation can be augmented by printing a few reams of paper will be dissatisfied, they exult in the deception and premature prosperity which flows from public delusion, and will be overthrown the first moment your real condition may be tested by difficulties. I, sir, have been accustomed to think the wealth of a nation consisted in its productive labor, and its capital could be safely augmented only in the ratio of the difference between its consumption and productive labor. This is the true mode of acquiring capital: the process will be slow, but the advance will be permanent. It will depend upon principles of economy, industry, and steady exertions; it is incompatible with prodigality, speculation, and profligate acquisition of wealth. Virtue is the basis of one, delusion and imposture of the other; a people thus situated, steadily exerting its powers, will furnish ample means to procure circulating medium, and prudent habits will add to it with sufficient rapidity; I have always preferred being a happy to a splendid nation. Sir, I have now closed my remarks; the particular situation assigned to me, by the House, in relation to this subject, has compelled me to state the extent of my objections to the bill. I have carefully refrained from expressions which could wound the feelings, or impeach the motives of those who differ from me in opinion. I have no disposition to say any thing about the transactions of the bank; they are all unknown to me, and I care nothing about them. My conscientious belief is, that the law was unconstitutional, and I sincerely trust we shall destroy what has so long defaced its original purity—close up the breach which has been made, and cement it by a vote upon principle. I confess the

consolation I shall feel, in the success of my motion, will be greatly diminished if it obtains by the intervention of other motives.

When he concluded, the committee rose and reported progress, and the House adjourned.

JANUARY 17, 1811.

Same question depending:

Mr. FISK. Mr. Chairman: I regret that we are called upon to vote for or against striking out the first section of this bill, at this time. I could have wished that, upon a bill of so much interest and importance, we could have proceeded to have filled the blanks, and made such amendments, as would have obviated many objections which may be urged against it in its present form. I am not prepared to give my vote in favor of a renewal of the charter of the Bank of the United States, either upon the terms upon which it was originally granted, or in the manner contemplated by this bill; yet, upon conditions less objectionable, I should feel myself bound to vote in favor of a renewal. But the question presented upon this motion is not upon what terms this charter shall be renewed; but whether it shall be renewed upon any terms, subject to any conditions Congress may impose.

In this view, I consider it the most important subject upon which this Congress will be required to act. It is determining a question, which is connected with our finances, with the circulating medium of the country, and with our agricultural, commercial, and manufacturing interests; and, as such, it cannot but be interesting to every class of our citizens.

The interests and prosperity of the United States, are not only intimately, but inseparably, connected with trade. The market of the farmer depends greatly upon the merchant and the shipper. And the price and demand of every article of produce is in a great degree, regulated by the difficulties or facilities of payment. Let the difficulty of paying be increased, and the price of produce immediately falls; for the demand for exportation becomes very limited, the markets are overstocked, and prices reduced. Any sudden check to our commerce, whether produced by our own municipal regulations, or the outrages of foreign powers, checks the market and the price of produce, so that not only the merchants, but the farmers, feel its effects. I scarcely need recur to the history of the times, when trade was principally suspended in this country, to show how severely the suspension operated upon every class of our citizens, and in every part of the country. This period in our political annals will be long remembered. So great was the distress in some States, and agricultural States too, that their legislatures deemed it necessary, for the protection of the debtor from the power of his creditor, to stay the administration of justice, and prohibit by statute the issuing of an execution for the collection of any debt.

This proves the connexion which subsists between the two great agricultural and commercial interests of this country.

Agriculture, commerce, and manufactures, constitute the source of our wealth, revenue, and prosperity. To foster and cherish the principles upon which rests our existing hopes and future prospects, can never be a question of doubtful policy with a wise and patriotic legislature.

We have seen that commerce is essential to our interests; but commerce will not flourish without credit. It never has prospered independent of credit. As credit is essential to trade; so is punctuality to support credit. Look at the business of any commercial people and see the integrity and fidelity with which punctuality is maintained in order to support their credit.

For several centuries past, banks have been the successful medium through which credit has not only been preserved, but great wealth acquired. This assertion is warranted by the history of these institutions, and of the countries where they have been patronized. The first bank established in Europe, was at Genoa, in 1407, 404 years ago; this was soon followed by one at Venice.

The Bank of Amsterdam was established in 1609; and shortly after, those of Hamburg and Rotterdam; and the Bank of England in 1694. The Royal



Bank at Paris in 1718. The Bank of North America in 1784, a memorable period in our history, and the Bank of the United States in 1791.

All these different institutions show, that enlightened legislators have entertained but one opinion upon this subject both in Europe and America, for the last four hundred years. They have seen and acknowledged their utility. Banks have long since been considered not only essentially useful in the transaction of commercial concerns, but as highly necessary to aid the fiscal operations of Government. And a more unanswerable argument cannot be urged in favor of their general utility, than their uniform success; to this may be added the prosperity of the people, and the countries, where banks have been supported. Their immediate advantages are, a convenient circulating medium; the safe depository they afford for cash and funds. And they serve to keep the standard of money steady and correct; to insure punctuality; to preserve credit; to inspire confidence, and to promote a spirit of industry and enterprize. They are not, as many have supposed, in their nature hostile to government and dangerous to liberty. They rather form a barrier to tyranny and oppression. Their principal business is to lend money at the common rate of interest, and thus prevent usury. The owners of banks are generally rich men, who have not only their personal liberty, but a large property to risk, by sedition, treason, and rebellion. It is their interest to resist oppression. We need scarcely point to the continent of Europe for proof of the fact, when we assert, that trade and banks cannot flourish where despotism prevails. Despotism generally ruins trade and banks, but no instance occurs in history, where banks, not under the control of government, have ruined a State. A bank owned by government, and under its command, would be an engine dangerous to the people. But when owned by individuals, neither the people nor the government have any thing to fear from it. It is, then, dependent on both for its business, prosperity, and usefulness.

With the evidence which both history and experience offers to our reflection, we cannot doubt the utility of banks, nor deny but that they have been beneficial to us. And we are justified in the conclusion, that, under proper regulations, they may subserve the best interests of the people of the United States. They are now in successful operation in almost every State in the Union, and that they have been useful, the present prosperous state of the country abundantly proves. We enjoy as perfect security for life, liberty, and property, as any people under any government ever did. These are the great objects of a good government. And we may triumphantly ask, where is the nation or people that enjoy these with more freedom and safety than the American people? A parallel for our liberty and prosperity, for the last twenty years, is not to be found in the history of man. Our wealth, population and resources, have increased beyond what any one would have calculated, or imagined; and beyond what strangers and foreigners now believe. Industry, wealth, and contentment pervade every quarter of our country, and poverty and oppression are unknown to our citizens.

In 1791, the year this bank was incorporated, our exports amounted to about eighteen millions of dollars, and in 1804, they had increased to about seventy-six millions, gaining in thirteen years, fifty-eight millions; and our tonnage in about the same proportion.

Much of this prosperity is to be attributed to the active capital, which has excited industry and a spirit of enterprize among us; and the activity of this capital has been, in a great degree, created and promoted by the Bank of the United States. Its operations have been extensive in all our trading towns. It has aided in loans and discounts, and assisted in the collection, safe-keeping, and transmission of our revenues. It has been the depository of our treasury, and is now become incorporated with the administration of the fiscal department of our Government. The connexion which it has formed with almost every branch of business in the country, is not slight and trifling, and so easily to be severed as some seem to believe. Its operation are deeply interwoven with the dealings and concerns of all the men of business in the United States.

With a capital of ten millions, it has furnished accommodations of fifteen millions a year. This has been employed principally in trade, in making prompt and cash payments to our farmers for their produce. This again has furnished to our citizens a ready and profitable market for every article of produce. These high profits of a good market have gone into the hands of the farmer, to cultivate, improve, and enrich the country. And travel through any State in the Union, and their effects may be readily seen, affording a prospect, consoling and elevating to the philanthropist and the patriot. The land is highly cultivated, good buildings, turnpike roads, bridges, and other expensive improvements indicate the wealth of our citizens, and the prosperity of the country. Money has been freely circulated; trade has been active; produce high, and our country has been improved by these unexampled advantages to a degree far beyond what the most sanguine calculations twenty years ago could have anticipated. And yet, sir, we are gravely told, that this bank has nearly ruined the country; that it is threatening our best interests with destruction! As well might gentlemen tell us, that total darkness prevails at noon day; or that the sun in his meridian splendor affords neither light nor heat to any part of this globe.

The principal portion of the trade and business of the United States has been conducted by a paper medium, metallic has scarcely been seen. The amount of this circulating medium is, say fifty millions. Now, what is proposed by denying a renewal of the United States Bank charter? That this bank shall close its concerns, and of course stop all its accommodations. This must necessarily check and change at least one-third of the circulating medium of the country. It will undeniably require \$24,000,000 to be directed to one operation, and, for a time, to one point: for the capital is \$10,000,000. This is to be collected to divide among the stockholders. There are \$19,000,000 due to the bank; this must be collected. This will occasion a demand for this amount from other sources; it must be paid. And the \$5,000,000 in the bank, makes the sum \$24,000,000 which must be suddenly called in. The effect this will have upon the various interests in the country, can neither be described, or conceived. It must inevitably give a general and heavy shock to all paper credit—this credit so much and profitably in operation must receive a severe if not a mortal wound. And what substitute have we for this, when it shall be destroyed? Silver and gold coin cannot be relied on. There is not, from the best estimate, an amount to exceed \$10,000,000 specie in all our cities and trading towns, and this will be collected by this bank. The price of all stocks and every kind of produce and species of property must suffer a great depression: for a scarcity of money enhances its value, and, consequently, depresses the value of every other species of property. That this sudden, if not total change in our system, must occasion great embarrassment, produce failures, dissappointments, and distress among our citizens, is certain.

To say the least of such a measure, is to term it an experiment which no well regulated State has ever dared to make, from the first institution of civilized society to the present time. Stronger governments than ours, in risking such an experiment, would ensure their overthrow and ruin. Perhaps the good fortune of the American people is a sufficient guarantee against all the disastrous consequences which any other people might experience from such a measure. But I own, sir, I dare not incur by my vote the awful responsibility of this bold and untried experiment, unless compelled by the constitution. This, in my most deliberate opinion, the constitution does not require.

But the question of constitutionality I shall not at this time discuss. If it is a question which Congress may discuss and decide, it was discussed and deliberately decided at the time this charter was granted. The decision it then received has met with the general approbation of the States and of the people. Branches have been established in a number of the States, and the bills have circulated without opposition or difficulty in all. And counterfeiters of this paper are punishable for forgery, by the statutes of the different States. For twenty years, this institution has received the countenance and patronage of the Government. In this patronage there has been no difference in the several

administrations, unless that of the republican administration has been the most extensive. This bank has been employed by the Government to keep its treasure, to collect and transmit the revenue—and the Government, it will be recollected, originally owned two-fifths of the capital, which has been sold at a great advance. The United States owned \$2,000,000, equal to 5,000 shares.

2493 shares were sold in 1796—7, at an advance of 25 per cent.	\$997,200
25 per cent. gain,	298,600
First sale amounted to	\$1,295,800
287 shares sold in 1797,	\$114,800
At 20 per cent. advance, gain,	22,960
	\$137,760
By the republican administration in 1802, 2,220 shares,	888,000
At 45 per cent. advance, gain,	399,600
	\$1,287,600
	137,760
	1,295,800
	\$2,721,160

So that the United States gained \$721,000; and of this, \$399,600 has been received by the administration under Mr. Jefferson. This sale was sanctioned by a vote of the House of Representatives, although it was to a foreigner, an Englishman, Mr. Baring; and our Government gained on this sale \$399,600. This conduct of the Government, and of the then republican majority of the House of Representatives, did not evince any scruples about the constitutionality of the charter. If it was deemed unconstitutional and dangerous to the liberties and best interests of the people it was not for those who entertained this opinion to give it countenance and support. They ought rather to have taken measures to have checked and stopped its operations. And there is nothing in the argument that the faith of Government was pledged for twenty years, and the law, although unconstitutional, could not have been repealed: for Congress cannot pledge the faith of Government by an unconstitutional law. If Congress should establish a monarchical Government in any State or Territory, and by law guarantee it to the people for twenty years, would any one dare to contend that the faith of Government was pledged for twenty years, and this law could not be repealed? Certainly not. And why? Because such a law would be unconstitutional. It would be the duty of the legislature to repeal it, because the members are sworn to support the constitution. And how will gentlemen who have been members of this House many years, and entertaining the opinion that this charter was a violation of the constitution, and voting to approbate the sale of the bank stock, and for other measures to countenance its operation, and never attempting to rid the country of this monster, reconcile their conduct with their duty? It can only be reconciled by the conclusion that they did not question the constitutionality of the charter. This conclusion is warranted by the act of Congress, passed 16th February, 1804, [Laws U. S. vol. 7, page 87.] in these words, entitled "an act, supplementary to the act to incorporate the subscribers to the Bank of the United States."

*"Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the president and directors of the Bank of the United States shall be, and they are hereby, authorised to establish offices of discount and deposite in any part of the territories or dependencies, of the United States in the manner and on the terms prescribed in the act to which this is a supplement."*

If the original law was unconstitutional, this act extending the powers of the corporation was equally unconstitutional. This act was passed by a republican Congress, who did not believe that the original charter was unconstitutional. It is but lately, very lately, that constitutional difficulties have suggested themselves to some gentlemen. Even at this time, the administration has no objection to the constitutionality of the measure. The report of the Secretary of the Treasury, the proper officer to speak the opinion of the Executive upon this question, is my authority for the assertion, that the Executive will have no constitutional difficulties to encounter in passing a bill for the renewal of this charter. That report was made pursuant to a resolution of this House, and has been laid upon our tables. It states no objections to the renewal of the charter, but points out the advantages the Government have derived from this bank, and hereafter may derive, if it shall be continued. How is it that this report of the chancellor of the exchequer, upon a question of financial economy, is not respected, as were his reports in former times? Has he lost his talents at calculation? Does he tell unwelcome truths, or is there "*something rotten in Denmark?*" Great exertions have been made to excite sensibilities, and clamor against the renewal of this charter. The money changers, stockbrokers, and speculators, vultures that prey upon the vitals of the community, have been flying through the country, denouncing all who should express or entertain an opinion in favor of the measure. But, I trust, we are not yet arrived to that period in the history of our Government, when Congress must legislate under the hissings of the gallery, or the denunciations of prostituted or misguided presses. If we are, sir, we may bid adieu to our liberties. Unawed by these vaticinations, it becomes us to examine patiently, and decide deliberately this great question presented to our consideration for decision.

In examining this question, we are naturally led to inquire, is an institution of this nature, in the present state of our country, necessary—is it proper? and in pursuing this inquiry, let me recur to the report of the Secretary of the Treasury; and see if the aid of this institution is required in the administration of the financial department of the Government. Will not his experience enable him to answer the question correctly? To what better authority shall we resort? What are the principal duties of the Treasury Department? The collection, safe keeping, transmission and disbursement of public moneys. For performing all these duties, this bank has been the efficient and faithful agent. In twenty years past, it has collected and disbursed, at its own risk, not less than 100,000,000 dollars public moneys. If you allow the revenue to have averaged \$5,000,000 a year, it would amount to this sum received in, and the same amount transmitted and disbursed, amounts to \$200,000,000 in twenty years. Having a greater capital than any other company in the country, the public money is more secure with this company than any other. It then assists essentially in the safe keeping of the money, and this the report tells us is one of its advantages to the Government. But its more essential assistance to the Government is in the collection and transmission of the revenue at its own risk. Our revenues are secured by bonds, and these bonds are payable at this bank and its branches, in the different ports of collection. They are, accordingly, lodged in the bank for payment, and when due, they must be punctually paid, or the debtor loses his credit at the bank, and of course in the commercial world. Hence every exertion is made to pay at the time the bond becomes due; and hence our revenue has been paid with such scrupulous punctuality and with so few losses. And is it not an object of magnitude, that we provide for the safe and sure collection of our revenues, which in prosperous years, may amount to eighteen or twenty millions of dollars?

Put down this bank, and how are your revenues to be collected? Through the medium of the State banks? You do what no prudent man in his individual concerns, would think of doing. You discard a faithful, honest, responsible agent, whose integrity and fidelity you have known for twenty years, and you place your estate in the hands, and at the disposal of, twenty or thirty entire

strangers, of whose character and responsibility you know nothing, nor have the means of acquiring any knowledge, and over whose conduct you have no control. Should an individual act thus with his property, he would be deemed to have lost all regard for it, if not considered a madman. In resorting to the State banks, we are offering the amount of our revenue as a bounty for intrigues, cabals, and faction, through the country. In almost every State there are a number of banks, and each will endeavor to get the revenue collected in that State, to keep and trade with. It must be given to one or divided among them all. If one is selected as the favorite, all the rest become jealous, dissatisfied, and exert their capital and influence against the favorite bank, and its patron, the Government. This will awaken a spirit of faction in every State, yet unknown in this country. If all are to be gratified in their request for the deposits, the Government must open separate accounts with all the different banks in the country, to the amount of fifty or sixty, and new companies will be formed, and new applicants request to divide the business and share the profits. Indeed, there will be no end to the scenes of speculation and intrigue which will soon appear, if this course is adopted by the Government.

Again: the Government have no means of ascertaining the system or principles upon which these different banks conduct their business; they are creatures of the States, and in no way answerable to the General Government. The treasury cannot inspect their books, nor ascertain their funds; of course we must be ignorant of their responsibility. And yet we are to deposite moneys in their hands, to five or ten times the amount of their capital. But few of the State banks have a capital beyond a million. In New York and Boston the revenue deposits may amount to five or six millions a year; and are we to intrust this with a corporation, which, if it failed, would not pay more than a fifth part of it? Besides you may not be able to command these moneys when required, if left with those over whom you have no power. It is possible some of these State institutions may be hostile to your Government; they may refuse payment, and this refusal be supported by the State. Shall we place our public treasure under the control of States which can order out their militia to oppose and resist the execution of our laws, or refuse their aid to enforce them?

But, suppose the revenue collected, and safely kept by these different banks, how is it to be safely and speedily transmitted to different parts of the Union, to answer the demands of Government, and at whose risk and expense? Can the opponents of this bill obviate this difficulty? It is a difficulty of a two-fold nature, first, in finding a safe mode of conveyance, and secondly, a convenient medium to transmit. Specie cannot be procured; and what State bank bills, if sent, would pass current in every part of the United States, as the bills of this bank do? Carolina and Kentucky bills are unknown, and would not pass in New York and Boston; and New York bills would not pass in Kentucky or Carolina. New England bills do not pass in New York, but at a considerable discount. But, under the present system, if Government have five millions deposited in Boston, and it is required to be paid at New Orleans, a draft is given by the branch in Boston upon that in New Orleans, and the money is paid at the latter places as soon as the mail can travel there.

Again: if the Government is to take the risk of collecting and distributing the revenue, let us inquire what this can be done for. The revenue amounts to, say ten millions of dollars, collected and paid out annually, and allow one and a half per cent. for collecting, and one and a half per cent. for transmitting, as low a rate as it would be done for, and this, on twenty millions, amounts to 600,000 dollars a year, a sum equal to our civil list.

But, another serious evil is to be encountered in putting down this bank; you deprive the country at once of a circulating medium. Silver and gold cannot be had; and what paper, but that of the United States Bank, will pass current in every part of the Union? None. You can outside, in twenty-four hours, the credit of any other bank in the country. This evil will be most

seriously felt in the interior. It will at once check emigration from the North and East to the West. For those who wish to remove, will not be able to sell their property; it will fall essentially in value; and if they should sell, coin not being in circulation, they could not procure any paper money which would pass current to pay the expenses of travelling from Massachusetts to Ohio and Tennessee; and if they should arrive there, they would have nothing to purchase land with. The sales of our land must stop for a time, at least till specie can be brought into circulation, for specie only is taken in payment; this comes now through banks; but the banks will require it all for their own support.

And will not the people inquire why all this pressure and embarrassment? They certainly will. And will they be satisfied with the answer, that the bank was unconstitutional, and could not therefore be continued? No, they will not believe it. They will justly reply, that this state of things ought to have been foreseen and provided for by their rulers, as it might have been. In the ten past years of peace, plenty, and prosperity, which we have experienced, instead of devising a system to take the place of the present bank, on the 4th of March, what have the rulers done? They seem never to have once thought of the event that is now about to happen? By the acts of Government, the country has, in a degree, been deprived of the capital which might have been here to meet the crisis. Above \$30,000,000 have been sent out of the country, and much of it in specie, to pay the public debt, when payment was not demanded. All internal taxes have been repealed, and reliance for revenue has been made on imposts and tonnage, which are now about to fail us, and that, too, when the treasury is nearly exhausted. For, after paying the \$2,750,000 to this bank, there will not remain much more than this amount in the treasury. The revenue bonds outstanding, to the amount of about \$10,000,000, will not, cannot be paid, if bank accommodations are to stop. Recourse must be had to loans, the last resort of empty purses and empty heads, and a press for money, and its high price, will render loans difficult to be effected, and subject the Government to a high rate of interest.

These considerations suggest to us the imperious necessity of continuing the operations of this bank, under such restrictions as may be deemed most advisable, and thus to keep in motion the present system of credit, and support the existing principles of doing business throughout the country.

And what are the reasons for refusing a renewal of this charter? Let them be examined, and, unless they are solid and substantial, let them not prevail. One reason assigned is, that it employs a foreign capital, which is injurious to our country.

This is not an objection of any weight; and if it were, have Congress the power to prohibit the employment of foreign capital in the United States? If we prevent it from being employed in this bank, it may go into the State banks, or take any other direction, not prohibited by the constitution or laws of the country. But it has ever been the liberal policy of this Government, to invite foreign capital, and foreigners, to come among us.

Gentlemen seem to consider that portion of this stock, held by foreigners, as having no other connexion with our own citizens, than compelling them to pay eight per cent. per annum interest for it.

Let us for a moment see how this money, to the amount of \$7,200,000, owned by foreigners, is employed, and the objection urged on this ground must vanish. It will not be denied, but that it is used in trade. And it is wanted here, to make cash payments for shipments made to Europe. This enables the American merchant to make prompt payment for the goods he imports from Europe, by which he obtains them, say eight per cent. below the credit price, while he, instead of obtaining this credit in Europe, obtains it at the bank for six per cent. Here, then, is a difference of two per cent. in favor of the American merchant. This, on \$7,200,000, amounts to \$144,000 a year—in twenty years, to \$2,880,000. This is one item saved in retaining this capital, in this institution—and \$1,200,000, the sum to be paid by those stockholders for the privilege of continuing their capital in this bank, is another



item—and another, larger than either of these, is the advance upon the stock proposed to be subscribed by the United States, which may be estimated at \$2,000,000. These, together, amounted to \$6,080,000, which the Government and citizens of this country will receive by passing this bill. So far, this would be raising a revenue, and not liable to any constitutional objection.

But, it is said, this capital has an influence upon elections, unfriendly to liberty. Whatever may have formerly been the political influence of this institution, the competition of banking business has long since rendered it harmless as a political engine. But, while gentlemen complain of its accommodations being partial, they propose the singular remedy of destroying them entirely; because it has committed the fault of not accommodating every body, it must now cease to accommodate any body.

If we have not too much capital, our citizens will find a profitable use for this. That this is wanted, and engaged in business, is incontestably proved by the dividends which this bank has made of eight and nine per cent. profit. If the charter shall expire on the 4th of March, this \$10,000,000 capital, which may, and probably will be collected in specie, will be again thrown into circulation here, or sent out of the country.

Suppose it retained here, what are we to gain or lose by the experiment?

The scarcity of specie consequent to this operation, will appreciate its value, and, in like proportion, depreciate the price of every other kind of property, say thirty per cent. These foreign stockholders, having \$7,200,000 in specie, will be able to speculate on the distresses of your own citizens. They will be the gainers, we the losers. If they can make by the bargain, as they undoubtedly may, 30 per cent. this on \$7,200,000 would amount to \$2,160,000; which, added to their present capital, would be \$9,360,000. This amount, vested in any other bank stock, or valuable property, would continue to yield them eight per cent. profit annually. This, on \$9,360,000 amounts to \$744,800 a year, \$168,800 more in a year than they would receive by continuing their capital in this bank. It is evident that a refusal to renew the charter of the Bank of the United States will not prevent the use of foreign capital among us, as has been urged by gentlemen opposed to a renewal. I do not allude to the gentleman from Virginia, [Mr. BURWELL] he does not consider it an objection that so much of this stock is owned by foreigners.

But let us, for a moment, suppose, that, on a dissolution of this bank, this capital goes out of the country; it is owned by proprietors who reside in England, where bullion is 15 per cent. above their paper currency, and if this \$7,200,000 should be sent to Europe it would drain nearly all the specie from the country. Unless it can be employed here to more advantage, it will, as an article of merchandise, leave the country for a better market. But it will, at any rate, be in the hands of those who may not, after the refusal to renew this charter, feel very solicitous to aid the operations of your Government, or relieve the distresses of the people, by sending this specie into circulation among us. We should require strong arguments, indeed, to induce us to adopt a measure which may at once drive out of the country, or lock up so large a portion of the specie capital. Whether it goes out of the country, or remains for a year inactive here, the effect upon the community will be the same. The great demand, and high price of specie, will depress the price of every kind of stock and every species of property; our wheat, cotton, hemp, tobacco, and every article of produce, must suffer a depression of at least 10 per cent.—perhaps not find a market at any price. The nation will be subjected at once to the loss of a sum at least equal to the amount of the whole capital of this bank. For the amount of produce and merchandise in the country may be estimated at \$100,000,000; a loss of 10 per cent. would be \$10,000,000, a sum equal to our revenues for one year. By whom is this loss to be sustained? By the merchants? No, it will fall upon the farmers, the manufacturers, and mechanics; your rich moneyed capitalists are safe, nay, they are the only men who will profit by such a state of confusion and distress.

When I advocate a continuance of the present system, I advocate the interest of the farmer, the mechanic, and even the laborer, who, alone, must suffer most severely by the experiment of breaking up this bank and your present system of paper credit. Of this we may all be convinced when too late to remedy the evil. The effect it may produce may be entirely different from what the opponents to this bill now believe. Instead of a blessing, it may prove a scourge and a curse to the country. Politicians, we all know, are liable to err in their calculations, and often mistake the real bearing and effect of their measures upon the community. The Turkish Government once devised and adopted an infallible expedient, as the rulers believed, to prevent a scarcity of corn, by prohibiting the exportation of this article. But the consequence of this favorite measure was a famine, want, and calamity, instead of plenty and happiness.

And are gentlemen, who are opposed to the renewal of this charter, quite sure what will be the consequence of stopping at once the operations of this bank? I apprehend not. They all admit it will, for a time, occasion some embarrassment to our citizens and our treasury; but they differ as to the extent of the evil, and tell us that all the calamity is to be far outweighed by the blessings which are to follow; and, among other blessings which are to result, is the check which is to be given to trade. We are told that there is too much credit, and too much trade; that failures are continually occurring, and that, although the merchant fail, the farmer bears the loss. A single glance at the manner of transacting business in our commercial towns must convince any gentleman that, when a merchant stops payment he is seldom indebted to the farmer. His credit contracts are with the banks and merchants in town; instead of purchasing produce from the farmer upon credit, the merchant obtains a credit at the bank, procures bills, and is, in this way, able to purchase from the farmer for ready money, and if the merchant fails, his creditors in town, not in the country, are generally the sufferers. By lessening or destroying bank accommodation, you transfer the credit from the city to the country. Then, if a merchant should fail, his creditors in the country, the farmers, would suffer; should this be the effect of putting down this bank, the agriculturist, who now sells his wheat, hemp, cotton, and tobacco, for cash, will be compelled to sell upon credit, and take the risk of failure from the banks and merchants to himself. Is this the manner in which trade is to be lessened by stopping bank credit?

But it has been urged that we have too much paper in circulation. Admit it. The destruction of this bank will increase, not diminish, the quantity of circulating bank paper; and I consider the embarrassment which must immediately follow the closing of the concerns of this institution as the least of the evils the community will experience from a refusal to renew the charter. Congress may, indeed, prevent the operation of this bank after the 4th of March, but Congress can neither prevent a spirit of trade, nor subdue the passion for speculation. For, while we are debating the expediency of destroying this bank, in order to free the country from the mischiefs of an extended bank credit, we find new banks springing into existence in every direction. We have no less than five bills now on our table for incorporating this number of banks in this ten mile square district. And the gentleman from Virginia [Mr. BURWELL] has told us, that these applications are an evidence of capital or of corruption; but I consider them rather as evidence of the destroying spirit of speculation, which threatens to stand upon the ruins of the United States Bank, till the country shall be overwhelmed with new emissions of paper from these new manufactories. The banks established by the State Legislatures will scramble for the privilege of filling the chasm to be made by the destruction of the Bank of the United States. Already are they preparing for the patriotic endeavor. Our State legislatures are to be importuned to become bank-jobbers, and joint undertakers and copartners in the enterprize. The profits are to furnish revenues sufficient to satisfy both avarice and ambition. Notwithstanding the provision in the constitution that no State shall "emit bills of credit," we find almost every State in

the Union interested in banks, authorising corporations to issue bank bills, which, so far as they exceed the capital upon which they are issued, are in the nature of bills of credit. Several States own stock in these banks, and, as such stockholders, are responsible for the payment of these bills; Pennsylvania, Virginia, and Vermont, are large stockholders in their State banks; New York and North Carolina have also an interest in some of their banks. The States cannot be restrained, nor is it to be wished that they should be prohibited altogether from incorporating banks. But what difficulties are we to experience in resorting to these numerous and conflicting institutions for the collection, safe-keeping, and transmission of our revenues. The deposits of the Government will render banking profitable to the favorite bank that receives them. The aid of the Government will make this bank superior in funds and credit to any of the others which do not share this solid patronage. This will produce jealousies and collisions of interests between banks in the same State, and thus form cabals against the State and General Governments. It will not stop here, but will extend from State to State. If the States and State banks are to regulate trade in the article of paper money, they may prescribe the terms. To give the preference to their own paper, they may exclude that of any other State from circulation among them in the same way that the paper of unincorporated banks is excluded by some States, and bills of a certain amount from others.

The great commercial States will have in their power the paper of the small and agricultural States: for where there is most trade, there the most current bills will be the most valuable. The bills of New York and Pennsylvania, from the great trade and frequent intercourse between their capital cities, would be in greater demand than any other; the bills of either State would pass current in the other, and this would give them a credit and currency superior to all other bills. They would of course drive the others out of the market. And, sir, it is possible that other banks may attempt to make up, in the quantity of their paper, the deficiency in its quality and credit, and all may overtrade their capital, discount far beyond their funds, until a general depreciation of their paper shall produce general failure, and universal distrust in all paper credit. It is the duty of the Government, if in their power, to avert such a state of confusion, to protect and preserve the country from such complicated ruin. But we are about to invite and precipitate this destruction by throwing away the only means we possess to prevent it. Stop this bank, and what check is there then to limit the discounts of all other banks? They may issue paper to any amount and without funds to redeem it. There may, and very probably will be, a common interest and feeling among them to uphold each other, until all shall deem it advisable to fall. Hitherto the Bank of the United States, by its large capital, and the amount of its specie always on hand, has confined the discounts of other banks to certain limits, and compelled them to observe some proportion between their loans and actual funds. And, in this way, it has served as a barometer to ascertain the credit of other banks; as a regulator to keep them within such bounds as might be safe to the community. But take away this regulator, and the other banks may go on without fear or restraint to loan millions, without having a dollar in their vaults, until all will be reduced to bankruptcy, as we have already witnessed, in some parts of New England. We have been told, by gentlemen, that this bank has been the cause of the excess of bank paper, which has prevailed in some of the Eastern States. This I deny. What has been the conduct of banks in that quarter? A considerable number of banks were established in the interior of Massachusetts and New Hampshire, and they went on to issue their bills to a great amount, without regard to their actual funds, and without any specie to redeem them. And had these bills circulated only in places where banks were conducted in a manner equally loose and unprincipled, the imposition would not have been readily detected; but when these bills appeared at the Branch Bank of the United States, their real value was tested; they were returned, and the system of banking without specie or capital was broken up and destroyed. It will

hardly be contended that our revenues would have been perfectly secure in these banks. And what assurance have we that they will be more safe in the others? The Government of the United States cannot limit their discounts, inspect their books, or ascertain the state of their funds, or the principles upon which they act. It never can be seriously insisted, that it would be advisable to deposite the public moneys in this manner. It would be offering the revenues of the Government as a bounty for bank factions, and bank frauds. And why shall we be driven to make these dangerous, ruinous experiments? We experience no hardships, no real difficulties growing out of our present system. If we continue it, none are to be apprehended. We shall preserve a paper medium, well known and long approved, with which the people of this country are well satisfied: for not a single remonstrance has been offered against continuing the operations of this bank, whilst thousands of petitioners have solicited Congress to renew the charter. Nothing, but considerations of the most imperious nature, should induce Congress, at this time, to refuse a renewal of this charter, and thus compel the extensive moneyed operations of this company to stop at once. The situation of the country is, at this period, peculiarly unfavorable, if not unequal to such an operation. But a small amount of specie in circulation, and the course of exchange continually lessening the quantity, draining it from the country; a large portion of the merchant's property seized in Europe; our treasury nearly exhausted; a non-importation about to be adopted; our revenue to be thus cut off; our army and navy expenditures to be increased; and, in this state of our national affairs, we are about to destroy all confidence in paper credit; to adopt a measure which must produce general disappointment, failures, and bankruptcy. However unconcerned and secure some gentlemen may feel about the consequences which may result from such a state of things, I cannot but contemplate them with the most fearful apprehension. Can the people extend their confidence to the wisdom and expediency of measures which, instead of promoting the general welfare, produce general distress? Why, sir, we seem to cherish as little regard for the opinions of the People, as if they had nothing to do with the Government.

But the remedy for all the evils growing out of this breaking down measure, is to be found, we are told by some of its advocates, in the establishment of a new national bank upon the ruins of this. The country is to be subjected to the spasms and throes of death and birth, at the same instant, in order to preserve, by this bold practice, its constitution. This is a refinement in State quackery, which must prove fatal to the patient.

Are the advocates for a national bank quite sure that they could obtain a law of Congress for its establishment, if the United States Bank were out of the question? I apprehend not. Many serious, if not insurmountable difficulties, would be found to exist. When an increased demand for money should have rendered it scarce, it would illy comport with that discretion and intelligence which ought ever to distinguish the proceedings of Congress, to increase the scarcity of this article, by enlarging the immediate demand for it. While \$24,000,000 would be employed in closing the concerns of one bank, \$30,000,000 are to be called for to commence the operations of another. This would be levying a requisition upon all the circulating medium of the country at once. It would create a demand which could not be satisfied. If this objection could be removed, there are others still stronger to be obviated. It would be found difficult to convince the States concerned in banks, that their interests are to be promoted by a great rival bank, with a capital and ability equal to the management of all the banking business in the country. Will the great commercial States of Massachusetts, New York, and Pennsylvania, accede to this measure? They will not, unless they disregard all the profits they might derive, by uniting to give credit and currency to the paper of their own banks, unless they neglect to improve the advantage they would in such case have over the other States. If some States now recommend to their representatives to oppose a renewal of this charter, would they be less attentive to their own interests, and more sparing of their advice, when a

national bank should be attempted? No, sir. Nor would their recommendations be less regarded than upon the present occasion. If a bank with but \$10,000,000 capital, has awakened State jealousies, and roused to action State interests against it, what are we to expect when a new bank of \$30,000,000 shall be proposed? That such an institution could be established without opposition? No. It could not succeed against the opposition it must and would encounter. Put down the Bank of the United States, and, however essential an institution of the kind may be found, either to furnish a circulating medium, which shall pass current throughout the United States, or aid in the administration of the finances, the Government will not have the power to establish it. A law for the purpose, would never be sanctioned by a majority of both Houses of Congress. And, if we cannot continue the present bank upon any terms, no other ought ever to be authorized by Congress. For to what a state of things might a new national bank, with twenty or thirty millions capital, reduce the country at the expiration of twenty years from this time? Its stock might get into the hands of foreigners, or be owned by those who would be found in the opposition to the administration; and surely, this would furnish reasons as powerful for putting down the national bank, as the Bank of the United States; and the country would be compelled to submit to another general shock, and, perhaps, destruction of paper credit. If we have not stability and discretion sufficient to continue and support such an institution, we most certainly should not undertake to establish it. For we are exposing the country to alternate affluence and penury; making experiments ruinous to the people, and destructive to the Government.

Some gentlemen tell us that this corporation can close its concerns without occasioning any embarrassment in the community. If the trial is to be made, I most sincerely wish they may not be mistaken; but to me it appears utterly impracticable. The gentleman from Virginia [Mr. BURWELL] seems to think that the shock will be slight, and scarcely perceivable; that this angry cloud will be disarmed by the conducting powers of the State banks. But can he assure us, that such will be the result from any actual experiments which have ever been made in this branch of philosophy? I believe not. And it is to be apprehended, that, even if this cloud should disappear, clouds of discontent and faction will succeed, and may soon be seen hurrying and chasing each other over the political firmament of America, until the tempest comes on, which shall close forever the prospect of our united strength and happiness.

The times are dangerous for national experiments. When we look around us, we find the political passions of man rising to madness; long established governments breaking up their strong foundations, and the world almost deluged with blood and warfare; we alone, stand upon the narrow isthmus of peace and prosperity. And is it for us to complain; to be discontented with the pre-eminent happiness we enjoy; to hazard our present enviable condition upon the doubtful result of this great and sudden change in the administration of our national finances? No, sir. It becomes us to beware of innovations; to weigh well the consequences of embracing any new system, or abandoning an old one. But, sir, I will not detain the committee longer. I have already occupied more of their time than I intended; but a sense of duty has compelled me to state my opinion at length upon the important question before us. And, if the charter of this bank is not to be renewed, or continued upon any conditions, I am ready to hope, that my apprehensions of the effects that the refusal will produce in this community, may prove groundless; that the dissolution of this institution may not be the organizing of ruin to a considerable portion of the country.

Mr. SEYBERT. It may be said that this subject has been exhausted, by the discussions of the ablest politicians of our country. I will premise, the remarks which I shall offer, are intended solely to justify the vote which it is my intention to give on this momentous occasion.

The question pending the United States Bank has excited a peculiar interest throughout this nation, more especially in our seaports. The dissolution of this institution, which, from its limitation, will expire on the fourth of March next, has been portrayed in colors of the darkest shades, and the distresses which many maintain will be consequent to that event, call seriously for a fair and deliberate investigation. I hope, sir, I shall be pardoned for imposing on the patience of the House, when it is recollected that the community which I represent, have employed four-tenths of the capital stock of the United States Bank. If evil consequences are to attend the dissolution of this establishment, or if beneficial results proceed from its continuance, in either case I must feel myself essentially interested. It is, therefore, my wish, to be distinctly understood, upon the important principles which have connexion with the great question now before us.

At the last session of Congress, I presented the memorial of the president, directors, and stockholders of the Bank of the United States; at that time I entertained no positive opinion on the subject; the discussions which took place in the committee to whom the memorial was referred, necessarily, as a duty on my part, excited that attention which the importance of the question imperiously demanded. Under circumstances of doubt, I voted in favor of reporting a resolution in support of the bank, for the purpose of giving to the establishment every chance which reason could urge; at the same time reserving to myself the right to pronounce a final decision, according as policy and expediency, but more especially as *principle* should dictate. I will admit, sir, that this is not the time or place to institute the general inquiry, whether banks are or are not, beneficial to a nation? Because, whether the charter of the United States Bank be renewed or not, the several States, who have the unquestioned authority to incorporate bank establishments, have already created many, which it is not in our power to control. I do not hesitate to declare, though many persons in the United States are decidedly opposed to a banking system, under every possible circumstance, I am not of this class. Experience has proved, in a manner very satisfactory to my mind, the advantages which are derived from banks, when they are impartially directed, and when the accommodation afforded by them is prudently employed; the great difficulty seems to be to confine the system within its proper limits. I understand the proposition as applicable to the agricultural, manufacturing, and commercial interests of the United States.

For my proofs of this proposition, I will not rely upon the famous Bank of St. George, at Genoa, whose authority, by a gentleman from New York, (Mr. FISK) has been considered of much weight. I will recall to the mind of my friend, the remark of an intelligent traveller, who, when he visited this bank of antiquity, exclaimed, "Here lies concealed the enigma, whether the bank possesses millions of millions, or whether it is indebted millions of millions;" he concludes, upon this important secret rests the safety of the State. Unhappy State, say I, whose safety depends upon a secret concealed within the vaults of a bank. Perhaps, to a development of this secret, may we attribute the present servile condition of the people of the once far famed and powerful Republic of Genoa.

I am one of those who do not entertain fears in consequence of foreigners becoming the stockholders of our banks; provided, on all occasions, you deny them the privilege of voting either directly or by proxy. I would even go so far as to prohibit their being original subscribers to any stock which may be created in our territory. The States do not object to a foreigner holding the stock of their banks. Any political consequences which can arise from such an interest, will exist, without the General Government having power over them. For the present, I am opposed to the exclusion of foreign capital from our country, because it is not established that we possess a surplus of our own, and that the introduction of more from abroad depresses that which is immediately the property of our citizens; the prices which are at present paid as the interest for a borrowed capital, convince me that it would be impolitic, at this time, to adopt the principle of exclusion.



Though I have admitted, that, under certain specific provisions of the law, foreigners should be permitted to hold the stock of the banks of the United States, it is not thence to be inferred, because they have become the stockholders, they are to be confirmed, from time to time, in the exercise of an exclusive privilege in our country.

Sir, I am decidedly opposed to a prominent, and what to me appears to be a very dangerous feature in the bill now under consideration. I allude to the 8th section, which admits of an increase of the present capital stock of the bank. If you adopt this provision, you will thereby create an Herculean power, which will have at its mercy all the minor institutions of the States; thus constituted, it can oppress and destroy them, as whim or interest may dictate. The steps which have been taken preparatory to a dissolution of the present bank, it is said, occasion much embarrassment, and threaten with ruin many of our citizens. If the present capital of ten millions can thus affect society, who will pretend to accumulate present evils, or risk entailing misery on posterity, solely for the purpose of a temporary gain to the Government? In this question Pennsylvania is deeply concerned; she has several millions of dollars invested in her banks; this to her is a valuable source of revenue; upon this may she predicate much of her future prosperity; hence will she derive the funds requisite for future internal improvements; but if you fill up the blanks in this section with a considerable sum, all these prospects will be blasted forever; you will thereby destroy the tree, from whose ramifications were to emanate the blessings of peace and the sinews of war. Those of her Representatives who may deem it politic and constitutional to vote for a continuance of the charter of the United States Bank, ought surely to oppose any increase of the present capital. We have been told, that that which now exists, has been found sufficient for all purposes, at a time when our commerce was much more extensive than we have reason to suppose will soon again be the case.

If, as some say, the bank, by its capital, is to facilitate the fiscal operations of the Government, I am decided this should never be greater than what will be barely sufficient for this purpose. If you go further, you place in the hands of the Government an engine which may destroy the freedom of this nation. We are further told, that, in case of war, the Government may derive advantage, in the form of loans, from the bank. Admitting this to be the fact, it is very evident, under the uncertainties of a war, the demands of our merchants upon the banks will diminish, so that the bank capital already created throughout the Union, may be very readily had for the exigencies of the State. If a greater sum shall be found to be necessary, the patriotic zeal of your citizens will prove itself all-sufficient to supply your wants in a cause which will be deemed just and honorable by the nation.

I am also opposed to the United States having the right, in any manner, to appoint any of the directors of the bank, not so much on account of any influence which the Government might derive from such appointment, as to prevent ruinous consequences to all who may be concerned. Who will such directors generally be? Certainly persons who need the aid of the banks: for none others would make application for the appointments. When they are appointed, they would be subservient to the views of such of the directors as are chosen by the stockholders; in their places they will lose sight of the public welfare; they will be interested by the accommodations which they may find necessary for their purposes; to obtain these, they will yield to their associates. Instead of being the guardians of the public treasure in case of danger, they will remain silent, until a spontaneous explosion of the bubble solves for the world the important secret of the insolvency of the institution. Sir, notwithstanding many arguments may be adduced in support of a banking system, no degree of importance, whatever, whether derived from the facilities offered to the Government by bank establishments, or from the considerable sums which may be thereby had for the treasury, in consequence of sales which may be made of the stock belonging to the nation, or of the bonus to be

given, shall induce me to vote in favor of a measure which is not grounded upon strict constitutional principles.

The history of the banks in our country informs us, that the one usually termed the Bank of North America, was the first establishment of the kind which received the sanction of the Government. This institution was incorporated by an act of Congress, in the month of May, 1781, under the authority of the "Articles of Confederation." The present Bank of the United States was incorporated by an act of Congress, on the 25th February, 1791, during the operation of the present constitution of the United States.

Without an attempt to examine every hypothesis which has been or which might be proposed, respecting the constitutionality of the principle, I will content myself with a statement of the case, such as it appears to my mind. The first public act which I performed, as a member of the Congress of the United States was, to *swear, solemnly*, that I would support the constitution of the United States. It therefore is my duty to examine and consider its precepts, according to the best of my ability.

The "Articles of Confederation" and the present constitution of the United States, do not differ, as regards any power delegated by the States to Congress, touching charters of incorporation. I can never persuade myself that the constitution was intended other than to have a definite meaning; or that it was ever contemplated to speak an equivocal language; ambiguity arises solely from the misconceptions of its interpreters. It is very plain and of easy comprehension, especially as it relates to the present question, since it is totally silent on the right to create corporations; its wisdom is further illustrated by the special provision for the only exclusive privilege which is consistent with a free and equal Government, and that is in favor of genius. The powers delegated by the States are special and defined, and it is expressly declared by the constitution, that "the powers not delegated to the U. States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." This language needs no interpretation. I cannot for a moment permit myself to suppose, that the patriots who were tested during the long continued uncertainty of the most important events of our revolutionary period, and to whom was ultimately assigned the right and power to construct the instrument which is to guide us in the political labyrinth, that they intended this, their *great work*, should alone be explicable by that refined reasoning, to which common sense is a stranger, I never can admit; surely, that which they framed for the good and security of every individual in the nation, must be expressed in a manner to be understood by ordinary men, and those whom it was intended to direct. Sir, if simplicity was not originally contemplated by the framers of the constitution, why the imposition on the people in publishing it to the world? Was it not a prodigal waste of labor and materials, to furnish every citizen of our country with a copy of that which can only be understood by professional men, or such as are eminently skilled in scholastic research? It had better remain a secret concealed amongst the musty rolls in the archives of State, than be a puzzle for mankind. As long as this instrument is preserved pure and untarnished, it will receive a becoming respect from your fellow-citizens—it will be regarded as "the stupendous fabric of human invention." Remember, the present argument, in several important points of view, affects posterity in common with ourselves. You had better commit the unintelligible jargon to the flames, than, by the agency of construction, neutralise wisdom by folly. Sir, if we have a constitution which the people cannot understand, I then say, cut the original into slips, and provide the means for a better; or if that is not to be done, and we are to be ruled by the iron hand of power, in that case, as one of the American people, I will pray you to be graciously pleased to grant a plain *bill of rights* for our better government.

If we look back and attentively view the occurrences which took place when the law incorporating the present Bank of the United States was enacted, we shall find our reasoning supported and confirmed by many important circumstances; we shall then perceive that the act of incorporation was opposed on

constitutional ground, by men who were and continue to be esteemed for their talents, political skill, judicial knowledge, probity, and patriotism, and it has been admitted that the arguments formerly urged are unanswerable. That the power to create corporations was never intended to be ceded on the part of the States, is proved beyond all manner of contradiction; for we are told by the highest authority, by one who was a member of the General Convention, that it had been proposed to cede to Congress the power to create corporations, and that the proposition was rejected, after a deliberate discussion. In my opinion, this decision is in proof of the sagacity and wisdom of those who made it; it was highly justifiable to retain this power to be exercised by the States; because corporations are generally founded on circumstances which are entirely local; as such they can be better understood by the Legislatures of the respective States, than by that of the General Government.

The experience of every session proves, that the decisions of Congress vary with the men who, at different times, compose that body; therefore, the act of February, 1791, can have no force in settling the principle contended for.

I have heard it urged that the States have recognised the constitutionality of the United States Bank, by their laws. I know of no law in any of the States which declares this charter constitutional; were it even proved that several of the States had published this declaration, with me it would signify nothing, unless the sanction of two-thirds of the States was thus had. On a former occasion, several of the States were induced, from peculiar circumstances, to relinquish, for a time, their right in favor of a particular case—I allude to the first establishment of the Bank of North America. If this had been intended to decide this very important question, without any reservation of their power in other cases, they would have expressed it in the most positive and unequivocal manner.

Sir, it may be asked, how did the Congress, whilst acting under the "Articles of Confederation," incorporate the Bank of North America, though their powers were no more extensive than those of the present Congress? We shall not lose by this investigation; they declared, that "the exigencies of the United States rendered it indispensably necessary that such an act be immediately passed;" and, at that period the Board of War confessed they had not money sufficient to pay the expense of forwarding an express to the Command-in-Chief of the army! Notwithstanding such urgent necessities on the part of the General Government, they were too conscious of the rights of the States, to attempt an usurpation of authority, or to pretend to force this act without their sanction; accordingly, we find the resolution by which this bank was established, followed by another, which recommended to the Legislature of each of the States the *necessity* to pass such laws as *they* judged requisite for giving the ordinance by which the subscribers of the Bank of North America were incorporated, its full operation; every provision in the charter of this bank, to have full effect, was recommended to the Legislatures of the several States, for their approbation.—*See Journals of Congress for 1781, vol. 7th, pp. 257 and 258.*

It is a well known and an important fact, that the subscribers to the Bank of North America did not rest satisfied of the authority of Congress to incorporate them: subsequently to the original act of incorporation, they accepted from the Legislature of Pennsylvania a charter, by which their privileges were very much abridged.

Some maintain, the States having made it *penal* to pass *counterfeits* of the notes of the United States Bank, is in proof of their recognizing the constitutionality of the institution. No one will pretend, that these laws were intended other than to guard the people against fraud; these statutes were enacted without any connexion with, or reference to, the principle upon which the original act was founded. It is but too well known, notwithstanding these salutary provisions, that counterfeit bank notes, of every denomination, are in daily circulation. I will ask, what would be the case if such laws had not been passed by the States? Sir, if it requires all our care to prevent an inundation from such bank paper, as is acknowledged to be genuine, for Heaven's

sake, do not risk the security of the people, by an indirect sanction of such as is known to be spurious.

I have often heard the constitutionality of a national bank defended, upon the ground of its being *absolutely necessary* to the fiscal operations of the General Government. A friend from New York, [Mr. Fisk,] said he "would demonstrate, that this institution was *indispensably necessary* to the fiscal concerns of the Government." I confess if he could do this, he would go far to remove an important difficulty. If there be higher authority, whereon to rely for his proofs, than the officer who is at the head of your Treasury Department, he might have succeeded; I pledge myself upon the statements of this officer to demonstrate, that this bank is not *even necessary*, for the fiscal operations of the Government. Upon this plea, it is attempted to be justified by the 17th article of the 8th section of the constitution of the United States, which gives to Congress the power "to make all laws which shall be necessary and proper for carrying into execution" the several specific powers delegated to Congress by the States. I never did doubt for a moment, the *convenience* of a bank, to the moneyed transactions of the Government. I was often induced to believe, that a bank, *sanctioned by the General Government*, was *necessary* for these purposes. I am now confirmed in a very different sentiment by the treasury report, made the third of January, 1811. In the 11th page of that report, we are told, it is one of the duties which are assigned to a clerk in the Treasurer's office, to keep a "bank cash book, wherein an account is opened with every bank in which the United States have money deposited. In 1798, the number of these were *five*; they are now augmented to *twenty*." The establishment, constituting the United States Bank, and its branches, consists, in all, of nine banks; consequently, by the statement just made, it is proved the Treasury Department has been doing business with *eleven* banks, other than those sanctioned by Congress. The same report states, that this business is transacted in all the banks upon precisely the same plan. We have never been told of any losses having been sustained in any of them. Why, then, pretend, that it is impossible to transact this business through the agency of the State banks, when we have the best authority for asserting, that this has been done already in a majority of cases, with the greatest success, facility, and certainty? That no advantages, which are peculiar, can be derived to the nation, from the United States Bank, as respects the collection of the revenue, the safe keeping of its specie, or the transmission of its moneys from place to place, will be made evident by the same excellent authority. It is there stated, that considerable sums, to the credit of the Government, are deposited in the State banks, even in cities where the mother bank and its branches are situated. On the 7th of January, 1811, very considerable sums belonging to the Government, remained in the Manhattan Bank of New York; the Bank of Pennsylvania, in Philadelphia; and the Bank of Columbia, in Georgetown, District of Columbia. As to the transmission of money, we are told in the same report, that the deposits in the Manhattan Bank arise from *collections of the revenue*, in the States of Rhode Island and Connecticut; and that those in the Bank of Pennsylvania, occur from the payments which are made for public lands, into the banks of Ohio and Kentucky; from these, it is transmitted to the branch bank of Pennsylvania, at Pittsburg, and thence it passes to the Bank of Pennsylvania, in the city of Philadelphia, where it remains subject to the drafts of the Treasurer. From this we perceive, that collections and transmissions of money, for the benefit of the Government, are made without the aid of the United States Bank, or its branches, and that through a considerable extent of country, from one extremity of the States to the other. After this, will any one pretend to urge the absolute necessity of the United States Bank?

It is said, all agree that *banks are necessary* for the collection of taxes; but that of the United States is not absolutely necessary for this purpose, since these operations can be, and have been performed for the General Government, by the State banks. Sir, I deny the position, and will maintain that for this purpose, no bank whatever is required. I will ask gentlemen who maintain this

doctrine, to name to me the banks which are employed to collect the taxes, which are levied by the States? I know of none, and I believe it impossible to point out a single instance, where the States make use of their agency.

Sir, I will for a moment permit myself to suppose, notwithstanding the well founded objections to the establishment of a bank under the authority of the General Government, Congress shall nevertheless deem it expedient to renew the charter of the present United States Bank, or establish, what some may fancifully reconcile to themselves, by the title of a national bank, it then becomes a question, how the States will receive the act? Whether they cannot render its provisions abortive? That many of the States are hostile to a bank, authorised by the General Government, is evident, from numerous facts; for proofs we may refer to the acts of the Georgia Legislature, by which, the bank capital of the branch at Savannah, was made liable to taxation: North Carolina has taxed the capital of her banks: the Legislature of New Jersey, passed but a single act at their last session; that was to levy a tax on bank capital. No one can pretend, that the disposition of Virginia or Maryland, is very favorable to a pretended national bank. I can state, upon the best authority, that it was a subject of consideration with the Legislature of Pennsylvania, during the last winter, to tax the capital of the mother bank in Philadelphia. They did not proceed, because they relied on the refusal of Congress to renew the present charter of the United States Bank. The taxation of the capital stock of this bank, is to be looked for on the part of the States in which the mother bank and its branches may be established; because, the States generally require a bonus, or in other words, they raise a tax from the banks, which they themselves have sanctioned; in many instances, the amount has been very considerable. We cannot suppose the States will hesitate to tax the United States Bank; because if they do, they will act unjustly towards such of their immediate citizens, as have invested their capitals in the stock of State banks; a partial taxation is contrary to the spirit and letter of our constitutions. The States having the right to tax the institutions, which you may sanction within their jurisdiction, they have it in their power to render inoperative the statutes which you may enact on this subject; they may tax to an amount, which shall equal the dividends arising upon the capital. Who can pretend, that banks will do business without the prospect of a handsome profit? Thus disposed, the States may place the United States in a very unpleasant situation. Let us avoid every possible source of discord. The General Government may be reduced to the dilemma, either to relinquish a pretended right, or to pay tribute to the States, to permit them to exercise an authority which is unquestionably an attribute of sovereign power. This would constitute an epoch in the political annals of our country. I hope such absurdities will not be committed; we may avoid them, by a strict compliance with the principles of the constitution of the United States.

JANUARY 18, 1811.

Mr. BURWELL's motion to strike out the first section, still depending:

Mr. P. B. PORTER spoke in favor of it, as follows:

Mr. CHAIRMAN: As this bank has excited so extraordinary an interest in every part of the United States, and particularly in the State which I have the honor to represent; as I am apprehensive, from what took place yesterday, that I shall be found, on this question, in opposition to a majority of my colleagues; and, (what will always be an imperative motive with me) as I think this bill aims a deadly blow at some of the best principles of the constitution, I feel it my duty to state to the House the grounds on which I shall be constrained to vote, for striking out the section now under consideration.

I acknowledge that I had not, until lately, paid any particular attention to the question of the constitutionality of this institution. I stand, therefore, in this respect, on safer ground than the respectable member from North Carolina, (Mr. MACON) for I have no reason to suspect myself of any long-rooted prejudices on the question. The Bank of the United States was established

at a time when I was not in the habit of troubling myself with such questions. I had been accustomed to think of it as an institution, the constitutionality of which was conceded by common consent. But, sir, when the question was again stirred, I felt it my duty to give it a thorough investigation before I should sanction it by my vote. I have given it, if not a thorough, at least a candid and impartial examination; and the result has been, a full conviction that we have no right to incorporate a bank upon the principles of the bill on the table; or, rather, upon the principles of the original charter, which this bill proposes to renew. The ground of my objection is, that it assumes the exercise of legislative powers which belong, exclusively, to the State Governments.

I shall not touch the question of the expediency of this bank, much less the expediency of banking generally. If I were competent, which I confess I am not, to the task, I should think it a very unprofitable one, to follow the gentleman through all the mazes of the banking system; a system, sir, about the various and important operations, and effects of which, on civil society, aside from a few obvious truths which it furnishes, I have found that those gentlemen who have professed to understand them best, have differed most. As I propose to confine myself to the constitutional question solely, I hope I shall be allowed to take a little broader range on this point, than has been taken by the gentlemen who have preceded me.

I am aware how ungracious constitutional objections to the powers of this House, are with those, (and there are many such) who believe that the powers of the Federal Government are, at best, too contracted, and who would be glad to see all the State rights merged and sunk into a consolidated government. Whatever may be my speculative opinions on this subject, I can never be influenced, by motives of expediency, to swerve from my allegiance to the constitution. This sentiment is indelibly fixed on my mind, and I trust it is a common one to the members of this committee, that, in adhering strictly to the obligation we have taken, to support the constitution of the United States, we not only perform a sacred duty to ourselves, but we render a better service to the real and permanent interests of our country, than we could possibly render by a departure from that obligation, even though that departure were to avert so serious a calamity as a general bankruptcy; a calamity, which, in order to alarm the timid, has been held out as the inevitable consequence of a refusal to renew this charter.

I should be surprised at the general acquiescence which seems to have been yielded to the constitutionality of this institution, did I not believe that others had been as superficial in their examination of the subject as I had myself. When objections are made to the constitutionality of a law, the people, in the cursory views which they are accustomed to take of such objects, are apt to adopt, as the tests of its constitutionality, the powers of the State and Federal Governments, collectively; and if they find nothing in the law offensive to the principles of civil liberty, nothing uncongenial with the spirit of a republican government, they rest satisfied, and do not trouble themselves with nice distinctions between the powers peculiar to the one or the other of these governments. Such reasoning would, however, ill become the sagacity of this House.

One of the most serious dangers with which our Government is threatened, and it is a danger growing out of the very nature and structure of the Government itself, consists in its tendency to produce collisions between State and Federal authorities. The Federal Government, as was observed by my learned colleague, (Mr. MITCHILL) is, *imperium in imperio*, a government within a government; and the misfortune is, that there exists no friendly third power to decide the controversies which may arise between these two great, independent, and, in many respects, rival authorities. The public peace must be kept, if kept at all, by the conciliatory dispositions of the parties themselves. As then, we have a common interest in the preservation of both these governments—as we are as well the subjects of the *imperio* as of the *imperium*, we ought to act with great circumspection and delicacy, in the assumption of pow-



ers which do not clearly belong to us. It is better to forego the exercise of powers to which we are entitled, if the exercise of them is not very important, rather than hazard the assumption of doubtful ones, the fatal consequences of which my honorable friend from Virginia, (Mr. BURWELL) has so justly deprecated.

The great line of demarcation between the powers of the State and Federal Governments, is well understood. The powers of the State Governments extend to the regulation of all their internal concerns, those of the Federal Government to the management of all our external relations—external, as regards the individual States, as well as the States in their collective capacity. The general ideas upon which our republic is founded, are these: that small territories are better adapted to the successful administration of justice than large ones. In a Republic, where the people are the sovereigns and source of power, it is important that, in order to enable them to execute this power discreetly, they should possess correct information in relation to the character and conduct of their rulers, and in relation, also, to the character of the measures which they pursue, or ought to pursue; and this information is better attained in a small than in a large territory. The individual States, have, therefore, reserved to themselves the exclusive right of regulating all their internal, and, as I may say, municipal concerns, in relation both to person and property. But a single State may be inadequate to its own protection against foreign violence; it may also be unable to enforce the observance of proper rules and regulations for carrying on its foreign trade and intercourse. The confederacy of the States is, therefore, formed for the purpose of attaining these two objects, namely, the regulation and protection of the trade and intercourse of the States with each other, and foreign nations, and their security against foreign invasion. It has some other objects in view of minor consequence, and immediately connected with these principal ones. The constitution of the United States is the basis of this confederacy, and it is only necessary to read the constitution to perceive that it is nothing more than a delegation of specific powers for these specific purposes, and that the general sovereignty of the States over their respective territories, is expressly retained by the States.

But, sir, independent of these specific powers and duties of the Federal Government, it has another and distinct set of powers and duties to perform and execute. The national domain, as it has been called, embracing the lands acquired by the revolutionary conflict, the lands since purchased of foreign nations, and the lands ceded by the several States to the General Government, belong to the United States, in their federate capacity; and no individual State, as such, has any claim to, or jurisdiction over them. As to these lands, the powers of the United States are sovereign, independent, and complete, and the Congress of the United States is the only legitimate authority for the exercise of this sovereignty. The powers of Congress, then, in relation to these territories, include the powers of both the Federal and State Governments, in relation to the States. I have adverted to this branch of the powers of the Federal Government, as a means of dispelling the obscurity which has been thrown over the constitutional question, to which I shall soon come, by confounding the powers of Congress over the States, with their powers over the Territories. Arguments, to which I shall have occasion to advert, in the course of my observations, have been used to justify the exercise of particular powers within the limits of the States, from our acknowledged right to, and practical exercise of, similar powers within the Territories.

In discussing constitutional questions, then, we may lay down these axioms—That in relation to the Territories, the powers of Congress are supreme and exclusive; that in relation to the State, they are specifically defined and limited by the constitution; and that we have no right to exercise, within the limits of a State, any power as resulting from the general rights of sovereignty; because that sovereignty belongs to the States and to the People, and not to the Federal Government. To show that these two last positions are correct, I will read the tenth article in amendment of the constitution: "The powers not delegated to the United States by the constitution, nor pro-

hibited by it to the States, are reserved to the States respectively, or the People."

As, then, the incorporation of this bank involves the exercise of legislative powers within the jurisdiction of the States, in relation to the rights of property between the citizens of those States; and as no power to incorporate a bank *eo nomine*, is to be found in the constitution, it would seem sufficient for us to rest the argument here, by a mere denial of the power; and to call on the advocates of the bank to show its constitutionality. An attempt to prove this constitutionality has been made; not, however, sir, by arguments advanced by gentlemen on the other side of the House in their places, (for they have, so far, observed, and I understand that they will continue to observe, a profound silence on this question,) but by arguments which have been gratuitously introduced, by the agent of the bank. I allude to the pamphlet, which has, within a few days past, been printed and distributed among the members, containing the celebrated argument of General Hamilton, on the constitutionality of a national bank. As that pamphlet is *de facto*, if not *de jure*, before the committee, I will, if the committee will indulge me, attempt to examine some of the principal arguments contained in it, and I will also notice some additional ones, advanced yesterday by my honorable friend and colleague on my left. (Mr. Fisk.) In the course of the observations which I have to submit, I shall, without doubt, repeat arguments and remarks made by the gentlemen who have preceded me, and others which are familiar to the members of the committee. My excuse must rest in the difficulty of taking a connected view of the subject, without such repetitions. If I shall be so fortunate as to throw a single new ray of light on this important question, I shall feel amply remunerated for my trouble, and I shall think the time of the committee not altogether misspent.

The first argument in this pamphlet, is founded on the *sovereignty* of the powers of Congress. The Federal Government is said to be sovereign, *as to all the objects for which that Government was instituted*. A sovereign power includes, by force of the term, a right to all the means applicable to the attainment of the ends for which that power is given; and therefore Congress may, in virtue of their sovereign power, create incorporations for attaining the ends or objects of those powers.

This argument is founded on what the logicians call *petitio principii*, or, *begging the question*. The proposition, that the Government is sovereign, is assumed, to prove that it possesses the attributes of sovereignty: or, in other words, the fact of sovereignty is assumed, to prove that sovereignty. If the position, that the powers of this Government are sovereign, as to all the objects of them, be proved, I will concede the consequence, to wit: that we have a right to establish corporations to attain those objects. But I deny the fact of sovereignty. The acts of Congress, it is said, are declared by the constitution, to be "the supreme law of the land;" and the power which can make the supreme law of the land, is, necessarily, a sovereign power. But I deny that this is a correct definition, or exposition of sovereignty. It is not the high nature of an act, nor the authority of the act, that stamps the character of sovereignty on him who performs it. The sheriff of a county, who puts a man to death, under the sentence of the law, executes an act of as high import and authority as human power can execute: and yet the sheriff of a county is not, *therefore*, a sovereign. His authority is a mere *delegated* authority: his act is a mere ministerial, mechanical act. The idea of sovereignty imports the exercise of discretion—of judgment—of will. It is of the very essence of sovereign power, that you may execute that power, or *not* execute it: that you may execute it *when* you will, and *how* you will. A sovereign power, as to any object, includes a right to *any* means, and *all* the means applicable to the attainment of the object. But, sir, do Congress possess *sovereign powers*; or, what is the same thing, *discretionary means*, as to the attainment of the objects of this Government? No, sir. The constitution is not a general authority to Congress to attain the objects for which the Government was established; but it is an enumeration of the particular powers, or means, by which, and by

which only, certain objects are to be accomplished. If the powers of Congress were sovereign, they would of necessity comprehend all the means applicable to the attainment of their objects; but, inasmuch as they are specific and circumscribed, that very circumstance proves that they are not sovereign. The People of the United States are the true sovereigns of this country. From them all power emanates, and on their will all the authority of this Government depends. The powers of the Federal Government are mere delegated chartered authorities; and in the exercise of them, we are tied down to the letter of the constitution. We have, to be sure, a certain latitude of discretion allowed us, within the letter and pale of the constitution; and, *so far*, we may be said to possess a sort of limited, qualified sovereignty. But the constitution is the standard by which to measure the quantum and extent of our sovereignty. And our sovereignty, which is the result of the powers given in the constitution, is not the standard by which to measure the constitution. The constitution is the *true* bed of Procrustes; and our sovereignty, however unwillingly we may yield it, must be the victim.

Another argument, which is rather an argument *to the favor*, than *to the right* of this bank, is, that it is an innocent institution; that although its erection involves the exercise of legislative powers within the States, it does not abridge nor affect the rights of the citizens, as secured to them by the laws of those States. A corporation, it is said, is a fiction of the law—a mere political transformation of a number of individuals from their natural into an artificial character, for the purpose of enabling them to do business to better advantage, and on a more extended scale: but, that, when this political association, this legal entity, is once formed, it becomes subject to the laws of the State in which it happens to be placed.

I know, sir, that there is nothing formidable in the abstract idea of a corporation. It is a mere phantom of the imagination; invisible, intangible, and, of course, innocent. But, sir, when the legal effects of this incorporation are, to invest the individuals whom it associates, with privileges and immunities to which they were not before entitled; when this legal fiction is interposed to shield certain individuals from the liabilities to which they would be subject as ordinary citizens, it then becomes a matter of important and serious consequence. What are some of the legal effects of this incorporation?

One of its most obvious and distinguished characteristics is, that it exempts the private property and persons of the stockholders from all liability for the payment of the debts of the company. By the laws of every State in the Union, every man is, I believe, liable for the payment of his debts, to the full amount of his private fortune; and, in case that fortune prove insufficient, his personal liberty is at the disposal of his creditor; at least, to a certain extent. Is not, then, the exemption from these liabilities an important immunity? Is it not an exclusive privilege secured to the stockholders of this bank? Assuredly it is. I know it has been said, that a number of individuals may, by a private association, secure to themselves all the advantages of an incorporated company; that, by forming a common fund or stock, upon which to do business, and issuing notes chargeable upon that fund, they may exonerate their persons and private property from all liability for the payment of the debts contracted in that business. I am no lawyer, sir; but if the law be, what it is said to be, and what I believe it to be, *summa ratio*, then I pronounce this doctrine not to be law: for nothing can be more preposterous in principle than to say, that a man may, by his own act, avoid the force of an obligation, which the law has made universal and unqualified. If a man owes a debt, acknowledges he owes it, and has received a consideration for it; the law has prescribed the nature and extent of his liability to pay it; and it is not for him to say that it shall only be paid out of a certain fund, or particular part of his property, and no other. When men contract a debt jointly, the legal obligation to pay it, extends as well to the persons and separate property of the individual partners, as to their joint property.

Another feature of this incorporation is, that it authorizes the stockholders to take usurious interest for their money. By the provisions of the law, the

bank may issue notes and make discounts to double the amount of their capital stock; and, in addition to that, to the amount of any moneys which may happen to be deposited in their vaults for safe keeping; and this, too, independent of the debts created by these deposits. The bank then may, and in fact, in many instances, does, draw an interest on three or four times its capital. Every State in the Union has laws regulating the rate of interest, and, in most of the States, this rate is fixed at six *per cent.* a year. By these laws, it is made penal for a man to receive more than six *per cent.* interest for the use of any sum of money, which, by a loan, he puts at hazard, and the use of which he deprives himself of. Now, sir, this bank is permitted, contrary to those laws, to draw an interest on twenty or thirty millions of dollars, when, in truth, the whole extent of its responsibility, the whole sum which it puts at hazard, and the use of which it foregoes, is only its original stock of ten millions. In answer to this, it will be said, that an individual may, by issuing notes to an amount greater than his property, legally receive an interest on a capital which he does not possess. But, it must be recollected, in case of the individual, that, although he may not, at the particular time, possess a property adequate to the payment of his debts, yet, that all the property which he may subsequently acquire, will be liable for the payment of those debts: And, what is more, sir, his personal liberty is always put in jeopardy. In this point of view, the liability and the hazard of the individual may fairly be said to be co-extensive with the whole amount of the capital on which he draws an interest; and which is often the case with the bank.

This bank incorporation possesses other qualities at war with the laws of the several States, one of which is, that it authorises stockholders, who may be foreigners, to hold real estate. But, sir, I will not detain the committee any longer on this part of the argument: for this institution cannot be said to be innocent, as regards the rights of the States, when its effects on the rights of property are to exonerate the stockholders from some of the most important responsibilities which the laws of the several States have provided for the payment of debts; and when it authorizes the taking of usurious interest. I lay it down, then, as a position which cannot be controverted, that the granting of this charter is not only an interference with the municipal regulations of the several States, in relation to the rights of property, but that it is an infraction of the rights of individuals as secured by those regulations.

But, it is contended, that a right to incorporate a bank of the United States is delegated to Congress by the constitution: and five or six different provisions of the constitution are referred to as giving this right. It is said, that it is implied in the power *to lay and collect taxes*—in the power *to borrow money*—in the power *to regulate trade and intercourse between the several States*—in the power *to provide for the general welfare*—and in the power *to make all needful rules and regulations respecting the territorial and other property of the United States*. The very circumstance of referring this right to many different heads of authority, is, in itself, conclusive evidence, that it has no very direct relation to any of them: for it can scarcely be imagined, that the single act of incorporating a bank, can be, at the same time, any thing like a direct execution of so many and such distinct and independent powers. But I will examine these provisions separately.

Before I proceed, however, I will premise, that all the arguments in support of the right to incorporate a bank, as deducible from the provisions of the constitution itself, are built up by the aid of the clause of the constitution, which has been sometimes called "the sweeping clause." I allude to the clause which declares that Congress shall have the right to pass all laws necessary and proper for the carrying into execution the delegated powers. All the powers in the constitution are given for certain ends or objects. But each power is not a *general* authority to attain a particular object, and comprehending, of course, *all* the means or powers applicable to its accomplishment; but, in most instances, it is a specific mean for effecting some particular end, and all other means or powers, (for means and powers are the same thing,) conducive

to the same end, are expressly excluded, by the restrictive clauses of the constitution.

The mode of reasoning adopted by General Hamilton, and the other advocates of implied powers, is this: They first search for the end or object for which a particular power is given; and this object will be an immediate or ultimate one, as may best suit the purpose of the argument. Having ascertained the end or object, they abandon the power; or, rather, they confound the *power* and the *object* of it together, and make the attainment of the object, and the execution of the power given to accomplish it, convertible terms. Whatever, they say, attains the object for which any power is given, is an execution of that power. But the constitution gives to Congress a right to make all laws necessary and proper for carrying into execution the delegated powers: and, therefore, as the execution of a power, and the attainment of its object, are synonymous terms, the constitution gives to Congress a right to make all laws necessary and proper for *attaining the ends or objects* for which the various powers in the constitution are given.

I beg leave to read a passage from this pamphlet: "The relation between the *measure* and the *end*; between the *nature* of the *mean* employed towards the execution of a power, and the *object*; must be the criterion of constitutionality." Here, then, is the axiom: Now for the application of it. The constitution gives to Congress the power to levy taxes, and also the power to borrow money. But the establishment of a bank is neither levying taxes nor borrowing money; nor is the *law* incorporating the bank, a *law* to levy taxes, or a *law* to borrow money. But the immediate end or object, for which these two powers were given, was, to enable the Government to raise a revenue; and a bank may promote this object. Then, sir, by a dexterous application of the argument which I have stated, the fallacy of which consists in the sudden and unobserved transitions which are made from the power to the object, and from the object back again to the power, they prove that the establishment of a bank is in execution of the powers to lay taxes and to borrow money. I will now, sir, proceed to examine the particular provisions of the constitution which have been relied on, and to place the subject in some different aspects.

In the first place, then, it is contended that the right to incorporate a bank of the United States, is included in the power to *lay and collect taxes*. And how is the argument by which this position is maintained? Why, sir, it is said that the law, by creating bank paper, and making that paper receivable in payment for taxes, increases the circulating medium in which taxes are paid, and, of course, must facilitate the payment of them: that whatever facilitates the payment of taxes, facilitates also the collection of them; and whatever aids or facilitates the collection of taxes, is a *means* for their collection. And, *therefore*, the incorporation of a bank is in execution of the power to lay and collect taxes.

No man, sir, ought to complain of the weakness of a government, whose powers may be *reasoned up* by logic like this. Amidst the infinite variety of relations, and connexions, and dependencies, and analogies, by which all human transactions are allied to each other, he must be a weak politician who cannot, by *hooking* together a chain of implication like this, justify any and every measure of political policy or economy, as a *means* of executing some of the powers with which this Government is intrusted. Take this latitude of implication or construction, and you want no other power but the power to lay and collect taxes. It may be tortured into a justification of every measure which ambition itself could desire. No tyrant ever made a law without assigning the *public good* as the motive of it. No man on this floor, however wicked his designs, would venture to propose a measure, (indeed few could be proposed) in favor of which he could not adduce some plausible argument, to shew that it would *tend to promote the general prosperity of the country*. And in showing this, he would show its constitutionality; for it is demonstrable, that whatever would promote the general prosperity of the country, would, and for that very reason, facilitate, in some greater or less degree, the

payment of taxes; and might, therefore, be justified as a means for the collection of taxes.

But, sir, the constitution, as I have said before, and I must repeat it again—for this is the radical source of all the error on this subject—the constitution of the United States is not, as such reasoning supposes it to be, a mere general designation of the ends or objects for which the Federal Government was established; and leaving to Congress a discretion as to the means or powers by which those ends shall be brought about. But the constitution is a specification of the powers or means themselves by which certain objects are to be accomplished. The powers of the constitution, carried into execution according to the strict terms and import of them, are the appropriate means, and the *only* means within the reach of this Government, for the attainment of its ends. It is true, as the constitution declares, and it would be equally true if the constitution did not declare it, that Congress have a right to pass all laws necessary and proper for executing the delegated powers: but this gives no latitude of discretion in the selection of means or powers. A power given to Congress in its legislative capacity, without the right to pass laws to execute it, would be nugatory; would be no power at all: it would be a solecism in language to call it a power. A power to lay and collect taxes, carries with it a right to make laws for that purpose; but they must be laws *to lay and collect taxes*, and not laws *to incorporate banks*. If you undertake to justify a law under a particular power, you must show the incidental and applicability of the law to the power itself, and not merely its relation to any supposed end which is to be accomplished by its exercise. You must show that the plain, direct, ostensible, primary object and tendency of your law is to execute the power, and not that it will tend to facilitate the execution of it. It is not less absurd than it is dangerous, first, to assume some great, distinct, and independent power, unknown to the constitution, and violating the rights of the States; and, then, to attempt to justify it, by a reference to some remote, indirect, collateral tendency, which the exercise of it may have towards facilitating the execution of some known and acknowledged power. This word *facilitate*, has become a very fashionable word in the construction of powers; but, sir, it is a dangerous one; it means more than we are aware of. *To do a thing, and to facilitate the doing of it*, are distinct operations; they are distinct means; they are distinct powers. The constitution has expressly given to Congress, the power to do certain things; and it has, as explicitly, withheld from them the power to do every other thing. The power to lay and collect taxes is one thing; and the power to establish banks, involving in its exercise the regulation of the internal domestic economy of the States, is another and totally distinct thing; and the one is therefore not included in the other.

Again, sir, it is contended that the right to incorporate a bank is implied in the power to regulate trade and intercourse between the several States. It is said to be so, inasmuch as it creates a paper currency, which furnishes a convenient and common circulating medium of trade between the several States. Money, sir, has nothing more to do with trade, than that it furnishes a medium or representative of the value of the articles employed in trade. The only office of bank bills is to represent money. Now, if it be a regulation of trade, to create the representative of the representative of the articles or subjects of trade, *a fortiori*, will it be a regulation of trade to create the articles or subjects themselves. By this reasoning, then, you may justify the right of Congress to establish manufacturing and agricultural companies within the several States; because the direct object and effect of these would be, to increase manufactures and agricultural products, which are the known and common subjects of trade. You might, with more propriety say, that, under the power to regulate trade between the States, we have a right to incorporate canal companies; because canals would tend directly to open, facilitate, and encourage trade and intercourse between the several States; and, in my humble opinion, sir, canals would furnish a much more salutary, direct, and efficacious means, for enabling the great body of the people to pay their taxes,



than is furnished by banks. But, sir, these various powers have never been claimed by the Federal Government; and, much as I am known to favor that particular species of internal improvement, I would never vote to incorporate a company for the purpose of opening a canal through any State, without first obtaining the consent of that State, whose territorial rights would be affected by it. There can be no question, but canal companies, and agricultural companies, and manufacturing companies, and *banking* companies may all tend, more or less, to facilitate the operations of trade; but they have nothing to do with the political regulations of trade: and *such* only come within the scope of the powers of Congress.

But, it is again said, that the right to grant this charter, is included in the power to borrow money. The right is attempted to be deduced by a train of reasoning similar to that employed in relation to the provisions which I have already noticed. By forming a string of implications, by which you prove that a power to act in certain cases, and in relation to certain subjects, implies the power to create those cases and subjects to act upon. The Government, it is said, may want, and *must have money*, in any great national crisis. A national bank, with an extensive capital, will furnish ample means for loans; will facilitate the exercise of the power to borrow; and, *therefore*, the right to establish such a bank, is *implied* in the power to borrow. No one, but a logician, sir, would imagine that a power to lend, and a power to borrow, had any relation to each other, much less could he conjecture, that a power to borrow, and a power to create the ability to lend, mean the same thing. A plain unsophisticated man, on reading the constitution, would say, that the power to borrow, necessarily and by force of the term, pre-supposed the existence of the ability, and the disposition to lend; and that it could not be exercised unless such ability and disposition should actually exist. But the favorite doctrine is, that all powers are given for particular ends, and include all the means applicable to their attainment. Here the end is to borrow money; to borrow *honestly* if we can, but, TO BORROW. The ability to lend is a necessary means or ingredient toward perfecting the execution of the power to borrow. But, sir, let me ask, whether the *disposition* to lend be not as necessary a mean towards accomplishing a loan as the ability? It unquestionably is. And, of course, by the doctrine that the end justifies the means, you may coerce the will to lend; and this, too, equally, in cases where the ability is created by Congress, and where it is derived from any other quarter. A loan obtained by bringing into fair operation all the implications of this power, would be borrowing in an off-hand style. Such a loan, if effected by Bonaparte, we should call robbery. But in this mild Republic, it would be nothing more than the fair exercise of an *implied* constitutional power.

I have pursued this argument thus far, merely for the purpose of showing the absurdities into which this doctrine of implication will lead us. But, suppose, sir, that the argument of the gentlemen on the other side of the question be correct, as far only as they have carried it, to wit: that the power to borrow, implies a right to furnish the ability to lend. What, I would ask, is the probable fact, as to the facilities which *this* bank will afford the Government in borrowing?

It will be conceded that we shall have no occasion for borrowing, except in case of a war; and if we have a war, the probability is, that that war will be with Great Britain. I say this, not as a party man, sir, but because the interests of that nation, from her situation, and her rival pursuits, will be much more likely to come in collision with ours, than those of any other power. Now, it is a fact, in evidence before the committee, that more than one-half of the stock of this bank belongs to British subjects; and although, as foreigners, they can have no direct agency in the affairs of the bank, yet we well know, that, through the instrumentality of their friends and agents, of whom there are, unfortunately, too many in this country, they may completely control its operations. Now, I would ask, whether it is probable, that British subjects would be willing to lend us money to carry on war against their sovereign? Would they not, on the contrary, exert the immense influence which they are

said to possess over the moneyed interests of this country, for the purpose of depressing the credit of the country? for the purpose of crippling the operations of the State banks? and for the purpose of drying up the sources from which the Government might otherwise calculate to derive supplies? But, sir, this has little to do with the question of constitutionality, to which I will again return.

Another ground upon which the constitutionality of this institution has been attempted to be supported, is, that it is necessary to the regular and successful administration of the finances. There is no question, but this bank, and its branches, afford convenient places for the deposit and safe keeping of the public revenue. It is not to be controverted that they also furnish a safe, convenient, expeditious, and cheap means for the transmission of moneys from one part of the United States to another, as they may be wanted by the Government. And if these facilities were not to be attained in any other way, I should say it would afford an argument in favor of a bank; not a bank infringing and violating the rights of the States; but, a bank upon principles consistent with those rights.

But, sir, is there not, in every State in which there is a branch of the United States Bank, also one or more State banks, of equal respectability, and of equal security; at least to the extent of any sum for which they are willing to undertake? These State banks may be used as depositories for the public moneys, and they will be equally safe and convenient. And, if you will give to these State banks the *advantages* of these depositories, as you have hitherto given them to the United States Bank, they will furnish means for the transmission of moneys from place to place, equally safe, convenient, cheap, and expeditious. This object will be attained by connexions which will be formed between the banks of the different States. Such connexions have already, in many instances, been formed. But, they have not been carried to the extent they otherwise would have been, on account of the United States Bank and its branches; between which, there is so intimate and so necessary a connexion.

But, in answer to this, it is said that, if the Bank of the United States would be constitutional without the existence of the State banks, it is equally so *with*. That a power which is once constitutional, is equally so at all times, and under all circumstances. That a right which must depend for its existence on the will of the State Legislatures, over whom we have no control, is incomplete, and, indeed, as to us, is no right at all. This argument is founded on the supposition, that the Federal Government is a complete Government, containing in itself all the principles and powers necessary for its own operations; which supposition is wholly false. The Federal Government does not profess to be complete in itself. It is expressly predicated on the existence of the State Governments; and most of the facilities for its exercise are derived from the State Governments. It cannot perform even its own peculiar powers and functions, without the aid and co-operation of the State authorities. How, let me ask you, sir, is your Government constituted? Your Senate is appointed *directly* by the State Legislatures. Your President and House of Representatives, *indirectly*, by the same authority. Suppose they should neglect or refuse to make these appointments, can you compel them to do it? No, sir. Can you punish them for not doing it? Not in the least. They may appoint, or not, as they think proper; and if they should neglect, or refuse to do it, your boasted *complete* Government would die a natural death, by its own imbecility. It is not fair, then, to say that a power is constitutional, because the Government would be incomplete without it. It is not fair to say, that what would be constitutional, without the existence of the State Governments, and their appendages, is equally so *with*. This would prove that you have a right to appoint your own President, Senate, and House of Representatives. It would go to usurp all the powers of the State Governments: for the Government could not be said to be complete, without possessing the powers of both Governments combined. Indeed, this Federal Government cannot be said to be complete, as to a single power, without all the auxiliary powers of the State Governments: for there is not a single act which it can

perform without their assistance, directly or indirectly. The very bank law now under consideration, is an illustration of this: for how are the provisions of this law to be enforced; how are the debts which it authorizes to be contracted, to be collected, but through the medium of the State courts? The doctrine of perfect rights, then, if it prove any thing, proves too much. If it proves that, in order to manage your revenues, you may establish banks within the States, it equally proves, that, in order to carry the provisions of your bank laws into execution, you may establish courts and offices within the States for that purpose. I think, then, sir, I may fairly conclude, that, so long as the State Governments furnish you with all the facilities which you can reasonably require, for conducting your revenues by means of their State banks; so long, it will be unnecessary; so long, it will be improper; and, *therefore*, so long, it will be unconstitutional, to invade the jurisdiction of the States, to establish national banks.

Again: The constitutionality of the bank has been attempted to be maintained, by a reference to the phrase in the constitution, in relation to the power of Congress to provide for the general welfare. I will read the clause in which this phrase is contained: "The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States." This clause has been erroneously construed by some, to contain a successive delegation of three or four distinct powers, to wit: a power to lay taxes; a power to pay the debts; a power to provide for the common defence and general welfare. If, then, it is said, Congress have power to provide for the general welfare, they may choose the means, which are here not made specific, but left discretionary, for the attainment of that object: and if, in their opinion, a national bank will conduce to that object, they have a right to establish a national bank. But, sir, this is a total misconception of the meaning of this clause of the constitution. Instead of three or four distinct grants of power, this clause contains but one grant of power, namely, the power to raise money by taxes, &c. and all the subsequent parts of the clause, are a mere limitation of this power to raise money; or a specification of the purposes for which money may be collected. That this is not a general authority to Congress to provide for the common defence and general welfare, is instantly discovered by a comparison of this clause with the subsequent part of this section, which consists of a list, or enumeration of the specific means or powers, by which Congress may provide for the common defence and general welfare. And it would be unnecessary and absurd in itself, as well as repugnant to the whole spirit and character of this constitution, to give, first, a general power, and then to delegate specific powers, all comprehended in the general one. Although I do not think there is any ambiguity in this clause, as it now stands, yet, its meaning might, perhaps, be rendered more perspicuous and definite, by altering the phraseology so as to read in this way: "Congress shall have power to lay and collect taxes, duties, imposts and excise, *for the purpose of paying the debt, and providing for the common defence and general welfare of the United States*; but, (going on again, sir, with a further qualification of the same power to raise money) all duties, imposts and excise, shall be uniform throughout the United States." This, then, is merely a right to raise revenue; and, so far as regards the *objects* for which revenue may be raised, the powers of Congress are discretionary; provided those objects come within the description of providing for the common defence and general welfare. But, so far as regards the *means* by which these revenues, when collected, shall be applied to their destined objects, we must look to the powers of Congress, as defined and limited in the subsequent parts of this section. In other words, this clause gives plenary powers *to raise money*; but it gives no powers, I should say *political* powers, in relation to its application and expenditure. The powers of Congress over the money, when collected, in reference to its expenditure, would be the same which an individual possesses over his private property; powers resulting from the nature of property, and, as regulated by the laws of the State in which it might happen to be situated. I will illustrate my idea by a

case. Suppose the constitution had given to Congress the power to raise a million of dollars, to provide for a national university. Would it thence follow, that we might go into the State of North Carolina, and take your property—property secured to you by the laws of this State—to make this establishment upon? Could we take the public property of that State for this purpose? To both of these questions, every man, who understands any thing of the constitution, will promptly answer, no. This power, then, to raise money, for the purpose of establishing a national university, is only a power to raise money; and, for the means of applying it, we must search for our power in other parts of the constitution. On doing this, we should find that we must erect the university either in the District of Columbia, or in one of the territories over which we have exclusive jurisdiction, or in case we should choose to erect it within the limits of a particular State, we must first not only purchase the land, but obtain a cession of the jurisdiction from the State Government. The phrase of *providing for the general welfare*, then, is a mere qualification of the power to levy taxes, and can give no authority in relation to banks.

There is one more, and I believe but one more, provision in the constitution, which is relied on as authorizing the establishment of this bank. It is this: "Congress shall have a right to dispose of and make all needful rules and regulations respecting the territory, or other property belonging to the United States." It is said that, in virtue of this provision, Congress have established the territorial Governments, which are corporations of the highest and most extensive nature, exercising political powers over the person, as well as the property of citizens of the United States; and that no complaint has been made, that Congress has exceeded its authority in this particular. Why may we not, then, it is asked, establish corporations to regulate and manage the personal property of the United States, which is coupled in the constitution with the territorial property? The fallacy of this argument consists in not marking the distinction which exists in these two species of property, and the consequent powers of the Government over them. The property which the United States possess in the territorial lands, is not a mere right of soil, a mere *usu fructus*; but it also includes the right of jurisdiction and sovereignty. It is in virtue of this right of jurisdiction, of those sovereign plenary and exclusive powers over the territories, which I noticed in a former part of my observations, that these corporations or territorial Governments have been established. On the other hand, our revenues are not only personal property, but a qualified property. They are collected for certain objects, and are subject *in transitu* to the local jurisdictions. This argument, then, which is founded on an analogy that does not exist, must fall with the analogy that supports it.

But, Mr. Chairman, my honorable friend [Mr. FISK] has advanced a new argument in support of the constitutionality of this bank; an argument, not deduced from the provisions of the constitution itself, but founded on *prescription*. He tells us that this bank was originally incorporated by a Congress fully competent and qualified to decide on its constitutionality; that its existence is almost coeval with the Government; that it has been countenanced by all succeeding administrations; that laws have been passed to enforce the provisions of the original charter; and, therefore, the constitutional question must be considered as settled, adjudicated, and at rest.

Whatever may be the opinion of the gentlemen of the *long robe*, I cannot, for myself, yield to this doctrine of *prescriptive* constitutional rights. It may answer in England, where they have no constitution; or where, rather, as they choose to explain it, immemorial usage, or prescription, are evidence of what their constitution is. It may do in Connecticut—(it is not my design to derogate from the respectability of that State, nor of its institutions)—it may be good doctrine in Connecticut, where ancient custom and *steady habits* ARE their constitution. But, sir, such doctrine should never be tolerated in this House, where every member has a *printed constitution* on his table before him; a constitution drawn up with the greatest care and deliberation; with

the utmost attention to perspicuity and precision: a constitution, the injunctions of which, as we, in our best judgments shall understand them, and not as they shall be interpreted to us by others, we are solemnly bound, by our oaths, to obey.

It is true, that this bank was originally established by a Congress competent to judge of its constitutionality. It is equally true, that a respectable minority of that Congress opposed the passage of the law, on the ground of its unconstitutionality; and, if I have been rightly informed, it is also true, that the *then* President, General Washington, in giving his sanction to that law, did it with more doubt and hesitation than almost any other act of his administration. It is true, that subsequent Congresses, of different political complexions, have passed laws enforcing the provisions of the original charter; and that no attempts have been made to repeal it. But, it is equally true, that all this might be done with the most perfect propriety and consistency, although they totally disbelieved in its constitutionality. I need not state to this House, that this is not a law in the ordinary course of legislation; a law prescribing a common rule of conduct for the government of the citizens of the United States at large; liable to be repealed at any time; and the obligations of which would cease with its repeal. This, sir, is not the nature of the law; but it is a law in the nature of a contract between the Government and certain individuals, and the existence of it was extended to twenty years. The moment this contract was made, and its operations commenced, private rights were vested; and it would have been a breach of national faith to have repealed it. The original Congress had the same right that we have to judge of the constitutionality of a law; and having, under that right, passed this law, or made this contract, we are bound to carry it, *as a contract*, into execution. As a contract, every successive Congress, of whatever materials composed, is one party to it; and it is well known that a party cannot violate the obligations of his own contract; but, on the contrary, is bound to carry them into effect. It was competent in the State Governments to have opposed the execution of this law, on the ground of its unconstitutionality; but, perhaps, under all circumstances, they acted a wise and discreet part, in not attempting it. The national faith was pledged in the passage of this law. The national credit, which it was, at that time, and which, indeed, it is at all times, of the first importance to support, was at stake on the faithful execution of this contract; and it was better to suffer for twenty years, under an unconstitutional law, rather than to attempt so violent a remedy—a remedy which would have crippled the credit of the nation in its infancy.

But, sir, because these were proper considerations with our predecessors and the States, to suffer the continuance of this law, does it follow, that *now*, when that law has expired by its own limitation; when the obligations of that contract are complied with and discharged; when the national faith is emancipated, that they are motives for us to make a new unconstitutional contract? No, sir. The question now is a question *de novo*. It is a question of conscience in the interpretation of the letter and spirit of the constitution, unembarrassed by any collateral considerations; and as such, I shall feel bound to vote upon it. It is the province of the executive and judicial departments to explain and direct the practical operation of each particular law; and I must submit to the decisions. But the commentaries of courts are not to furnish the principles upon which I am afterwards to legislate. It is to *this book*, (the constitution) so justly dear to us all, and not to the books of reports, that we must look, as a guide, to direct us in the path of our oath and our duty.

I believe, sir, that I have gone through, lamely I know, but I hope intelligibly, with the examination of all the principal arguments that have been advanced in support of the constitutionality of this law. Having already occupied so much time, I will detain the committee but a few moments longer.

If the views which I have taken of the subject are correct, these positions may be considered established. First, that we have no right to incorporate a bank, unless that right be delegated by the constitution: for such is the declaration of the constitution itself. Secondly, that if this right be given by the

constitution, it is included in some of the provisions upon which I have been commenting.

The only question, then, as relates to the constitution, is, whether we shall, by the passage of this bill, recognise the doctrine of implied or constructive powers. Before we do this, I must treat every member of the committee to examine well the consequences of such a recognition. This is not a question about the utility or inutility of a bank; but it is a great question of constitutional principle. It is, whether we shall consider this Government as the servant and instrument of the people for managing and protecting their rights, and subject, at all times, to their control; or, whether we shall make it a giant, capable of crushing its masters? A moment's careful attention to this subject will show us that the doctrine of implied or constructive powers, as contended for in this case, is nothing more nor less than the doctrine of general expediency; and that, once established, it will warrant Congress in the adoption of any measure not expressly prohibited by the constitution.

The great ends or purposes of our Government are, the liberty, the security, and the happiness, of the people. The raising and management of revenue; the establishment and support of armies; the institution of courts of justice; and the regulation of trade and intercourse between the States and foreign nations, are some of the great means or instruments by which these results are finally produced. There is a natural and intimate connexion and coincidence between all these great measures or powers of government; they are expressly calculated to aid and assist each other in their operations, and, in fact, form different parts only of one great political machine; every possible measure of civil policy is *expedient* exactly in proportion to its fitness or tendency to promote the combined operation of these great causes or instruments of human happiness and security. But, sir, by the doctrine of implied powers, the *constitutionality* of every measure is *also* made to depend on its tendency or fitness to promote the final objects for which these various powers are given; and thus resolves itself into a question of expediency. From the view we have taken of the arguments in support of the right to incorporate this bank, we perceive that its constitutionality is not made to depend on the peculiar applicability of the measure to any particular power in the constitution: for it is equally applicable to half a dozen different powers; but its constitutionality is made to depend on its general tendency to promote the ultimate objects for which these different powers were given. In other words, it is made to depend on its expediency. We speak of implied powers as innocent things—as matters of course. But the idea of express constitutional powers, and implied constitutional powers, gives us the exact definitions of limited and arbitrary Governments. The final object of both these Governments is the same—the happiness of the people. The only difference between them is, that in the one case the powers or means by which this end is attained, or intended to be attained, are limited and defined; in the other, they rest on the discretion or will of the despot—they are all, with him, questions of expediency.

There is another point of view in which, this subject may be placed; and in which, it seems to me impossible for the strongest advocates of implied powers to reconcile the passage of this bill. It will not be denied, that the constitution contemplates the existence of two distinct sets of powers—the one in the State Governments, and the other in the Federal Government: that there are certain powers which may be said to belong *peculiarly* and *exclusively* to the State Governments; and certain other powers which may be said to belong *peculiarly* and *exclusively* to the Federal Government. Now, sir, if there be any power which can be said to belong peculiarly and exclusively to the State Governments, it is, in my humble apprehension, the very power of erecting the corporations for the purpose of carrying on moneyed or other operations; connected immediately, necessarily and inseparably with the internal political economy of the State: it is the power of regulating the rights and relations of property between citizen and citizen of the same State: it is the power of erecting a banking company, in order to facilitate and direct the daily and ordinary operations of trade and industry among the citizens of the same



State. Although, then, I say, the power of incorporating a bank might, at first, seem to be implied in some of the powers of the Federal constitution; yet, when we see that, in its exercise, it goes to obliterate and destroy the great characteristic feature of distributive power in this Republic; when we see that, in its execution, it obtrudes and ramifies itself into all the transactions of domestic economy, which are the peculiar subjects of local or State regulation, we ought, *on that account*, to reject it.

But, sir, I will conclude by again cautioning my republican friends, and my worthy colleague in particular, to beware how they familiarise themselves with this doctrine of constructive power. It is a creed, at war with the vital principles of political liberty. The pride and the boast of the American Governments is, that they are the governments of the *laws* and not of *men*—that they are the regular and necessary operations and results of principles and powers, established in the moments of cool and deliberate reflection, by the combined wisdom of the nation; and that they are *not* the effects of the momentary passion, pride, interest, whim or caprice, of a few individuals collected on this floor.

Little did the framers of this constitution, when they were so nicely adjusting and balancing its various provisions; when they were so carefully erecting guards and barriers against the encroachments of power and ambition—Little, I say, sir, did they imagine, that there lay concealed under the provisions of this constitution, a secret and sleeping power, which could, in a moment, prostrate all their labors with the dust. Still less, sir, did the people when they adopted this constitution, with even more caution and scruple than that with which it was formed, conjecture that they were signing the death warrant of all their State rights. But, once adopt the doctrine that you may travel out of the letter of this constitution, and assume powers, *merely* on the ground that they will *tend to facilitate* the execution of powers which are here given; and you compass, at a single sweep, all the rights of the States; and form the basis of a consolidated government. Let the principle of constructive or implied powers be once established, in the extent to which it must be carried, in order to pass this bill, and you will have planted in the bosom of this constitution a viper, which, one day or other, will sting the liberties of this country to the heart.

The question was then taken on striking out the first section, and carried, 59 to 46. Whereupon Mr. ALSTON reported the said amendment to the House.

JANUARY 19, 1811.

Mr. LOVE, this day, offered the following resolution:

*Resolved*, That it is expedient to repeal so much of an act passed the 10th day of May, 1800, as makes it the duty of certain collectors to deposit, for collection, in the bank of the United States or any of its branches, the bonds taken by them for the payment of duties; and, that it be expedient to provide that the bonds or money, now deposited in the said bank or its branches, may be withdrawn.

The said resolution was read and ordered to lie on the table.

FEBRUARY 12, 1811.

The following proceedings took place:

Mr. LOVE moved that the House do proceed to consider the said resolution. And, the question being taken thereon, it was determined in the negative.

[See Journals of the House of the above dates.]

The Committee of the Whole, having reported to the House, that they had agreed to strike out the first section of the bill.

Mr. FISK moved that the report of the said committee should lie on the table. This was disagreed to by a vote of 57 to 46.

The House then proceeded to consider the report of the Committee of the Whole.

Mr. DESHA spoke in favor of the report: Mr. PICKMAN, against it: Mr. W. ALSTON, in favor of the report, but also in favor of a national bank, on the ground of constitutionality; and Mr. KEY concluded the debate of this day, in a speech against the report.

The several speeches are inserted in their order, as follows:

Mr. DESHA. Mr. Speaker: the question is on a concurrence with the Committee of the Whole, in striking out the first section of the bill that contemplates a renewal of the charter of the Bank of the United States; or, in other words, whether we will foster a viper in the bosom of our country, that will spread its deadly venom over the land, and finally affect the vitals of your republican institutions; or, whether we will, as it is our duty, apply the proper antidote, by a refusal to renew the charter, thereby checking the cankered poison, the importation and dissemination of foreign influence that has already brought our Government almost to the brink of ruin. Sir, I am opposed to the renewal of the charter on constitutional grounds, as well as on the score of expediency. I view it as being directly at war with not only the letter, but the spirit of the constitution, and replete with principles incompatible with republicanism. As to the constitutionality, the ground that I intended to have occupied, was taken from me by the gentleman from New York, who spoke yesterday, (Mr. PORTER) and I will say ably managed. The points he made, I consider incontrovertible, and the arguments deduced from them, unanswerable; consequently, as I deem the constitutional question nearly exhausted, I shall but barely touch upon it.

The States, sir, from the time they determined to be free, were particularly guarded against the adoption of any measure that could, in the most remote degree, lead to aristocracy or consolidation. Let gentlemen examine that instrument—the pledge of union; I mean the articles of confederation. They will find it couched in cautious language; they will find that the framers of that instrument, were particularly guarded against vesting powers in the General Government, that could, in the most distant manner, place their rights and liberties in jeopardy; they, no doubt, viewed large moneyed institutions, like the one under consideration, as moneyed aristocracies which might, with their different ramifications, jeopardize liberty, by imperceptibly gliding into consolidation. A power expressly given to the General Government to grant charters of incorporation will not be found in the articles of confederation; and if gentlemen will cast their eyes over the second article of that instrument, they will find it expressly provides, that each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not, by the articles of confederation, expressly delegated to the United States in Congress assembled. This, sir, I show to prove, that, from the time the States determined to shake off the shackles of despotism, the power of granting charters of incorporation was never intended to be given to the General Government.

Sir, those gentlemen who are the advocates of this measure will not pretend, that the power to grant charters is expressly given by the constitution, and, sir, they must be well apprised that such a power was never intended to be given. This fact ought not to be lost sight of. Did not Mr. Madison urge, in energetic language, in 1791, on the floor of Congress, that the power to grant charters of incorporation was in the original plan, reported by the committee to the convention among the enumerated powers delegated in the eighth section of the first article of the constitution, but, that after three days' deliberation and ardent debate, it was expunged, as a power, dangerous and improper to be vested in the General Government? It is on remote constructive powers, that gentlemen must bottom this measure; and in my mind, there they are cut short by the 10th article of the amendment to the constitution of the United States, where it expressly provides, that "the powers not

delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the People." Are not those prohibitory words strongly and clearly expressed? Sir, I defy gentlemen to lay their finger on any clause of the constitution that would justify the granting monopolies or exclusive privileges. No, sir, it cannot be done, unless they lay hold of the horrid doctrine of implication—a doctrine as absurd as it is dangerous, particularly when you have a specific instrument for your guide, and one which you have taken a solemn obligation to support inviolate. I had hoped that the doctrine of implied powers, had long since been exploded. Ever since the reign of terror; ever since the federal gentlemen, under the head of constructive powers, adopted the alien and sedition laws, the People of the United States, in whom the powers of Government rightfully rest, signified their disapprobation of the doctrine of implication, in forcible language, by hurling the then majority out of power. Sir, if you subscribe to this doctrine, the barriers of your constitution are broken down; it will ultimately become a dead letter; you will have nothing to restrain you. But, say gentlemen, our predecessors have said it was constitutional; they were men of wisdom and solemnly passed upon it as being within the pale of the constitution. Sir, I acknowledge they were men of wisdom, and perhaps actuated by the purest of motives: but they were men; consequently, fallible, and liable to err; and in my mind, they did err most egregiously. And am I to take for granted what they have done, without examining and judging for myself, particularly when I am acting under the solemnity of an oath? No, sir, while I have the honor of a seat on this floor, and any measure is about to be adopted which, in my opinion, conflicts with that instrument that I am sworn to support, I will raise my voice against it, and if possible, check its progress.

But, sir, we are gravely told, that it is expedient to renew the charter of the Bank of the United States, inasmuch as the evils arising to Government and individuals would be desperate on its being suffered to expire; therefore, it was constitutional. Then, sir, we are to understand expediency and constitutionality to be synonymous terms; then, if that is the fact, the constitution is a nullity in itself; Congress has nothing to restrain them but their judgment. They are fully at liberty to adopt any measure they may think proper under the sweeping clause of providing for the common defence and general welfare.

Sir, much confidence as I have in Congress, after witnessing the fluctuations and vibrations that have passed in review for several sessions past, I am afraid your republican Government would be prostrated; your liberties would be shortly at an end. Gentlemen talk of republicanism; they say they are real Americans in principle, and would go any length that was necessary in defending our rights against oppression; and, sir, at the same time are doing the very thing our lasting and inveterate enemy, Britain, would wish them to do; and the very thing, if adopted, that will strengthen her power and inevitably accelerate the dissolution of Government. What did that able statesman say, who, with some gentlemen, have been considered almost oracular? I mean, sir, William Pitt; speaking of the American policy—"let them adopt their funding system and go into their banking institutions, and their independence is a mere phantom." Sir, keep close to your chartered authorities, or the most direful evils await you. If you are at liberty to twist that instrument on which the perpetuity of your civil liberty depends, into any shape the caprice of party may think proper, you may calculate on your boasted institutions being of but short duration. If your constitution is defective, amend it. The manner is pointed out, and which is certainly much safer than to slide into the dangerous doctrine of implication. If you can multiply and link together remote implications, you may, from the same parity of reasoning, take in every object of legislation that comes within the whole scope of the political sphere.

Sir, it is not only astonishing, but painful, to behold gentlemen who, on former occasions, were loud against the doctrine of constructive powers, now its

warmest advocates. They come forward with the greatest ardor imaginable, in support of a measure that has nothing in the constitution on which they can bottom it, without laying hold of the dangerous doctrine of implication. The federal gentlemen have the same justification for the adoption of this measure, that they had for the adoption of the alien and sedition laws. The doctrine of implied powers will hold them out. But, sir, their object is to pull down the administration and republicanism—ours to support it. The minority is not responsible; the majority has the whole responsibility on their shoulders; consequently, ought to act with great circumspection. Sir, what were the causes that produced a change of administration? Was it not constitutional encroachments and abuses? Most unquestionably it was. And will gentlemen wantonly steer their bark against the same rock on which the former administration split? Rest assured, sir, that the People of the United States will not tamely look on and see their sacred bill of rights trampled under foot. No, sir; when they discover a disposition in the public agents to fritter away their constitution into a mere cipher, they will rise in their majesty, and, in a constitutional way, apply the proper corrective. They will tell you, gentlemen, that you have betrayed the trust reposed in you, by abusing the powers delegated to you; that you must give place to more able and safer hands to steer the national bark.

Well, sir, as to expediency, we are told that inevitable ruin would follow a refusal to renew the charter of the Bank of the United States, as it is improperly called. Pray, sir, in what way have the United States a single cent of money or interest in this bank? Certainly none. Does she not merely lend her name, and, by that, foster speculation? Most unquestionably she does. For, sir, I can view it in no other light, than a complete system of speculation. A system, sir, that has drained a considerable portion of your precious metals from your country. Has there not, within less than twenty years, nearly nineteen millions of dollars, dividends arising from this colossal bank, been principally sent out of the country to fatten the European shareholders, who are the principal stockholders? For, sir, I believe it will not be denied, that about three-fourths of this ten million capital belongs to foreigners, and principally to the citizens of the island of Britain; the balance, in all probability, principally to her agents and partisans in this country: for I recollect that, on a former occasion, a gentleman from Virginia laid a resolution on the table for consideration, that contemplated making the shareholders known, and that extraordinary opposition was manifested by the other side of the House, I presume, lest the measure should become more unpopular, when it was ascertained that nearly the whole of the capital stock belonged to Britain and her partisans.

Mr. Speaker, money is naturally calculated to command influence. Then what must be the influence wielded by this ten millions of capital in the bosom of our country, and held principally by our lasting and inveterate enemy? This is one of the engines, and no inconsiderable one, that is set to work, in order to overturn civil liberty, and which will, in all probability, unless checked by timely resistance, go lengths in producing the effect: and, sir, from the influence it has already obtained in different sections of the Union, and the ardent manner it is advocated, I should not be surprised, if a renewal of the charter should take place, if it should ultimately make its way into the national councils. Let gentlemen reflect on the hardihood of the agents of this bank. They come forward in the face of the nation, and openly offer to bribe its councils with upwards of a million of dollars for the renewal of the charter; for, sir, I may be wrong, but I can view it in no other light than as a bribe in order to obtain the name and sanction of Government to carry on their destructive speculations. I have no doubt but that George the 3d is a principal stockholder in this bank; and I believe, rather than not succeed in obtaining a renewal of the charter, that he would authorise his agent in this country to bid up several millions; because, sir, he has never pardoned us since our independence, and by this means he would necessarily calculate on effectuating his nefarious purposes of overturning your Government and bring-

ing you under his power again, and which would be a much safer method than encountering the Americans in arms: for of that he became extremely tired when we were in a state of infancy.

But, it is said, that this bank can be of infinite service to Government, in making her deposits in, and, in case of necessity, to borrow money from, to answer governmental purposes. Indeed, sir, if we continue temporising and playing the losing game much longer, we will have but little to deposit—and would it not be as safe to make the deposits in some of the State banks as in this foreign bank? For we must be in a desperate situation, indeed, if it would not be equally as safe to trust ourselves as to trust foreigners, and the very ones who are oppressing us, and whose interest as well as inclination is to oppress us in every imaginable way. And, sir, as to the obtaining of loans in case of emergency, I would much rather be dependent on my own Government—on the citizens of my own Government, than a foreign Government or its agents, and especially one that is at war with us; for I deem it tantamount to war, when they are perpetually plundering our property, impressing and ill-treating our countrymen, as well as depriving us of important inherent rights, the liberty of the seas. This measure, perhaps, may be a convenience in our fiscal concerns, in the collection and transmission of revenue; but, sir, there is no danger of the wheels of Government being stopped for it; and, sir, I should regret extremely, if it was, as has been insinuated, that the existence of our Government depended on foreign capital; I should regret extremely indeed, if we held our rights, privileges, and independence, on so uncertain a tenure. No, sir, in my mind government can be carried on equally as well without this darling bank as with it: therefore, it is time to abandon this destructive system. I confess, sir, that I am not very favorably disposed to banking institutions; I view them as in direct hostility with the principles of our Government: but if we must have banks, in the name of common sense, let us have a bank of our own, with home capital and not foreign, and one that will not import foreign influence, (for God knows we have enough of it among us already) and one that will not extract the wealth from your country and export it, nor undermine the foundation of your liberty. Well, sir, on whom is this ruin, that is spoken of in such lively colors, to fall? Why, sir, it is to fall on a few speculating merchants, who have been so incautious as to become involved in debt in consequence of wishing to carry on extensive speculations, therefore borrowed freely of this foreign bank, the calling for which sums would, in all probability, bring on bankruptcies. These are not the people that I would make any considerable sacrifice for. They are not deserving it. Government has already made very considerable sacrifices in attempting to comply with their memorials and petitions respecting the protection of commerce; and how have they been rewarded? Why, sir, by flying in the face of authority, and trying to bring the laws of Government into ridicule. Yet they are the few who are to be favored at the expense of the many. But, notwithstanding their reprehensible conduct, there are respectable exceptions: I speak of the speculator, not of the honest and fair trader.

I wish not to be considered an enemy to commerce. The reverse is the fact. I am a friend to it to a certain extent; as an auxiliary to agriculture; but I never wish to see it have the ascendancy in Government, to sway the national councils and give law.

But, sir, if the evils will be so great at this time on a failure to renew the charter, what will they be at the end of twenty years, the time contemplated to extend it? For it is reasonable to suppose, that the evil will increase in equal ratio for twenty years to come, as it has for twenty years past. Agreeably to this, a renewal will be tantamount to a perpetuation; for, agreeably to the doctrine held forth by gentlemen, a failure then to renew the charter would engulf the Government in ruin, and overturn the fabric of liberty. Who are to be favored particularly by the continuance of this destructive system? The speculating mercantile class, I may say, exclusively. And, sir, if they increase in extravagance and arrogance for twenty years to come, in equal ratio with what they have for a few years past, nothing will satisfy them

short of swaying the national councils, and giving law to Government, and making every thing subserv to their cupidity. Sir, I hold commerce essentially necessary, and would go as far as reason would justify in the protection of it, but I am for keeping it directly within the pale of reason, and not suffering it to drown every thing in the whirlpool of its power.

Are not Government well aware, that this large foreign capital, in the bosom of our country, has an extraordinary influence in certain sections of the Union in our elections, the keeping which pure, ought to be an object of the first magnitude? How was it, sir, formerly, in New York? Did they not, in consequence of this moneyed aristocracy, give complete tone to the elections; and, sir, was it checked, until Burr surreptitiously obtained the Manhattan Bank, under the mask of watering the city, which formed a counterbalance? And, when it obtains an influence in your elections, you may necessarily calculate on its making its way into your national councils; then every thing must bend to this monstrous speculating institution, your constitution not excepted.

It will be said, no doubt, as I am from the West, where banks are not common, that I am unacquainted with the nature and operations of banking institutions. Sir, I do not pretend to go into details practically; I acknowledge, I am unacquainted with them: my information on subjects of this kind is principally theoretical. But, sir, I am sufficiently acquainted with the nature and operations of them, to convince me that they are systems of speculation, calculated to suit the speculative and mercantile class, at the expense of the agriculturists; at the expense of those who are the support and sheet anchor of your Government? How is it, sir, when your banks break, which has been the case in several instances, in some of the Eastern States? The Farmer's Exchange Bank of Rhode Island, when it was ripped up, had but some odds of forty dollars in its vaults. The Berkshire, and Northampton banks, both of Massachusetts, when their vaults were examined, one had perhaps thirty or forty dollars in it, the other, I believe, was entirely empty; the Coos Bank, (I believe it was called) of New Hampshire, was nearly in the same situation, and thousands of their bills in circulation at the time. Well, sir, who were the sufferers? The note holders; the people at large? And, sir, as it is a system of speculation, when they have emitted bills to the amount of their limitation, where they are limited they may break (as the saying is) full handed, and the weight of the shock falls on the note holders, who are principally agriculturists, as they compose eight-tenths of the people.

But, sir, the accounts of the speculations, impositions, and, I must add, swindling and corruptions, that have been practised in the East, under the head of banks, have reached the West, and the people, notwithstanding they have, by some of the eastern gentry, been deemed scarcely in a state of civilization, have sympathised with their eastern friends, and had regretted that turpitude had become so deeply rooted in the East, in the line of banking, where all but exclusive civilization was claimed, and which has made them cautiously guard against the possibility of being engulfed in a similar vortex. But, sir, if gentlemen would cast their eyes emphatically over the history of the West, I expect they would not only find civilization, but pure patriotism; patriotism, sir, that would not fade before the sun; they would find the people uncontaminated with foreign partialities, prejudice or influence, and where the last torch of liberty would be held up on the continent, as a terror to tyrants.

Mr. Speaker, perhaps I am mistaken, but I view this measure as the greatest test of political principle that has been on the carpet for many years back, and if adopted, federalism, or, if gentlemen please, aristocracy, will regularly progress, and finally obtain the ascendancy; republicanism will have to take the back ground, and ultimately be prostrated; your boasted institutions will only figure in the pages of history, like ancient republics, as a mournful monument of the fall of man, and a sorrowful memento of his degraded condition; therefore, in my mind, the adoption of this measure would seem like committing a most horrid treason against the principles of the constitution and civil



liberty; consequently, I consider it not only the true interest, but the bounden duty of every man who has any pretensions to friendship for the American Government, or civil liberty, to assist in strangling this infant Hercules in the cradle, or at least preventing it from coming to maturity. If this measure was only calculated to perpetuate the memory of its founder, I should not so much object to it; but then I should think it unnecessary and improper. But, sir, it will do more; it will further the views of federalism, by increasing their power, and assist them in overturning the present system of government, on the ruins of which they will calculate on raising one more congenial to their purposes.

Mr. Speaker, from my present impressions, I think it would be more advisable, if the British Government should not rescind their destructive measures affecting our rights, and do us justice, rather than renew the charter of the Bank of the United States, as it is called, thereby furthering their views on this country, to lay our hand on the capital stock, or at least so much as belongs to citizens of the island of Britain, in order to indemnify us in part for the damages we have sustained by British outrages, and, if it becomes necessary, (as I presume it will) to make use of it in defraying the expenses necessary in the subjugation of the North American provinces, which will have to be resorted to, if you wish to give peace to the land: for I have no hesitation in saying, that, while this large foreign capital is in existence in your country, and the British hold their North American possessions, that British principles will be disseminated; that federalism—if gentlemen like the term better, aristocracy—will regularly progress, and finally convulse your Government to its centre. You may rest assured, sir, that if the charter of the Bank of the United States is renewed, it will prove a powerful weapon in the hands of our enemies, and will be calculated to rule the Government, instead of the Government ruling itself. Then, sir, is it not high time that the accounts of this colossal speculating institution should be suffered to close, by letting the charter expire on the 3d of March next, that we may know whether this Diana of the Ephesians, be a goddess of solid silver, or only of clay silvered over.

Sir, much has been said about the want of capital; if gentlemen would cast their eyes around, and examine our resources, they must be fully apprised that we have capital adequate, and beyond our wants. Then is it not time to cut asunder those leading strings, by which corruption has led credulity? Yes, sir, it is not only time that we should have the name of freemen, but be so in reality.

Sir, in justice to my own feelings, and the future prosperity of my country, I am bound to vote in favor of concurring with the Committee of the Whole in striking out the first section of the bill.

Mr. PICKMAN. I acknowledge, sir, that I feel very anxious to have the charter of the United States Bank renewed. Not from any personal interests which I have therein—for I have none. Nor from a regard to the interest of the stockholders, for I consider that very unimportant, when compared with the interests of the Government, and of the community. This question has acquired an artificial importance from the manner in which it was originally discussed and in which it has been discussed at this time. It has been treated as a great constitutional question, when, according to my view, it involves no great constitutional principles. Ingenuity has surrounded it with a mist of sophistry which has obscured it, and presented it to the mental eye though a very delusive medium. I shall not attempt to follow the gentleman from N. Y. (Mr. PORTER) in all his nice and ingenious distinctions between the powers vested in the Federal and State Governments, nor in his metaphysical refinements on objects, ends, powers and means; but shall leave that task to gentlemen of more industry and more talent than myself. His observations, however, on the position laid down by the late General Hamilton, in his celebrated argument on this subject, appear to me so extraordinary that I cannot forbear to notice them. The position is, that every power vested in a government, is, in its nature, *sovereign*, and includes, by *force of the term*, a right to

employ all the means requisite, and fairly applicable to the attainment of the ends of such power, and which are not precluded by restrictions and exceptions specified in the constitution, or not immoral, or not contrary to the essential ends of political society. And to prove that the powers of the Federal Government, as to its objects, are sovereign, the following clause in the constitution is considered as decisive: "That the constitution, and the laws of the United States made in pursuance of it, and all treaties made or which shall be made under their authority, shall be the supreme law of the land." Now the words *supreme* and *sovereign* are synonymous terms; if there be any difference, the word *supreme* is of the highest import, it being frequently applied to the Almighty himself. But the gentleman from New York, (Mr. PORTER) as I understood him, observed, that the power to pass the supreme law does not give the Government sovereign power: for the highest law which any government can pass, is a law to inflict the punishment of death. The sheriff who executes this law, said he, is not, therefore, possessed of sovereign power. Certainly not; he is only the instrument of the sovereign power, as much so as the axe or the halter with which he executes the sentence. But "the Government is not sovereign because it is made to depend, in some degree, on the State Legislatures"—if they were to omit to appoint Senators the Government would die a natural death. If they were to neglect it they would violate their oath to support the constitution of the United States. But, "the sovereign power is in the people." The sovereign and the physical power are often confounded together. The people, in their collective capacity, are as much bound by the immutable rules of justice, as each one is in his individual capacity. The people of the United States are under a constitutional and moral obligation to support the Federal Government; and it is not proper to presume that they will omit to do what it is their duty to do, and found an argument on such presumption.

But, to return to the subject of the bank. If we consider, sir, what are the purposes for which it was established, and what are the privileges with which it is invested, we shall, I think, find, that the former are not only constitutional, but highly necessary, proper, and useful, and that the latter do not interfere with State rights. The constitution of the United States vests Congress with the power "to lay and collect taxes, duties," &c.; to pay the debts and to provide for the common defence and general welfare of the United States; "to borrow money on the credit of the United States; to regulate commerce with foreign nations, and among the several States; and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." It is, therefore, the right and duty of Congress to facilitate, and to render as certain as possible, the collection of the revenue. It is their *right* and *duty* to provide places of safe deposit for the public moneys; it is their duty to discharge the public engagements with punctuality and good faith, and, if possible, to provide the means of transmitting the public moneys from one place to another, as the public exigencies may require, without the risk of loss to the United States. Has not the bank answered all these highly important and necessary purposes? Can they be so well accomplished by any other means? I presume not; for the ingenuity of those who oppose the renewal of the charter—and certainly, sir, they have displayed much ingenuity—has not suggested a plausible substitute. It is surmised that the public moneys may be transmitted from one part to another, in specie, which may be carried by land, or sent by water in Government vessels; or, that it may be done by the private drafts of merchants. The objections to these modes are too obvious to render it necessary to enumerate them. It is sufficient to say, that each of them would subject the United States to frequent losses, and the Government to constant disappointment. But, it is thought, by many, that the fiscal concerns of the Government may be conducted through the instrumentality of the State banks; and, in fact, it is the interest of the State banks which excites much of the opposition to the renewal of the charter of the United States Bank. In my opinion, however, it is an erroneous view of their interest. I apprehend that many of them will sustain a shock from the sup-

pression of this institution, from which they will never recover. How can the public business now done by the United States Bank, be executed by the State banks? Congress have no control over them; are ignorant of their funds; unacquainted with the conditions on which they are granted, and of the principles by which they are governed. Some of them are undoubtedly entitled to confidence, but many of them are not. It would be imposing on the Secretary of the Treasury an invidious task, and a most unpleasant responsibility, to make a selection. In every view which I can take of the subject, it appears to me that it would be the height of imprudence and indiscretion to suppress the Bank of the United States, and deposit public moneys in the State banks. If, however, the privileges conferred, and necessarily conferred, on the United States Bank, are unconstitutional, then it is our duty to suppress it. Let us candidly consider what these privileges are. The greatest, in my opinion, is, that its bills are receivable for duties. I do not know that any one has pretended that Congress transcended their powers in conferring this privilege. It is this, however, and this only, which gives its bills a circulation throughout the United States; it is this which enables it to transmit large sums from one extreme of the Union to the other, as the exigencies of the Government require; nor do I see how this necessary privilege could be conferred on the State banks. Certainly it would not be safe to give it to all of them; and if you were to select a few, it would excite the most serious discontents. Besides, it is necessary that the banks between which this intercourse is to subsist, as that of drawing upon each other, should have a common parent to regulate their affairs, and to secure them from ruin from unexpected, and, of course, unprepared for, drafts. It is necessary, in fact, that there should be such an institution as the United States Bank; and the only question is, how shall it be established? By the State Legislatures, or the Federal Government? But, it is said that the establishment of branches in the different States, is a violation of the State sovereignties; and the gentleman from New York, (Mr. PORTER) says it is so because the States have laws against usury, and that the bank makes more than lawful interest upon their capital, and thereby violates the laws of the States. This objection applies to all banks. Now, so far are the banks from having practised or encouraged usury, the suppression of it may be considered as one of the best effects of their establishment. The United States Bank is restrained by their charter from letting their money at a rate exceeding six per cent.; and I believe that this is not usury in any of the States; in some of them the legal rate of interest is higher. Their profits, over six per cent., are what they make as *bankers* and not as money lenders. It is said to violate the State laws, because the persons and private property of the stockholders are not responsible for the payment of its notes. This is the case with every artificial person; he is not accountable, in his private capacity, for the notes which he gives, or the contracts which he makes, as such. The stockholders of the bank may be considered as public agents, and, as such, it would not be reasonable to subject their private fortunes to the payment of its debts, unless they abuse the trust reposed in them. Such a responsibility would render it impossible to establish the institution; nor is it necessary for the public security: for, it is next to impossible for a bank with such funds to become insolvent, if its affairs are honestly and judiciously managed; if they are otherwise, no guards will afford security to the public.

It appears to be thought by many, that, because the State Governments have a right to incorporate banks, therefore the United States' Government has not the right. Now, it is an implied power in the State Governments; for there is no such power expressly delegated to them in any of the State constitutions; they assume the right, because it is not prohibited to them. Upon the same principles has the United States' Government the right to establish a bank, provided it be necessary to the accomplishment of the purposes for which the Government was instituted. I again inquire, Mr. Speaker, if the fiscal operations of the Federal Government do not require such an institution? Has not the experience of twenty years fully evinced its utility to Go-

vernment? Have not the public moneys been safely kept? Have not large sums been continually transmitted from one place to another, as the public exigencies have required, and without any loss to the United States? Why then suffer an institution, which has done so much good, which has proved so safe and so useful, to run down, and trust to precarious and unpromising substitutes? But, while I am anxious to have the charter of this bank renewed, from a full conviction that the fiscal concerns of the Government cannot be managed with convenience, or safety, in any other way, I feel infinitely more anxious that it should not be suppressed at this time, on account of the community at large. Such an event must, in my opinion, be productive of the most distressing consequences. Perhaps there has never been a period when our merchants were more embarrassed than they are at present, and when it was more difficult to raise money. They have large funds in England, but at present there is no demand for exchange upon that country. They have large quantities of imported merchandise, but the prices of most articles are merely nominal. The bank has seventeen millions of dollars due to it from the United States and individuals; it has to the amount of five millions of dollars in gold and silver in its vaults: there is due to it, from the State banks, about two millions of dollars, on their bills, and on deposits. It owes about fourteen millions of dollars, payable on demand; and it will probably be very soon called upon for this money. To fulfil its own engagements, therefore, it must immediately call for seven millions of its debts, and, within a short period, for the remaining ten millions, and this last sum must, eventually, be paid in specie. Whence is this specie to come? From the vaults of the State banks, if it be there: for the payments to the United States Bank will be in bills of the State banks; these bills will be immediately sent to those banks to be exchanged for specie. Thus they, instead of having it in their power to aid the debtors to the United States Bank, as some erroneously suppose, will be obliged to call on their own debtors, and every specie dollar taken from a bank, may, and probably will, oblige it to call for two or three dollars of its debts. It does not appear to me unreasonable to suppose, that, by compelling the United States Bank to call in the seventeen millions of dollars due to it, we shall compel the State banks to call in as large, if not a larger sum. How these payments are to be made, and what effects are to result from such a state of things, I pretend not, sir, to sufficient discernment to foresee. It will probably produce a general suspension of the payment of debts, and an almost total stagnation of business; it will greatly depreciate the value of every species of property, and thereby reduce many persons to insolvency, who flatter themselves that they have much more than enough to pay their debts. It will raise an enormous demand for money, and, of course, throw many persons into the hands of the griping usurer. It will distress all classes of people except the moneyed capitalist. If, in addition to this measure, our non-importation act should go into effect, thousands must be overwhelmed by ruin; the shock may first be felt in the seaport towns, but will ultimately extend to the remotest villages in the country. I deem it, sir, a very unfortunate circumstance, that our paper circulating medium so greatly exceeds the amount of our specie; that so large a portion of it is the representative of lands, houses, and merchandise, instead of being the representative of gold and silver. But this is not the fault of the Federal Government; it is owing to the numerous banks which have been instituted by the State Governments. This furnishes, to my mind, a strong argument against the institution of banks by the States, and in favor of the power being vested in the Federal Government, which superintends the affairs of the United States. As I have before observed, our paper circulating medium dangerously exceeds our specie; should we adopt a measure which will affect its credit, it will produce consequences which none of us can foresee. On the one hand, by continuing the bank, we tread upon perfectly safe ground; twenty years experience of it has proved that it is calculated to answer all the purposes for which it was established; it has proved very useful to our merchants, and to the community at large, not only by furnishing loans, but, also, by supplying a medium which circulates throughout

the United States, and thereby renders it much easier for the merchant of the Northern States to purchase the productions of the Southern States. It may be truly said, that it has aided the agriculture, the commerce, and the manufactures of our country; its affairs have, generally, if not uniformly, been conducted with fidelity and ability. Yet we are about to suffer this valuable institution to fall; we shall thereby compel the Secretary of the Treasury to have recourse to untried, troublesome, and hazardous expedients, for the management of our finances, and we shall probably lead many of our fellow-citizens into ruinous speculations. It is absurd, after the experience we have had, to ascribe to it any great political influence: it was established by the federal republicans when they were the ruling party; it has always been under their management. Yet, with this monstrous engine in their hands—this engine which is to govern the Government—their political opponents have gained an absolute and uncontrollable ascendancy. Continue it, sir, and you will probably do much good; suppress it, and you may bring on incalculable evils.

Mr. W. ALSTON said, that the motion to strike out the first section, was undoubtedly a fair way of attacking the principle of the bill; but as the same motive, even if he did hereafter vote against the bill, would not govern him as it had other gentlemen, he begged leave to state the reasons why he should vote against the motion. It has been contended (said he) by gentlemen who have gone before me in this debate, that the constitution did not authorize Congress to continue this charter, or to have created it, in the first instance. I am opposed to this doctrine of the restriction of our powers, because I believe, if practised upon to the extent that gentlemen of great talents contend, the Government itself cannot get along. I do not believe that gentlemen can put their finger on the constitution, and show their authority for a number of acts which we are compelled to pass, any more than they can put their finger on the particular passage which authorizes the granting this charter.

Sir, we are met on the threshold of this question, by the gentleman from Virginia, (Mr. BURWELL) on constitutional grounds; and I will take the argument of that gentleman alone, and I think can prove, that he himself has given up the constitutional question. In the clause which many gentlemen have called the sweeping clause in the constitution, I find these words: "Congress shall have power to make all laws 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 or office thereof." The gentleman, well satisfied that this clause confers the power, attaches to it, to make it the more important, the word "*absolutely*," before he is able to give any weight to the construction for which he contends. I have examined the constitution over and over again, for the word *absolutely*, and can find no such word. Where then does the gentleman get it from, but from the very same source that he charges on the favorers of the constitutional right to pass the law? It is by implication, that he calls in the aid of the word *absolutely* before necessary. With what propriety, then, can he refuse to others the exercise of the same right that he himself has taken? If gentlemen have the right to interpolate this word, why may we not as well interpolate others? It is denied that the doctrine of implication can apply with respect to granting charters. If it can apply in any way, why not in this way? If I can show to the House that it might apply in some cases, or it will be impossible that you can execute the object of the constitution, why may it not as well apply in the case of granting charters, as in any other. I ask gentlemen to put their finger on the clause of the constitution, which authorizes them to pay away one cent of the public money? How do they get at the power, but by implication? You have a power by the constitution, to pay the debts of the United States—but that part which provides for the payment of debts, means debts already contracted, and owing at the time of the adoption of the constitution; that too is in the sweeping clause, which gentlemen will certainly not avail themselves of. But you have not the power expressly given, to create a

debt, other than the clause which authorizes you to borrow money on the credit of the United States; but none will contend, that, by this you are authorized to make contracts, and go in debt. There is an important clause of the constitution, which gives to the United States power to call out the militia of the States for particular purposes. Show me the spot in the constitution which authorizes the payment of the militia. Not one. The power to call them out, implies the power to pay them. It inevitably follows, that the power to lay and collect taxes and raise a revenue, implies the power to take care of it. Will gentlemen pretend to deny it? What is the argument of gentlemen on this point? They say it is true, that a bank is necessary for the safe keeping and paying the debts of the United States; but, say they, the banks of all the States are open to you. How does this doctrine apply to the United States? Have not the States themselves denied the connexion of the State and Federal Governments? Can I quote a State which does not afford an example of this disposition? The seat of a gentleman of high standing in the Legislature of Virginia, was vacated merely because he was a contractor for carrying the mail. Will then the State of Virginia, who is so jealous of your influence over her officers, permit you to exercise that influence, by placing your money under officers created by her? Let gentlemen examine this question. The argument will not bear them out. In the State which I represent, also, a law has been passed, to prevent a person from holding any office or appointment at the same time, under the State and Federal Governments. What right have the directors in a State bank, appointed by the State, to contract with the General Government to keep its money? I deny their right.

Putting the State banks out of the question, it is necessary that we should create means by which we can transfer the money of the Government without expense, hazard, or loss? I will state a case. We have an army in the city of New Orleans, which must be paid. By paying the money at Baltimore or Philadelphia, it is transferred to the paymaster at New Orleans, without costing you a cent. Is not this convenient expedient necessary to comply with the interest of the United States in the case I have stated? I do not believe it possible, taking the ground that they have a right to place money in the banks of the individual States, that such a connexion between them could ever be established as with the same ease, convenience, and safety, as at present, to pay in the different parts of the Union money which the United States are bound to pay. I ask the question—Will a bank in North Carolina trust a bank in New Hampshire? No; but the State and every individual in it, would trust the Bank of the United States. You could not establish a connexion between North Carolina and New Hampshire, so that either would trust the other. The establishment of the Bank of the United States, affords in this case, a facility useful and absolutely necessary, in my opinion, to carry on the measures of Government. How will putting down the Bank of the United States, have an effect to lessen the quantity of paper in circulation? If I could think so, I would join the gentleman most seriously; but the very contrary, in my opinion, would be the effect. The Bank of the United States and its paper, serves as a controlling power, keeps the State banks in proper bounds; and prevents them from issuing a vast quantity of paper, which would inundate the country. They are very confident if they issue too much paper, that there will be a run upon them; because the interest of the United States Bank and the State banks, do not at all times go hand in hand. At this time it certainly restrains the circulation of State bank paper.

It is said, sir, that the States are not compelled to do particular acts which they are required to do. To be sure, the States have the physical power, but they are bound by the same solemn oath to carry into effect the constitution of the United States, that the members of this House are. It may as well be said, that the State Legislatures may, if they choose, refuse to appoint electors to vote for President and Vice-President, or elect Senators; but the obligation upon them is as strong as upon any other department of the Government, as it is upon the members of this House, to perform its duties. They have taken a solemn oath, and must perform its obligations.



Sir, there is one part of this constitution, which, in my humble opinion, gives the power completely. It is a part of the constitution which I never heard any gentleman mention, nor any writer on the subject. I may put an erroneous construction on it; but if I am correct, the conclusion is inevitable. In the 10th section of the first article, it is said, "No State shall coin money, emit bills of credit, or make any thing but gold and silver coin, a tender in payment of debts;" and the interpretation which I give to it is, that the *United States* possess the power to make any thing besides gold and silver, a legal tender.

If this, then, be the correct construction, it is a clause which I have never before heard relied on. If, what I conceive to be the fair interpretation, be admitted, it must follow, that they have a right to make bank paper a tender. Much more, then, sir, have they the power of causing it to be received by themselves in payment of taxes. If they have power to make paper of any description whatever, receivable in payment of all debts whatever, can any one deny that they have a power to make it a tender in payment of taxes or debts to the United States? After admitting the power, will you place the exercise of it in your Secretary of the Treasury, or in the hands of fifteen or twenty men whom you call directors? But I might not have voted against concurring with the committee in striking out the first section of the bill, if I stood on this ground alone.

To the bill in its present shape, I should have no hesitation in giving a decided negative; but there is a plan on which I would vote for the renewal. Sir, I ask gentlemen who have voted against it on constitutional ground, to meet me on this point—the plan is, that the additional stock shall be taken wholly by the United States; that they shall be bound to distribute it among the individual States, having respect to their relative numbers, at its par value. The States would take it if they think proper; if taken, there is an end to the violation of State rights. In a plan of this kind, a distinction is brought to the mind of every man, whether he will prefer the interest of the great body of those people who are represented in the State Legislature, or whether he will support the interest of a few who think proper to incorporate themselves for the support of a bank. The true question is, whether the emoluments of the banking system should belong exclusively to a few, or collectively to the whole United States. I therefore hope, the first section will not be stricken out. In discussing the detail, such a plan would be more interesting than any other can be to the States. The advantages of such a system must be seen. The anxiety evinced for the renewal of this charter, and the credit of the State banks altogether, in consequence of the money made by the banking system, is then done away. The money arising from the profit of the banks will belong to the States in their individual capacity, and the taxes of every individual lessened in proportion to its share of the capital. Let gentlemen bring the question home to them; let them examine how it concerns their constituents, and put the question which of the two will interest the great body of the people the most.

Putting down the charter of the United States Bank, will not put an end to the banking system. Cast your eyes about you at what has taken place at the last sessions of the State Legislatures? Has one of them adjourned without establishing a bank? It is bank paper as much when issuing from State banks as when from the Bank of the United States. There is no sort of difference. If this question had not been attacked on constitutional ground; if it had been left merely to expediency, I should not have troubled the House on the subject. I know too little of the concerns of a bank to think of making a speech on the details alone. But I know how much interest moves us on this question. When you place money in the State banks, you give a complete license to the State banks to issue what they please. What was the loss of paper money during our revolution? Did it not fall on those who had given credit? And are we prepared to meet such a shock as that? Could we have stood it in any other cause than that in which we were engaged? Here let me enter my protest against the banking system altogether; but we have it. Is not the consequence more dangerous—will not the loss ultimately be greater, to let

the State banks issue paper at will, than to control them by the Bank of the United States?

If the doctrine which gentlemen advance, about putting the finger on that part of the constitution which gives power to carry on the Government itself, be true, we may as well quit legislation altogether. You cannot go a single step without calling in the aid of implication. When a means is necessary and expedient; when the operations of Government cannot as well be carried on in any other way as by it, then it is necessary, and, being necessary, is constitutional.

Mr. KEY. Mr. Speaker: This House, in Committee of the Whole, having struck out the first section of the bill in relation to the charter of the Bank of the United States, and thereby defeated the bill; and this House being called upon to concur with or reject the vote of the committee, a question of the utmost magnitude and importance is presented to our consideration. Few subjects more deeply affect the welfare and prosperity of our country, and none deserves a more calm and temperate investigation. I shall not attempt to excite the feelings of the House by painting the scenes of distress that will probably flow from a non-renewal of the charter; but address myself entirely to your understandings.

All parties seem to concur in the utility and convenience of the bank to aid the collection and payment of our taxes and revenue, to safe keep the amount, and distribute it when wanted. But many deny that we have, under the constitution, a right to incorporate a bank even for such purposes. I have listened with pleasure to the arguments urged by those who deny the right, and have weighed them with attention, and soliciting the same indulgence from them in return, I do not despair of producing conviction.

I shall contend, that we have a right to create a national bank, and that it is our duty to do so, to avoid the general calamity that will result to the country, if we fail to do it. I beg of gentlemen to take the constitution in their hands, and follow me, step by step, while I demonstrate the existence of the right.

The eighth section of the first article of the constitution, contains the grant of powers given to Congress, to enable it to conduct the affairs of the Union. The powers given are enumerated and specified, being eighteen in number. In the first we find these words: "The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises, shall be uniform throughout the United States." These words give to the United States, a definite, explicit power, "to lay and collect taxes, duties, imposts," &c.—the only qualification of the power is, that the duties and imposts, not the taxes, shall be uniform. The eighteenth enumerated power is, "for Congress to make all laws which shall be *necessary and proper* for carrying into execution the foregoing powers," &c.

The powers thus given to Congress are sovereign in their nature, and explicit in their terms of grant; but the jealousy and provident wisdom of the framers of the constitution, knowing that the power might be abused in its exercise, have, in the ninth section of the first article, enumerated *seven* specific limitations or restrictions of the powers previously given. The grant of power is in affirmative terms; the restrictions are in negative terms.

The general grant of power, "to lay and collect taxes and imposts," &c. given in the eighth section, is thus restricted in the ninth: "No capitation or other direct tax, shall be laid, unless in proportion to the census," &c. Secondly, "No tax or duty shall be laid on articles exported from any State." It is a sound rule of construction, and is founded in common sense as well as wisdom, that, where a grant creates a general power, and enumerates exceptions to its exercise, the expression and enumeration of those exceptions, operate to exclude all others; because, having exceptions in view, and having specified some, it demonstrates that if others had been intended, they would also have been expressed. This rule is so true, that it has long been a maxim,

that, "*Expressio unius est exclusio alterius*," and governs the construction of all grants and instalments in public or in private life. I am then warranted in saying, that the grant of power "to lay and collect taxes and imposts, &c. provided the latter are uniform," is fettered or restricted by no other limitation than the two above expressed in the ninth section; and it follows, that we can make any laws *necessary and proper* to lay taxes, if we do not violate the restrictions interdicting us from laying a tax on exports, and a capitation tax contrary to the proportion of the census.

Mr. Speaker, an honorable gentleman from Virginia, on the constitutional question, limits the power of Congress, by what I call an interpolation in the constitution. The words of that instrument expressly give Congress the power "to lay and collect taxes," and "to make all laws necessary and proper to carry those powers into effect;" but the honorable gentleman adds, that "necessary," means *indispensably* necessary. To this, I answer, that the word *indispensable* is not used in the constitution; the words used are, *necessary and proper*. The error into which that gentleman and an honorable member from New York have fallen, is a want of precise meaning of the terms they use, or rather confounding two things, in their nature essentially different. They confound the means or mode by which an end is attained, with the end itself, and nothing can be more erroneous. The end, or power given, is to lay and collect taxes and pay the public debts; the power to make laws necessary and proper to effect that end, is also given, and consists in devising and establishing the *means* of accomplishing it. *The means to accomplish the end are no where restricted*. All the restrictions are upon the *power*. The means or mode by which the collection is to be effected, is left to the wisdom and discretion of Congress making all necessary and proper laws for that purpose. I lay down this proposition as universally true, that where a power is given to do a particular act, as "to lay and collect taxes and pay the public debt," that it necessarily results that the party to do the act, may do it by any mode or means he pleases, (if more means than one exist) if such mode or means are not prohibited; and I further state, that the party in executing the power, is *imperatively bound* to use the means best adapted to accomplish the end. If, then, which seems generally admitted, a bank is useful and necessary in the collection of taxes and imposts and payment of the public debt, and is the best mode of effecting it, the creation of a bank for such purposes is definitely within the power of Congress. And more; it is the bounden duty of Congress to establish it; because they are bound to adopt the best practicable, or, in other words, necessary and proper means to collect the tax and imposts.

If more means than one exist to carry a power into effect, *neither* can be said to be indispensably necessary, because *either* may be adopted to the exclusion of the other; and this mode of reasoning, pushed far, proves, that, where more means than one exist to execute a power, the power is a dead letter.

That the creation of a bank, is a means to excite a given power, and not the power itself, will follow from a careful view of the subject. Here my opponents and myself are precisely at issue. They say the creation of the bank is a power not given by the constitution. I state it to be a means of executing a power given, and not the power itself. Let sound reasoning test our principles: what is a power, but an authority to attain a given end? What is the power given in this case? Let the constitution speak for itself: "to lay and collect taxes, imposts," &c. and pay the public debts. Now, the power and the end are express, definite, and precise: there is but *one* power and *one* end; human ingenuity can make no more out of the words of the constitution; but there are many means by which the power may be executed, by which the end may be attained, and those means are vested in Congress, by the power expressly given them "to make all laws necessary and proper to execute the powers before enumerated."

Congress is a body politic and incorporeal, and must use some agency or means to carry a power into effect. To do it in this instance by the agency

of a bank, is one means; to do it by the appointment of officers to collect the taxes, is another; to make the debtors themselves pay into the treasury, is a third. Now is it not an *equal* exercise of power, to create and appoint officers to collect, preserve and pay away public money, as to create a bank for that purpose? *The power is the same*, though exercised in a different way; but the *mode of its exercise* does not affect the nature or essence of the power. This is most clear; and I ask gentlemen, in the sense they use the word power, where is the *express power* in the constitution, to appoint and pay officers to collect taxes? Certainly it grows out of the power "to make all laws necessary and proper," &c. and is no where else to be found; then the necessary consequence is, that the creation of a bank, or the creation of officers, to collect taxes and imposts, &c. is not a constitutional question, but of sound discretion, as most suitable to promote the public good, and the House has power to adopt either, as in their judgment shall be found most necessary and proper.

Now, for the great objects of *economy in collection, safety in keeping, and facility of paying it away*, as, and where the exigencies of Government require, a bank has a decided preference over the appointment of a multitude of officers, with salaries or commissions, the chance of negligence, the risk of loss, and almost insuperable difficulty and embarrassment of transmission, at home or abroad.

I trust, Mr. Speaker, that I have shown, that, correctly viewed, the creation of a bank is a means, not an original power; that, as a means, it is best adapted to the end or execution of the power; and that, to attain the end, a full, express, definite grant of power is given by the constitution. But, sir, I ask, is our Government never to settle down to stability, an object so desirable and so important to the happiness of the People? If, from the inexplicitness or imperfection of language, doubts have existed, which have been decided by the concurrence of this House, the Senate, and the illustrious Washington, in the exercise of their constitutional functions, and twenty years last past have exhibited a practical commentary on the constitution, ought we not now to regard it as sacred?

Has not Congress, and have not all the States, sanctioned the legitimacy of the bank, by passing penal laws against counterfeiters of its paper? Have not many of the judiciaries inflicted imprisonment and deprivation of liberty, on offenders under those laws; and are we now to be told, that the *original law* which induced all these punishments, is unconstitutional, and of course, no law? But, sir, I will not repose my argument on the fact of long acquiescence in the States, nor of acquiescence under the administrations of Washington, Adams, Jefferson and Madison; I will advance a step further, and show that this House, under the administration of Mr. Jefferson, and that Mr. Jefferson himself, did, under his own hand, acknowledge the legitimacy, and consequently the constitutionality, of the bank. In 1804, Mr. Nicholson, of Maryland, made a report, authorizing the Bank of the United States to establish an office of discount and deposit at New Orleans; a bill was drawn, it passed this House, it passed the Senate, and was signed by President Jefferson the day it was presented to him. It was entitled, "An act supplementary to the act, entitled An act to incorporate the subscribers to the Bank of the United States." Here let us pause; it is really ludicrous, sir, to see the gravity and wisdom of the nation, engaged in passing a supplement to an unconstitutional law. One would suppose, sir, that if the original law was brought into view, if deemed unconstitutional, the object of bringing it into view would be to repeal it; but what was the fact? Why, the very reverse took place; instead of repealing it, they enlarged the powers of the bank.

Now, sir, I call on honorable men to answer me with precision; to meet two questions in the teeth: First, Was it not as unconstitutional to *enlarge* the powers of the bank, as originally to create it? Second, Is not the enlargement, so far as it goes, a new creation of power? Gentlemen cannot escape from these questions, by saying, that the bank had this power before the act of 1804. I deny it; but for the sake of argument, be it so? Then I ask, why was that supplement passed? And was not the passage of the supplement a direct af-

firmative recognition of the power, if already in the bank, and to give it to them, if they had it not.

Sir, I will trouble the House no longer on this part of the subject. I trust I have satisfied gentlemen that we have authority to create a bank under the constitution; that this authority has been *acted on* by federal and republican administrations; and the United States and the States have acquiesced in it, and sanctioned it many years, without innumur or remonstrance.

Mr. KEY then proceeded to examine the question on the ground of expediency, &c.\*

JANUARY 21, 1811.

Mr. NEWTON moved to postpone indefinitely, the further consideration of the bill, but withdrew his motion until more members should come in.

Mr. GARLAND said, that on this very important subject, the House ought to act understandingly and prudently. He wished that they should not precipitate the Government into difficulties, from which it would not be easy to extricate themselves. He wished at least, that they should take a little time to reflect: that his friend from Virginia (Mr. Love) should be permitted to go on, and take out his letters of administration, as proposed on Saturday, and see what could be done. If the gentleman could show that the Government could conveniently carry on its fiscal operations without the bank, Mr. G. said he should be ready to go with him. But, until that were shown, he did not wish a decision precipitated. He, therefore, moved to postpone the further consideration of the bill till the first of February. There would in the interim, be time to see how they could form their plans, and how they would be able to conduct the fiscal operations of the Government. If a suitable substitute could be offered for the purposes of collecting and transferring revenue, it would be the means of reconciling many gentlemen to vote against the bank. He hoped, therefore, that the postponement would be agreed to.

Mr. NEWTON said the House had had ample time for reflection on the subject. He did not believe that any alteration would be wrought in the opinions of members by a postponement.

Gentlemen ought to recollect that the subject had been under consideration for three or four years past. Every one had revolved it in his mind. Sir, said Mr. N., I know these moneyed institutions. I know what sort of things they are; and after the time we have had to consider the subject, I think it all important, that we should come to a decisive determination. Let me tell you, sir, that intrigue and artifice will wear away the best principles. Ample time has been given for it already.

I am for laying the legislative axe at the root of the evil: I am for immediately deciding this question, and turning to some other business, and for this purpose, move that the further consideration of the bill be indefinitely postponed.

The motion of Mr. NEWTON superseded that of Mr. GARLAND.

Mr. LOVE said he rose principally, at this time, to ask for the yeas and nays on this question. He thought with the gentleman last up, that it was highly important that there should be an immediate decision, and he would add to the reasons already offered in favor of it another. It is now three years, said he, since Congress were called upon, in the most imperative terms, to act upon this subject. In the petition of the stockholders, three years ago, it will be recollected, that it was stated that, unless a certain assurance was given, that the charter would be renewed, they must immediately commence a curtailment of their discounts, &c. We have now progressed to within six weeks of the time when this institution will cease to exist; and, yet, we find, by an inspection of their accounts, that they stand very nearly in the situation in which they were at the time the subject was first brought before Con-

\* The remainder of Mr. KEY's speech does not appear to have been published.

gress. If this company were not to have their charter renewed, the sooner they know it the better. On the part of the Government, it is important that an early decision should be had, that they may not run the risk of losing revenue to an immense amount; for, who knew who was to administer on the assets of this institution? In consequence of the law now in existence, requiring deposites to be made in the Bank of the United States, and its branches, there would soon be within their control, in specie and bonds, an amount of sixteen millions of dollars of the public property. Under present circumstances, it is highly proper that immediate measures should be taken to withdraw these deposites. Every gentleman, before this time, must have had an opportunity to make up his mind; and I hope the question will be decided without further delay. As the mind of no gentleman in the House could be changed by a discussion, it is to be hoped that the question will immediately be taken.

Mr. TROUP conceived the motion now made to be perfectly proper. He felt, however, under no obligation to accommodate the bank. The act granting an act of incorporation was entirely a voluntary act, and the duration of it limited in the act itself, to a term of twenty years. If the bank had acted the part of an ordinary or discreet merchant, it would have taken care, before the expiration of its charter, to have wound up its business, and be prepared to meet the event; because, the Legislature was not bound to renew it, not having, either by the original charter, or by any subsequent act, given any pledge, that it would do so. The bank not having received any pledge of renewal, ought to have been prepared for its dissolution. If the institution had done what they ought to have done, the Government, so far as it is concerned, would have prepared itself against the event, as he was told it was now about to do, by substituting arrangements with the State banks, for arrangements with the United States Bank, or its branches. Mr. T. could, therefore, see no difficulty in assenting to this proposition, whether as respected the Government, or as respected the individuals concerned in the bank.

Mr. FISK inquired whether it was understood that the deposites in the United States Bank would be transferred to the State banks without the sanction of law.

Mr. WRIGHT spoke at length on the principles of the bill, and in favor of indefinite postponement.

Mr. BOYD spoke in favor of the motion.

Mr. MCKEE followed in reply, and against the proposed postponement.

Mr. BARRY spoke at length on the constitutional question, and in favor of indefinite postponement.

Mr. FINDLEY spoke against the motion.

Mr. WRIGHT. Mr. Speaker: The importance of this subject, and the great attention that has been paid to gentlemen while delivering their opinions upon it, is a sure guarantee that I, also, in my turn, shall receive the attention of this House, while I deliver my sentiments. I pledge myself, in this exhausted state of the debate, not to consume more of their time than a correct sense of duty to my constituents shall impose.

This subject, sir, is presented to our consideration in a two-fold point of view: as to its constitutionality, and as to its expediency. I will, therefore, proceed to consider it in that order.

On the point of its constitutionality I shall take the liberty to recal your attention to those parts of the constitution on which its advocates have *seemed* to rely. The gentleman from Maryland (Mr. KEY) cites the 1st article, 8th section, "Congress have a right to lay and collect taxes, imposts, duties, and excises, to pay the debts, and provide for the general defence and



common welfare of the United States." He also read the 1st art. 9th section, "No capitation, or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken." However, not yet himself satisfied with being able to derive an authority from these sections, he calls in aid the last paragraph of the section, "Congress shall have power to make all laws 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 or officer thereof.*" The gentleman insists, that the power to lay and collect taxes, &c. &c. and the sweeping clause empowering Congress to make all laws necessary to carry that power into execution, will authorize Congress to grant a charter to this bank; that it is necessary to the collection of taxes, that Congress provide by law the means whereby the taxes should be paid. I had always presumed that the power to lay and collect taxes, to provide for the general defence and common welfare, only authorized Congress, under the limitations of the constitution, to provide by law for those purposes, by directing whether the tax should be a direct or an indirect tax, or by capitation; and that their powers extended no further than the specification of the objects, if the tax was direct, and the rate at which the specific articles should be valued; in the case of a capitation, what should be paid by the head; and, in the case of indirect taxes, what should be the duty on the several articles taxed; and, in either case, to direct the mode of ascertaining and collecting the same; by whom to be ascertained, and by whom collected, and to whom paid. But I never did suppose that this power, even aided by the sweeping clause, could be conceived, *seriously*, to extend to the providing means to those who had to pay the tax, whereby they were to be aided in the payment. Such a construction would as well justify the passing a law, compelling the culture of land in a particular way, whereby the crops might be increased; as the farmer cannot pay his tax, unless he raises produce for sale; or, indeed, it might be extended to compel him to use plaister of Paris to improve his crop, and facilitate the payment; which I should deny, even if the tax was made payable in produce.

The same gentleman seems to have relied on the article, "That no capitation, or other direct tax should be laid, but in proportion to the census," as forming an exception to the powers of Congress; and, I presume, means to infer, as this bill will not be a capitation tax, that Congress may pass it under their power "to lay and collect taxes," and the sweeping clause to carry their *specific* powers into execution. Sir, the convention never intended that Congress should have, or exercise, the power to establish banks, or they would have made use of apt words to have vested them with it. Bank, sir, is a technical term; and if they had intended that power, they would certainly have used that term. When it was intended to give any power, we find the convention had no difficulty in expressing it: as, Congress shall have power "to coin money and regulate the value thereof, and of foreign coin." And here, let me remark, is an *express* power "to coin money," which, if we were left to legal construction, would be an affirmative pregnant that they should not omit bills of credit. But, sir, we need not rely on construction to prove what powers Congress *have not*, as one of the amendments to the constitution provides, that "Congress shall have *no* power that is not *expressly* given." And, to give a power by expression, is to use apt words for that purpose, and it of course becomes necessary to the power in Congress to establish a bank, that such a power should be given by such specific terms, as would, unequivocally, and without construction, convey the right.

As to the sweeping clause, "to pass all laws necessary to carry into effect the foregoing powers of Congress," the letter of this section confines its operation to the *specific* powers of Congress, *previously* enumerated, and can, in no sort, create constructive powers, or be construed into a creation or extension of power. Sir, if a doubt can remain of its harmless and inoperative nature, I trust it will be removed by a reference to the second volume of the *Federalist*, page 202: "It is *expressly* to execute these powers, that the

sweeping clause, as it has been affectedly called, authorizes the National Legislature to pass all necessary and proper laws. If there be any thing exceptionable, it must be sought for in the *specific* powers upon which this general declaration is predicated. The declaration itself, though it may be chargeable with tautology or redundancy, is at least perfectly harmless." Here we find one of the framers of this instrument, when defending this article called the "sweeping clause," from the charge of being used to extend the powers of Congress, or to embrace other than the specific powers, himself confining it to the *express* powers, and, indeed, declaring that it gave no power; was a mere tautology. Yet gentlemen seem to think that it is an important delegation of power, and confidently quote it as such; and, indeed, if their construction of it was indulged, it would discharge us from every constitutional obligation, that *we*, in our *discretion*, might suppose the public good required; but I trust the good sense and patriotism of this House will never suffer it to substitute *discretion* for *expression*, their *will* for the *law*.

An honorable member from North Carolina, [Mr. ALSTON] has, with some confidence, cited the 10th section of the 1st article: "No State shall emit bills of credit, or make any thing but gold and silver a tender." He urged this denial of the right to the States to emit bills of credit, as a perfect prohibition of the States to grant bank charters, and insisted that bank notes were bills of credit. He spoke of this section as a discovery of his own, not noticed by any body before him, as applicable to the case. Sir, the gentleman certainly misapplies the term "bills of credit" to "bank notes." The term "bills of credit," was surely intended to express and prohibit the emission of paper money, which had been emitted by the States and by Congress, during the war of the Revolution, and had so depreciated, as to impress the convention with the propriety of prohibiting their emission in future. By a recurrence to the proceedings of the old Congress, and the laws of the several States, it will be found that the term "bills of credit," was technically used for paper money; nor can there be less doubt that bank notes have also their technical meaning, as the paper issued by bank directors; and neither of the terms "bills of credit," or "bank notes," could, by men of legal intelligence, be used for the other. "Bank note," and a "bill of credit," are terms so well known to the law, that, in legal parlance, neither could be substituted for the other. On a prosecution for counterfeiting either, the other could not, I apprehend, be given in evidence. I must, therefore, insist, that the gentleman's construction of the constitution is incorrect. But, sir, if it was correct, and the States could not grant bank charters, would it follow that the Government of the United States would possess the right? I presume not: unless that article of the constitution, which declares, "that all powers not granted to Congress are reserved to the *States*, or the *People*, shall be blotted out of the instrument, or totally disregarded. Sir, I hope we have not already arrived to that lust of power; and I trust the present case, when its expediency comes to be examined, will not seduce any member of this House from his regard to this hallowed instrument.

Sir, the Secretary of the Treasury, [A. Hamilton] at the time of the passage of the law establishing the United States Bank, and who may be called the father of it, labored with unceasing assiduity, in every stage of it, to give it a legitimate existence. We see him, sir, insisting on the power to grant this charter, as conferred by the section that authorizes Congress to lay and collect taxes, and by the sweeping clause, "to pass all laws necessary to carry the preceding powers into effect," any thing, in his opinion, in the Federalist, before cited, as to the *harmless* quality of the sweeping clause, to the contrary notwithstanding. Sir, we see him driven from these stands by the Attorney General, [Mr. Randolph] and by the then Secretary of State, [Mr. Jefferson] the last of whom insisted, that a proposition in the convention, to authorize Congress to grant corporations, had been rejected; which so thoroughly closed the case, that we find Mr. Hamilton, although he questioned the *authenticity* of the document relative to the rejection (by the convention) of the articles alleged to have been rejected, taking post behind that

article of the constitution, that "Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory, or *other property*, belonging to the United States," and insisting, that the shares of the stock contemplated to be *subscribed* by the United States, would bring the law, granting the charter, within that section which authorized the United States to make all needful rules and regulations respecting the property of the United States. But this would not justify a renewal, as Congress have sold their stock. Thus, sir, we find the advocates of this power in Congress to grant a charter to the Bank of the United States, fixing on a variety of the sections of the constitution, from whence they infer we have the right. And, although, by the express letter of an amendment to the constitution, Congress can exercise no power not *expressly* or *specifically* granted, yet these gentlemen insist we have the right, although they cannot agree among themselves on the article by which it is *specified*; and, indeed, each is an authority against the other, that the power is not granted at all. And although they all agree on its being constitutional, they are as much at a loss to fix on the article by which it is made so, as the ladies of Strasburg were to decide on the composition of Stern's celebrated nose, though they all agreed it was a noble nose.

The gentleman from Maryland says, Congress have, by the law authorizing a branch of this bank to be established at New Orleans, recognised their right to grant a charter; and insists that this ought to be considered as an authority to that purpose. Strange that the gentleman's zeal should so transcend his judgment as to induce him to press so futile an argument. Congress, at the time of passing that law, had a right to make any law necessary for, and beneficial to New Orleans; it was then a territory, and, by the positive provisions of the constitution, Congress have the power to make all "needful rules and regulations respecting their *territories* or *other property*;" they have exclusive legislation over it, and may make any law that a State could, as to its government, as well as any law authorized by the constitution to be passed by Congress.

Sir, by this charter, the directors of this bank were authorized to fix branches in every part of the *United States*; and when Congress became the purchasers of New Orleans, they considered it a portion of the *United States*, and, of course, that the directors of this bank had the right to establish the New Orleans branch bank, and felt no hesitation to declare it by law, as they had a perfect constitutional right to make all needful laws for their territories, of which the Orleans territory then was, and yet is one. Yet, sir, this act of good faith in the nation, to this bank, is pressed as an authority to bind this House to consider the constitutionality of this question as settled; but the good sense of this body will secure the United States from the calamity of re-chartering this bank, and committing the best interests of this nation to its foreign and domestic enemies.

Now, sir, having presented this view of the unconstitutionality of this question, I must beg the further indulgence of the House while I present also my view of its inexpediency.

Sir, this charter is very nearly allied to the funding system; they had a coeval conception, and the same progenitors. They were conceived in sin, and born in iniquity. The funding system was founded in the basest of frauds to the best of men, the war-worn soldier, whose *necessities* compelled him to part with his certificates, the price of his blood and toil during an eight years' war; and out of which the arch speculator, availing himself of those necessities, had trepanned him, at *half a crown in the pound*. These certificates, sir, were funded to the holders, with their interest, at par, and with other certificates, for supplies for the army and navy, which had also depreciated, were funded at par; and although it was ably contended, that the certificates granted to the original holders only, should be funded at par, and that those held by speculators should be funded at a certain exchange. Yet, sir, such was the influence of that well organized band, under the auspices of the then Secretary of the Treasury, that no discrimination could be effected

whereby Congress might have been justified in paying the poor soldier for his loss, by being obliged to part with his certificate at less than its nominal value; a loss occasioned by the inability of Congress to pay them at the time, agreeably to their contract; a loss by Congress forcing upon them these certificates, and their total inattention to the payment of them, for many years, and until they were possessed by the hopeful band of speculators, who were the active agents of this system. As an evidence of its corruption, the continental bills of credit which had been issued from time to time, were to be funded at one dollar in the hundred. They, sir, were as a circulating medium in the hands of the *People*, who, however honestly they might have received them for supplies to the army and navy, at the same time, and at the same price that their neighbors furnished them supplies for which they took their certificates, which this system funded at par for the benefit of speculators, while the holders of the bills of credit were funded at one hundred for one—could, sir, any thing but corruption have prevented the discrimination between the original holders of the certificates and the speculators, or have induced the funding of certificates (for supplies furnished at the same time and the same price) at par, that denied it to those holding the bills of credit?

This banking system was partly made up of these corrupt materials of the funding system, which composed a portion of its stock; was illegitimate in its conception, partial in its establishment, and corrupt in its administration; is a mammoth moneyed aristocracy, violative of the constitution, of unlawful origin, under the control of foreigners, who have proved their principles, by the selection of its directors—*all* Federalists. This stock was to be subscribed at a *short day* in Philadelphia, convenient only to that neighborhood; it was therefore partial. When in Maryland a bank is to be established by law, the proportion of each county is allotted to it; books are opened, and the stock subscribed for in each county; and why were not books opened in each State, and their portions of the stock allotted to them, as in Maryland? Sir, when we consider that the directors of the mother bank in Philadelphia are elected under the influence of foreign stockholders, to the amount of upwards of seven-tenths of the whole capital, we are not left much to conjecture, why these twenty-five directors are all of a particular political complexion, nor why a list of them, and of the directors of the branches, (as required) has not been furnished, as an agent here had it in his power. Sir, I should have been glad of the list, as, being pretty well read in the biography of the people of this country, I should have been enabled to have pointed out, I have no doubt, a number of traitors to the Revolution, Burrites, and embargo breakers; the whole phalanx being at every stage of the republican administrations of this country, with *few* exceptions, opposed to every measure of those administrations. I am a little surprised at their temerity in asking, and expecting a renewal of that charter, by which its directors have used their influence corruptly, to control the measures of the Government, and the elections of the patriotic favorites of the People. We have seen a petition, signed by a number of the merchants of Philadelphia, addressed to General Washington, to ratify Jay's memorable treaty, a number of whom were known to have been its bitter enemies; and it is a well known fact, that the reason assigned by them for that act was, that they were induced to subscribe it under the threats of these bank directors, that, if they did not, they need expect no more accommodation at the bank. We have seen, at Baltimore, their influence exerted in the memorable election between Gen. Smith and Mr. Winchester, where Edward Johnson, now mayor of Baltimore, and a bank director of the State of Maryland, and Mr. Matthews, now and often a bank director, were put out because they had the presumption to think for themselves, and the temerity to vote for General Smith. These gentlemen were of unblemished reputation, and equally entitled to respect with their successors. I have not a single doubt but they did not suit the directors of the mother bank; they had supported a patriotic soldier of the Revolution, a sin of too deep a die to be forgiven by this Britannic chosen band, who have lately put the seal to their principles in the election of Evan Jones, now president of the branch bank at

New Orleans, who succeeds a gentleman of republican principles. This Mr. Jones is said to be a refugee from the United States at the commencement of the American Revolution, and a British officer during that period, who has been lately more than suspected to be one of Burr's chosen band. If, at a time when the directors are soliciting the renewal of their charter, they can thus outrage every principle for which our patriots bled, and prefer the parricide to the patriot; at a time when the eye of the nation was fixed upon them; what, I ask, after a twenty years' renewal of the charter, may they not be expected to do, or how, in the case of a war with Great Britain, might they not be expected to act? How would a patriot of America be expected to act in supplying funds to our enemies, to prosecute a war against this country? It would certainly be a treasonable adhering to our enemies, giving them aid and comfort. But, sir, we are told this is a harmless institution, all important to the fiscal concerns of the United States; influenced by no motives but the common good. Strange, indeed, would it be, to ascribe to the stockholders of seven-tenths of the capital of this bank, (reported by the Secretary of the Treasury to be foreigners) and known to be Englishmen, a disposition friendly to this country. Sir, here is a strong foreign influence on the moneyed concerns of this country; money has been correctly called the sinews of war; and are we to suppose that Britons are not as much attached to their country as Americans are to theirs; or that the strength and influence of this institution will not be put in full operation against us, when it has been committed to the care, and put under the direction of men, known to be in hostility to the best interests of this country?

Gentlemen on the other side, however, insist that there is no *improper* influence to be apprehended, and deny it to be a party question, although it is well known to have originated in party, under the auspices of the great federal leader, Alexander Hamilton; although it has been conducted by directors of the mother bank, exclusively federalists; and although every federalist in this House is now its advocate. It is said to be harmless; I think, sir, the placing in the hands of twenty-five directors, elected by stockholders, seven-tenths foreigners, to have the direction of twenty millions of dollars, when money is admitted to be the sinews of war, particularly when we consider their political complexion, and retrace their political conduct, cannot be safe to our republican institutions, on the score of its moneyed influence; but when we consider the patronage of these directors, who, by the charter, have a right to establish as many branches in the United States as they please, say one to each State, with the appointment of thirteen directors, a president, and seven officers to each branch, with as great accommodations as directors, and salaries to their officers averaging a thousand dollars a year, each making upwards of one hundred and seventy thousand dollars to their officers, and more to their directors—sir, this is a patronage greater than is possessed by the President of the United States; and will any gentleman who regards the solid interest of this country, be disposed to give this aristocracy, organized as it is, and composed of such materials, the key of this treasury, with its privileges? I had always supposed that the treasury of this country ought to be in the hands of representatives of the American People; they are said to hold the purse string of the nation's treasure, and not that body who now directs this bank. Have they not denounced the administration, and every measure of the Government, and supported its most inveterate enemies? But, suppose them to have been correct in all their measures, ought the nation's representatives to give to foreigners, knowing them to be such, the immense advantages flowing from the renewal of this charter, or to *one set* of her citizens this benefit, which they have enjoyed for twenty years, in exclusion of her other citizens, who, to say no more, are equally entitled to the favors of Government?

If, sir, we have the power, and feel it necessary to the fiscal concerns of the nation, to have a national bank, the eight millions two hundred thousand dollars held by foreigners in its funds ought to be withdrawn, and that share of stock distributed among the States, having an eye to the stock already held by citizens, so that the proportion of each State, agreeably to the relative census

of the States, might be apportioned and subscribed, whereby the establishment might be purged of its foreign influence. But, it is said, these foreigners will send their gold to England. Can any man of sound judgment suppose they would transfer their capital to England, and take four per cent. in England, and that in *paper*, when they can loan their money in this country, at six per cent, and get the interest in *specie*?

Sir, there can be no possibility of their exporting their stock in specie very speedily, when you take a view of the late report of the treasury: they will not have specie to meet the specie engagements of the bank. Sir, this institution was established by the Secretary of the Treasury without a bonus, or any solid advantage to the United States: he well knowing what had been the engagements of the stockholders of the Bank of England, at its establishment, and frequent extensions in its accommodations to the British Government; and that the derangement in its fiscal concerns had forced these extensions on that Government. He also well knew that, when the two insurance fire companies, the London and the Royal Fire Insurance Companies were established, with a capital of four hundred and fifty thousand pounds sterling each, they gave as a bonus to the British Government, one hundred and fifty thousand pounds sterling each; and yet this experience was not turned to the benefit of the United States; but, this charter was granted without any benefit but to speculators, who were holders of the funded debt, which was made a part of the stock of this bank. Sir, in the provisions of the law for the establishment of this bank, whose capital *was to have been* ten millions of dollars, the stockholders were so favored, as to be permitted to go on as soon as four hundred thousand dollars were paid in, (one twenty-fifth part of the capital) and thus, on that small sum, they proceeded to business, and soon received an interest on fifteen millions of dollars; and so much in conclave are its concerns, and so much under the control of men of a particular political complexion—all the directors of the mother bank, at all times, have been federal, or worse, many of them tories, or monarchists—so that, as to its secrets, it might be compared to the inquisition; and being under such control, I have ever doubted the statement of its funds. Sir, the humiliation of having such an assemblage of characters, selected by foreigners, to select directors for the branches in each State, has ever been truly grating to the honest feelings of republicans, and violative of the rights of the States, to whom an independent republican Government has been guaranteed.

Sir, there can be no necessity for this bank. The State banks are abundantly sufficient to supply every requisition, if the United States' deposits are made in them. This goes all lengths to defeat the arguments of gentlemen, predicated on the principle of necessity, as vesting this power in Congress. There are banks, in Baltimore, alone, with a *nominal* capital of eight millions two hundred and eighty thousand dollars, four millions nine hundred thousand dollars of which is paid in; and if a *nominal* capital of the United States' Bank of ten millions of dollars, with four hundred thousand dollars only paid in, could *begin* and *progress* in business, is it possible to doubt that the banks of Baltimore, with four millions nine hundred thousand dollars paid in, *already* in operation, could not go on, with the deposits of the United States, and extend their business, so as to give every necessary accommodation to individuals, and the public? Can there be any magic in the U. States' Bank? Or can any honest *American* feel a predilection to its foreign stockholders, or to their hopeful selection of directors? I trust not. Therefore, there can be no cause of alarm; no danger to the fiscal concerns of the nation. But, sir, many of the States have banks, and will no doubt conduct them as honestly and *impartially* as the United States' Bank has been conducted, and under the direction of men the United States may as safely trust, and on whom the public may as confidently rely for accommodation, unless, peradventure, *some* gentlemen might repose more confidence in foreigners, than in their own citizens; but, I hope and trust there are none such within this sanctuary of the liberties of the nation. We have been told by the gentleman from New York, (Mr. FISK) that agriculture, commerce, and manufactures, will receive a vital



stab, by suffering the charter of this bank to expire. This is a groundless phantom, produced by the feverish fancy of this gentleman, laboring under the bank mania; but, sir, if agriculture, commerce, and manufactures, were to feel it, in the extent suggested by the gentleman, I trust those classes of our fellow-citizens would bear it with fortitude, when they reflected that it could not be renewed, but by a violation of the constitution of the United States; a violation of the rights of the States, to whom is guaranteed an independent republican form of government; and perhaps a violation of our independence, for which the best blood of our heroes was shed on the altar of liberty. This charter is a cancer on the body politic, which I hope we shall suffer the hand of time to eviscerate and eradicate, and no longer suffer any foreign-agency in the regulation of the internal affairs of this country; and that we shall preserve our fiscal concerns from the influence of those, whose interest it is to destroy them. But, we are told by the same gentleman, that the Secretary of the Treasury, whom he calls the *Chancellor of the Exchequer*, has reported this bank, as necessary to the fiscal concerns of this country; and I suppose, by giving the Secretary of the Treasury the title of Chancellor of the Exchequer, he wished to impress this House with the powers of that officer, in England, to give an imposing influence to the Secretary here: and while he advocates the interest of these foreign stockholders, he so far forgets himself, as to introduce into our Government, a Chancellor of the Exchequer. But, I hope we shall exercise our own judgment, and be satisfied with our own Government, organized as it is, disregarding the principles of foreign Governments, and the interest of foreign stockholders. Sir, we are told by the same gentleman, that Congress sold to foreigners, two hundred thousand dollars of the stock in this bank, but a few years ago; and therefore we ought to renew the charter. Sir, the purchasers knew the tenure by which this charter was held, and the precise moment of its death; they bought it as it was, a perishable article, and the selling of the stock by the United States, ought to have been considered as the tocsin of its dissolution, at the time appointed for it. The claim to renew the charter on that ground, is as ridiculous, as for a man who had bought a horse, on his death, to demand another. We are told of the vast inconvenience our merchants will experience, by not having an universally circulating medium. How, say they, can money be paid by a Bostonian, at New Orleans? Sir, money is not paid in large commercial transactions; and if it were, would it not be an easy matter, if a merchant has Boston bank notes, to get the specie for them, and send that to New Orleans? How, I ask, would he do if he wanted the money at the Havana, or any foreign port? And why cannot he do the same at New Orleans? Sir, this is the common lot of merchants; but, sir, if the gentleman had Boston United States branch bank notes, could he get gold for them at the New Orleans branch bank? No, sir; and a gentleman who had five hundred pounds in the United States mother and branch bank notes, might have to travel to every State having a branch, to get the specie, as neither will give specie for the paper of the other, and are to that purpose foreign to each other. Indeed, it has been suggested, as a practice, to secure the banks from a pressure for specie, to circulate the Eastern notes to the West, and so, *vice versa*, whereby the holders, on the fourth of March, will be put to great inconvenience in procuring specie for them. Sir, the people of England had no national bank till the year sixteen hundred and ninety-seven, less than a century before the establishment of this bank, and they were enabled to conduct their *great* commercial concerns, to *great* advantage; and the United States had an extended commerce, before the establishment of this bank, and I trust her merchants will be able still, to conduct advantageously, their commercial concerns, without our sacrificing the constitution we are sworn to support, or being tributary to foreigners, whose interests I never can respect, when in collision with that of the American People.

Mr. BOYD said he was unwilling to give his vote on the question of indefinite postponement, without offering to the House, and those that he in part represented, his sentiments. I shall vote, said he, for the postponement; and,

should that vote not prevail, then against the bill, in its present form, and every other in which it may be presented to me, for a renewal of the charter of the United States' Bank, predicated on the original grant; because, to my mind, it is unconstitutional. And here, Mr. Speaker, you must allow me to go back and take a look at the time and manner of its creation, and how it originated. To my mind it was created in aid of the funding system; and what was that debt, so created, not contracted? Was it for the redemption of the bills of credit, called Congress money, that paid your army in the field, fed and clothed them for years? No. Was it to redeem said bills that were paid to the farmer for his flour, beef, teams, hay, and supplies to the army? No, no. How, then? Why, after those bills had so far depreciated that the farmers were unwilling to receive them, then certificates were given at the comparative price of those depreciated bills. Then again it became necessary to liquidate those certificates down to specie value. Were they called in then? No, no, sir; no redemption yet: and let me tell you, sir, it was that paper and credit that placed you in that chair, and me on this floor. Well, next the constitution is formed, and Congress set themselves about paying the debts of the United States, and some part of the several States' debt. Mr. Speaker, how was it done? Runners go out, in every direction, to purchase those liquidated certificates, and they succeed at *2s. 6d.* in the pound value, up to *8s.* All the certificates funded did not, on an average, cost the purchaser more than five shillings in the pound. Now, sir, the bills, called Congress money, are all, or next to all, sunk in the hands of the holders, and fifteen shillings in the pound of the residue. Now, sir, an act of general justice takes place! The said certificates are funded at *20s.*, or their nominal value, to the speculator! and an interest of six per cent. per annum given to him; to pay which duties are laid, and money borrowed to pay the interest in advance of the revenue. A charter is now granted for a bank of ten millions of dollars, seven and a half millions of which was to be this aforesaid State paper, and two millions five hundred thousand in specie; and when a small part of that was paid in, they were allowed to begin their discounts, and issue their paper to double the amount of the whole capital! viz. twenty millions; these certificates drawing six per cent. making seven millions five hundred thousand of the stock. Now, this part must, according to this statement, give to the stockholders eighteen per cent. for the deposit of this State paper, and twelve for the residue. Now, Mr. Speaker, I will ask where was the redemption for these bank notes so issued? Surely not in the bank, for that was seven and a half millions State paper, as above, drawing six per cent. Not in cash, for that was not supposed to be there. Therefore, to my mind, this was a great deception; swindling, I will call it. Ah, but, say some, by this means you were furnished with a capital, and enabled to carry on commerce to a great extent. I deny the fact—our capital was the produce of our soil and industry. Banks at best are no more than a conveniency to merchants; and I respect honest merchants; they are useful and necessary; but I do not include bank stock-jobbers, or men calling themselves merchants, without a capital; mere drones in the hive. No, sir, the latter is a moth to the commonwealth.

It appears to me, that this scheme of banking is an evil in its operation, something like the faro table, always, in its operations at each round, depositing six per cent. to the stockholders—for what? The exchange of a note discounted, and the note so lodged the best of the two! Ah! and is this indeed the capital of our country? Sir, I am lost in the chicanery. The banks enable us to over-trade on a false capital; depreciate our property; demoralise our citizens, and take or send the gold and silver out of the country. Let me state this a little further. I will suppose a line drawn at a distance from the sea of fifty miles, the whole length of the continent. I would ask, if the cultivation of that tract of country would be equal to the maintenance of themselves and those collected in the cities? I believe not. Then, again, let me suppose that, on an average, the whole length of our country we cultivate to the distance of two hundred miles from the sea board. Then, it appears that the average distance that we have to take all our transportable produce is one

hundred and twenty-five miles. It is believed that the cultivated distance is, on an average, nearly four hundred miles, which will enhance the price of transportation, mostly by land, to the cities. Now, sir, at the general price, one-third, and in some cases one-half, is expended in getting the produce there. But this is kept out of sight, and much said about high and great prices obtained by the farmer. It is nominal, not real. It is paid them in depreciated bank paper. Sir, I do contend that not only the bank paper is depreciated, but that, by the means of its abundance, the gold and silver is depreciated. One dollar, eight years since, was worth more than one dollar and fifty cents is at this day. Besides all this, I ask, is there cash in their vaults to redeem their bills? No, no, sir; not for one-half. Thus, sir, are the People swindled out of their property to support gambling and chicanery. Is this what enhances property, and gives a capital to carry on commerce? No, for myself, I think not. It is the product of our soil and our industry that is the capital, and on that we do and ought to trade; and that trade ought to be internal, turned to our own manufactories in a great part. I do not say that banks are not convenient and useful, to a certain degree; but I do not think the advantage is equal to the disadvantage. I am well aware that such sentiments will be treated with ridicule; but, sir, that does not intimidate me; they are my sentiments, and, as such, I give them without the least fear of intimidation, having in view the happiness of my country; and I will venture to say, that the day is not far distant, if we progress as we have done with banks, that the country will experience an universal shock from this false capital. Before you, sir, are propositions for charters of incorporation, within this District, for banks, to the amount of four millions! Can there be a want of capital? If there is, how is this stock to be furnished?

Mr. Speaker, we hear from Richmond, Baltimore, and Philadelphia, much said against the renewal of the United States' Bank charter, and I agree with them; but, I believe, from very different principles. The profits of the United States' Bank have been, from their issues, and the deposits of the revenue, and private individuals, immense; and they want the cards in their own hands to play the same game. I think they are not entitled to much credit. The odds consists in this: the one is against the constitution, the other not; the principle is the same in both.

Mr. Speaker, if we must have a national bank, let it be so in reality. I shall not attempt to go into the detail of such an institution. It is not my purpose; but I think that it might easily be done by making a portion of our public lands the foundation of such part as the United States should choose to subscribe or hold—the bank to be created in the District of Columbia, and to extend branches into such States as, by law, would choose to accept them. Sir, I had much more to say on this subject, but I perceive that the House is impatient, and I do not wish to detain them, and shall add no more.

Mr. McKEE.—Residing, as I do, in a part of this country remote from the scene of bank operations, I had determined to say nothing on the subject, contenting myself by giving a vote flowing from the honest convictions of my heart; but the extraordinary manner in which this discussion has been managed, on the part of the opposers of the bill, by attempting to make it a party question, has compelled me to commence my defence of the vote I expect to give, on this motion. So far as I know, or believe, my suffrage in favor of a renewal of the charter of the United States' Bank is in conformity with the views and wishes of the people I have the honor to represent; and any change in their sentiments, which might be effected by the frequent appeals to their passions and prejudices, made in the form of argument, it becomes my duty to correct.

We are arrested in the threshold of this discussion by a constitutional objection, by which it is alleged, that Congress do not possess the power of renewing this charter. I had thought this question long since settled, not alone by those who originally granted the charter, but confirmed by Mr. Jefferson, and the votes of a republican Congress. I have been led to this opinion by a

recurrence to the act of Congress of the 23d of March, 1804, by which the president and directors of the Bank of the United States are authorized to establish offices of discount and deposite in any of the territories or dependencies of the United States. A gentleman has said, this was a power possessed originally by the bank. If so, for what end was this law enacted? It must either have been enacted from an opinion that the charter could not, without this aid, be extended to New Orleans, or that it was proper and necessary, in order to the well-management of the fiscal concerns of the country, that this institution should be extended to New Orleans. Either case answers my purpose: for, if the bank could not, without this act of Congress, establish an office of discount and deposite at New Orleans (which seems to me to be the better opinion) then the passage of a law, extending the influence, the power, and the profit of the bank, cannot be considered in any other light than a tacit and full acknowledgment, on the part of Mr. Jefferson and the republican Congress, that the charter was within the pale of the constitution: for, sir, can it be supposed that Mr. Jefferson and Congress, who were more republican in 1804 than at any other period, would have extended, bolstered up, supported, and cherished an institution, originally obtained by a violation of the sacred charter of our political rights? No. Surely, it is impossible. And if, sir, this office of discount and deposite was induced to go to New Orleans because it was necessary and proper to be sent thither for the better management of the collection of taxes at that port, this circumstance admits the only fact necessary to be in proof to establish the power of Congress to pass the law.

If, sir, any additional proof could be wanting to show that the power of Congress, under the constitution, has been considered sufficient by this administration to authorize them to grant the charter in question, it is abundantly furnished by the act of Congress of the 24th of February, 1807, for the punishment of frauds committed on the Bank of the United States. By this law, Congress have subjected the citizens of the United States to capital punishment for counterfeiting the notes of the United States' Bank. Now, if Congress by the constitution had not the power, originally, to grant this charter, the notes of the bank were certainly issued in violation of the supreme law of the land, and Congress had no power whatsoever to pass a law making that criminal which was in itself no crime, and could not, by any conception whatever, be considered as a violation of any law of the United States. It seems to me to be perfectly paradoxical and absurd to say, that any institution, having no legitimate right to issue paper, nevertheless has a right to the interposition of Congress in their behalf, making it a crime against the United States to counterfeit this paper, which was issued in violation of the supreme law of the land. Under this act of Congress, the citizens of the United States have been deprived of their liberty as well as subjected to heavy fines, by the decisions of your courts. A citizen of Kentucky has been doomed to confinement in the jail and penitentiary house for a violation of this act of Congress, and he was not relieved from the fangs of the law by the President, (Mr. Jefferson.) How are these things to be reconciled on any other ground than by admitting the constitutional validity of the original act granting the charter?

But it has been stated that this charter, when originally granted, operated in the nature of a contract; and that Congress could not repeal the act of a former Congress granting a charter; and hence the power to make, and propriety of passing the act in question. This idea is altogether fallacious, because it is an indispensable requisite to all contracts, that the parties thereto shall be *able* to contract. If the constitution vested no power in Congress to make the contract, it was absolutely void; and if the Congress of 1807 were thus impressed, they could not and would not have passed the law in question; and, therefore, I infer that they considered that the constitution had vested Congress with the power to grant the charter.

In addition to this, we find that the present Secretary of the Treasury, under the auspices of Mr. Jefferson, made a report in favor of the renewal of the charter of the United States' Bank, in pursuance of a resolution of the Senate, passed on the subject. This report called forth no animadversions

from any section of the country; and I have ever understood, that, if this question had then been brought forward, it would have passed by a large majority of Congress. These circumstances have led me to suppose this question had received the ratification of every party, and of every administration; and, what is still of more importance and higher authority, the sanction and confirmation of the sovereign People, and therefore considered as an adjudged case, tested by experience.

I shall not consume the time of the House by any enumeration of the powers of Congress, arising from the constitution itself, with a view to prove that Congress originally had the power to pass the law granting this charter, and still possess it, because this ground has already been occupied with great ability, and the power of Congress to pass the bill clearly shown, and any remarks which I might make would only be a repetition of the arguments of others. I shall therefore content myself by answering some objections made to the bill.

It is said the bank will be a thorn and a viper in the bosom of the United States, which will ere long sting the political liberty of this country to death. This is a strong charge, and if it is found to be true, it must be conclusive against the bill; but let us examine this bold assertion by the test of reason and experience. This charter was given by Congress twenty years ago. Since that time the constitution, and the political liberties of this country have been in the hands of our political opponents, and are now in our hands *unimpaired*. The country has, in the latter period, been prosperous beyond example. Agriculture has prospered, commerce has flourished, internal improvements have increased; the People have enjoyed peace, prosperity, security, and happiness, in a degree infinitely superior to that of any other nation on earth. No deleterious consequences have grown out of this institution, affecting the security or liberty of the citizen or the country. It is said, and truly too, that ours is a Government of experiment, none similar too it ever having existed before. Here, then, is the test of experience in favor of this institution; and why discontinue it to try some devious and unknown track?

But, sir, suppose there is something of truth in this statement, I ask if State banks are not equally as dangerous to the political liberties of the States, as this bank can be to the United States? And, if the political liberties of the States are stung to death, I ask where will you find the liberties of the United States? I believe they will sink with the liberties of the States. But, if gentlemen are really serious on this subject; if they believe that banking is fraught with thorns, and not with roses, and wish to return to the state of native simplicity which existed in the pure ages of ancient Greece and Rome, I will unite with them as far as we have power in plucking up by the roots this monster, and make a common bonfire of the charters of every bank in the nation. To do less would not cure the evil, if any exists.

But it is said that this institution will destroy republican principles, and federalise the country. This bank, as I have already stated, was in operation in federal times; and, notwithstanding its influence, those times have changed; experience, the best possible test of human affairs, does not bear gentlemen out in this assertion. On examination we find, that the States of Rhode Island, Connecticut, and Delaware, are the only States in the Union who are represented in the Senate and in this House, exclusively, by federalists; yet there is not now, and never was, a branch of this bank in either of those States; but there is a branch bank in Georgia, South Carolina, Virginia, Maryland, New York, and Massachusetts, and the mother bank in Pennsylvania. The two first are exclusively republican States, and those parts of all the others, (except Massachusetts) where those banks are seated, are represented on this floor by republicans; whence, then, are found the facts to prove this assertion? do gentlemen pursue a recent example, set by a certain great man, of giving opinions, when, with the same breath, it is acknowledged there exist no facts on which they are founded?

The foreign capital employed in this bank is a ground of great alarm to some gentlemen. In answer to this objection, I would ask, if it ever has been, or if it is now, the interest or the policy of the States, or the United

States, to exclude foreign capital from being received and employed in your country? Do you find any provision in the charters of the State banks, prohibiting foreigners from becoming stockholders? Is there any provision in those bills from the Senate, establishing half a dozen banks in the District of Columbia, prohibiting foreigners from becoming stockholders? To all these questions you are compelled to answer in the negative. So long as the profits of agricultural pursuits, or commercial enterprise, furnish the adventurer with a good profit, over and above the price he has to pay for the use of the capital employed, just that long will he continue to employ it; and, if the capital is not to be found at home, application will be made for it abroad; and whenever capital becomes redundant at home, you will then exclude foreign capital. Before that time, the attempt would be unavailing: for, capital, like air or water, will seek its level. I have thought that foreign capital, in this country, would have had rather a salutary tendency, inasmuch as it would interest men of influence in the preservation of the peace and perpetuity of the Government. Mr. Jefferson must have been thus impressed, or how could he have permitted a sale of the bank stock of the United States directly to Englishmen; and he was certainly not chargeable with a predilection in favor of British influence. There is in England a class of men favorable to the prosperity of this country; and I have always understood that it is those alone who have interest in our funds. Besides, if this foreign capital is fraught with all those evils which gentlemen picture to themselves, the argument holds good against State banks, and goes to prove the necessity of their destruction also.

The gentleman from Maryland (Mr. WRIGHT) has made some heavy charges against the directors of the United States' Bank and their management. I had thought it universally understood and admitted, that the management of this great moneyed institution had been exemplarily correct, and I have not before heard any thing of the kind laid to their charge. But, even admitting the charge to be true, it only proves, what may, I believe, be alleged and proved against every human institution administered by man, viz: that the institution, as well as the administration thereof, is imperfect. But I ask if the directors of three-fourths of the State banks in the United States are not federalists; and, therefore, why not put them down in mass?

I beg leave to notice an argument which has been resorted to by all the opposers of the bill, when they have been told that the bank was both necessary and proper to the convenient and advantageous management of the public revenues. The answer has uniformly been, that this difficulty could easily be obviated by the agency of State banks. This, sir, is certainly begging the question; because, an admission that bank agency is necessary to the collection of your revenue, and proper to be used in the management of the moneyed concerns of the Government, is an admission of the only fact necessary to be in proof to show, conclusively, the power of Congress to pass the bill in question. Besides, do not all the unhappy consequences, which, is it said, await this bank, attend the depositing your money in State banks? Will you not, thereby, give a circulation to the paper of the bank where you make your deposits greater than heretofore? and, by increasing the circulation of their paper, as well as by aiding them with your money to make more extensive discounts, you increase the profit and value of the stock. This circumstance will create an anxiety with all the State banks to obtain your deposits; and, hence, the United States, if they are so disposed, can operate through those favorite banks as effectually on the People of the States, as they could by the United States Bank. You have all the evils of the United States Bank without any of the advantages; you also throw into circulation a heterogeneous mass of paper that no body knows any thing about, issued by establishments of whose solvency you know nothing. Will the gentlemen from North Carolina, or the members from Massachusetts, willingly receive their per diem in their own State paper? I believe they would not—yet the effect of using State banks, for revenue purposes, will be to impose this paper on the People of the United States.



It is a rule, sir, which I have prescribed to myself, in the management of the concerns of others which may be committed to my care, in any character, to conduct them in such a manner as to produce no individual distress or loss, which may not be fully compensated by an equivalent certain public good; and I shall not relinquish the observance of this rule on this occasion. We are informed by various gentlemen, who are charged with the representation of the more commercial States, that great individual distress will be the certain consequence of a refusal to renew the charter of the United States Bank; and that the distress will fall, with accumulated weight, on those who have poverty and the frowns of fortune to struggle with, is evident; and, when I commiserate the woes felt by the citizens of every part of our country, my attention, as it ought, is particularly drawn to the losses and distress which will be felt by my immediate constituents.

If this charter is not renewed, it is my deliberate opinion that the farmers of Kentucky will sustain a loss thereby to the amount of near 200,000 dollars; and I will now attempt to show that this opinion is not altogether chimerical. I am unable to state, with any great certainty, what is the amount of circulating medium of the United States; nor, indeed, is it necessary for me to state, with great accuracy, the precise amount. I suppose the whole circulating medium of the United States to be upwards of 50,000,000 dollars, and that of this sum the Bank of the United States circulates one-third. It is a fact, frequently stated in this House, and which stands undenied, that money, or circulating medium, is scarcer in the United States, at this time, than it has been for several years past, owing, perhaps, to the unproductiveness of commercial enterprise; or, if you please, to the natural increase of population, and the proportionate increase of demand for money. By refusing to renew the charter, you throw out of circulation one-third of the money of the country. The necessary and inevitable consequences of this act of the Government will be to diminish commercial enterprise in the same proportion, and, consequently, ship building and ship repairing will be diminished in a like proportion, and the materials, for this service, will not be wanting. By letters recently received from very intelligent merchants of Lexington, Kentucky, I am informed that 6,000 tons of hemp will have been raised in that State in the past year. The ship owners are the consumers of this article; for not one pound of it goes abroad, and from 6 to 9,000 tons of hemp is the quantity consumed in prosperous times in the United States. These 6,000 tons of hemp, together with what will be brought to the market from other States, will furnish an abundant supply for the present year, even admitting it to be a prosperous year. By the refusal to renew the charter you lessen the demand one-third at least, and, consequently, you diminish the price of the article in the same proportion. But, sir, this is viewing the consequences arising out of the rejection of this act in the most favorable light. If the refusal to renew this charter should, as some gentlemen apprehend it will, bankrupt not only many individuals, but also some of the State banks, a general alarm may take place, which would, for a time, put an end to all credit and to all business. The consequences of such a state of things are much to be feared, and much to be dreaded, by every portion of the community.

It has been stated that the United States' Bank can be dispensed with in the collection of your revenue, and in the management of your moneyed concerns. I wish to know how gentlemen can make this statement. I perceive that General Hamilton, the first Secretary of the Treasury appointed since the adoption of the constitution, in his argument on the subject, decidedly declares that the bank is necessary for the collection of the taxes, and management of the fiscal concerns of the United States; and Mr. Gallatin, the present Secretary of the Treasury, makes, substantially, the same declaration to you in his report on this subject.

[Mr. WRIGHT observed, that Mr. Gallatin had, in conversation, said that the moneyed concerns of the Government could be well managed without this bank.] If Mr. Gallatin has so said, he then says one thing and reports a different thing; and is therefore inconsistent. But I take his official report

as the best evidence of his opinion; and these men, having been charged with the management of the revenue for many years, and having the knowledge acquired by experience, certainly should know what is necessary and proper for the convenient and well management of the affairs of their department, and are therefore better authorities on the subject than any member of this House.

As to the remark made by some gentlemen that this is a party question, I have only to observe, that, if federalists do right, that can be no sufficient reason for me to do wrong, merely to oppose them; and if the suggestion that this is a party question, is to prevail against reason and common sense, and parties are thereby to be marshalled against each other, under the banners of some leader, then, indeed, any thing that can say ay or no, is perfectly qualified to be a member of this House, and intelligence is laid aside as useless and unnecessary. Against doctrine of this sort I protest; and perceiving, as I think I do, great political as well as individual inconvenience and distress awaiting a refusal to renew this charter, which is not compensated by any correspondent public good; and perceiving, also, in the destruction of this institution, a want of stability in your institutions, which is a partial verification of the predictions of the enemies of republican government, which we ought to refute by our acts, I shall therefore vote against the indefinite postponement of this bill, reserving, however, to myself, the right of subsequently examining the details thereof.

Mr. W. T. BARRY. Mr. Speaker: The measure now under consideration is certainly important. It involves principles interesting both as they relate to the General and State Governments. The solicitude manifested for the renewal of the charter; the deep concern that is felt in some of the States; the serious and solemn manner in which this subject has been considered and acted upon by their legislative councils; the general agitation it has occasioned in the public mind; has not failed to command my most serious attention. I should, nevertheless, have been content to have left it to the discussion of others, abler and more experienced than myself, satisfied with giving such a vote as would comport with the honest conviction of my understanding; but the debate has taken an unexpected course to-day. The remarks of my colleague, [Mr. M'KEE] will not permit me longer to remain silent. As it is my lot to differ with him on this great question, I must claim the indulgence of the House for a few moments, whilst I endeavor, in as concise a manner as possible, to state some of the reasons by which I am actuated.

The baneful effects to result from the dissolution of the bank; the ruin that is to follow in its train; have been portrayed in the most glowing colors, in a manner calculated, as it was no doubt designed, to awaken and alarm our fears. I shall not now enter upon this branch of the subject.

If, as I am most seriously impressed, the constitution does not authorize us to pass the bill, there is at once an end of the question. It is, Mr. Speaker, immaterial what consequences may result. No pressure of calamity, however great, can warrant a departure from, or violation of, that sacred instrument.

It has been said that this is a party question. The remark is just, so far as the principles which separate and distinguish the two great political parties in the United States shall be made to bear upon it; not that the declaration of any man can make it so. It is measures, not men, that should govern.

It will be recollected that, early in the history of our Government, the country was divided into two great political parties; the one endeavoring to extend and increase the powers of the General Government; the other attached to the State authorities, and exceedingly jealous of their rights. Under this state of things the constitution of the United States was framed. Soon after the Government went into operation under it, these parties again displayed themselves in the rules they adopted for expounding the constitution; the one contending for that kind of interpretation which would possess Congress with the most ample powers, sufficient to do whatever political expedience might dictate in providing for the common defence and general welfare.

This latitude of construction was considered by the other party as dangerous; that it would tend to consolidation; that, in this way, State rights would be encroached upon and their sovereignty impaired. They contended that the power of Congress was limited; that it must be confined to those powers expressly delegated, and to such as were *necessary* and *proper* to carry them into execution. That this mode of construction resulted necessarily from the nature of the General Government, but was settled beyond all doubt by that clause in the constitution which provides "That all powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States or to the People;" that, to step beyond the boundaries thus fixed, would be to enter upon a field of power no longer capable of being defined. Such has been my understanding of the views of the two parties; the one called *federal*, the other *republican*, or *democratic*, if you please. I speak of parties as they were at the period I allude to.

It is remarkable, that, upon this very subject, in the year 1791, when the bank charter was granted, we find the most distinguished politicians of that day who were on the republican side, opposing it: and they did it under the guidance of those sentiments that had originally given rise and character to the party. For, although they did not admit the utility of the banking system, yet the great ground of opposition—the strength of their argument—was directed against the power of Congress to pass such a law. It was, sir, upon that occasion, that Mr. Madison, then a member of Congress, made that perspicuous and luminous argument that has been so justly celebrated as defining and marking out the proper limits of power assigned to the General Government. I have thought proper to make these preliminary remarks, to show what was the understanding of this measure at the time of its adoption. That it was then protested against as unconstitutional. Two articles of the constitution seem to be mostly relied upon by those who are in favor of the renewal. That which gives to Congress the power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States, or, in other words, the power by which Congress is to regulate the financial concerns of the nation; and that which gives the power to make all laws necessary and proper for carrying into execution the powers vested by the constitution in the Government of the United States.

It has already been shown by gentlemen who have preceded me, by a course of reasoning, to my mind unanswerable, that the clause which enables Congress to pass all laws necessary and proper to execute the specified powers, must, according to the natural force of the terms and context, be limited to the *means* necessary to the *end*, or incident to the nature of the specified powers; that this clause was in fact merely declaratory of what would have resulted by unavoidable implication, as the appropriate, and, as it were, technical, means of executing these powers. It was further contended, that the true exposition of a necessary mean was, that mean without which the end could not be produced. If this doctrine is correct, it puts the question at rest; as it has been most clearly shown that a bank is not a necessary mean according to this exposition. I shall not dwell longer on this head, considering it as already exhausted by argument. The word "proper" is, in my mind, an important and operative word in this clause of the constitution. The incidental power to be exercised must not only be necessary, but proper; that is, it must be appropriate and confined to the end in view. If it goes beyond it, if it involves the exercise of a power that tends to create a distinct and substantive thing, which, in its important operations, is entirely distinct from, and independent of, the power to the execution of which it was designed as a mean, it would most certainly be improper. Such an exercise of power would, in truth, be usurpation; and the end proposed becomes a mere pretence for the unwarrantable assumption of power.

To enable Congress to collect taxes, offices of deposit merely would be sufficient. But instead of confining the incidental power to be employed to the object it is designed to accomplish, you introduce a new system of policy, that

has no more connexion with the management of the revenue, than it has with the power to borrow money on the credit of the United States; with the power to regulate commerce with foreign nations, among the States, and with the Indian tribes; or than it has with the power to raise and support armies or to provide and maintain a navy. The power to establish a bank applies equally as an incident to all the abovenamed powers, and is not strictly appropriate to either, nor is it confined to all of them collectively. If, under such pretence, you can erect corporations, our power in this respect is unbounded.

By this act, you form a society of individuals, invest them with extensive and exclusive privileges, who, instead of being employed as auxiliaries in the fiscal arrangements of the Government, set up for themselves, and go on upon a system of money making. They issue notes that become a circulating medium, and forms a new species of capital. The institution carries with it a train of offices, influence, and patronage. It gives rise to an act of sovereign power, that no Government should ever be permitted to, or can derive by just implication, that of punishing those who may counterfeit the notes of this bank. Thus introducing into our code of laws a system of criminal jurisprudence never contemplated by the constitution.

It will be seen, as we progress in this inquiry, how this measure is calculated to affect the State rights, and to infringe upon their sovereignty.

If it is good policy to establish banks, and I am inclined to think it tends, when properly regulated, to promote the interest of society, the States will surely have a right to claim the benefits that may result from it; because this right they never have parted from. The profits arising from discounts, the advantage to accrue from public and private deposits, and the many facilities this kind of institution affords to society, belong to the States, and ought to be exclusively under their control. The objects of State policy are infinitely more numerous than those of the General Government, and deserve equally to be promoted.

It is said the States are at liberty, if they choose, to establish banks; this does not remove the objection; if the right is impaired, it is the same in principle as if it was denied. A branch bank of the United States will always have a predominant influence. They will have the benefit of a large capital; but the great source of influence results from its connexion with the mother bank, and a confederacy of branches co-extensive with the United States. They all move in concert; and, by combining their influence, would, at any time, be enabled to overwhelm and destroy the small State establishments. There can be no stronger evidence of the weakness and the dependence of the State banks upon that of the United States, than the alarm that some of them now feel at its expected dissolution. It is said, that no danger of this sort is to be apprehended; that those who have had the direction of the United States' Bank have conducted it properly, and with liberality. This affords no guarantee that they will continue to do so. Bank directors have the same passions and prejudices that other men have; the same feelings of jealousy and rivalry exist in corporate bodies as with individuals; the same struggle for power and disposition to oppress. State rights require the guardianship of the constitution; they are not, I trust, to be left to the mercy of a bank directory.

It would, sir, be less objectionable, if the Bank of the United States diffused its benefits equally throughout the different States. But, instead of this equal and just distribution, it will be found to be confined and partial in its operations; its benefits will be principally confined to the sea ports; it can only be made to operate indirectly upon the agriculturist and manufacturer. The direction of this institution will be entirely in the hands of commercial men; all its power and influence will be lent to them. This, combined with the power their wealth naturally gives them, has heretofore, and will continue to give them a decided ascendancy in the councils of this nation. It is believed that this kind of influence has had its effect in producing our existing embarrassments with foreign nations. Sir, the slightest attention to our public acts will show that there has been a great predilection for commerce; that it has met with almost exclusive protection and support; whilst little or no

thing has been done for the internal industry of the country; large sums of money have been expended for the promotion of commerce, whilst our infant manufactures have been suffered to pine and languish; the enterprise embarked in this way, never having experienced any kind of encouragement from the General Government. It is time to remove the causes that gave rise to this partial influence.

The power of the States is affected by this measure, in another important respect. By its means, individuals, who are mostly foreigners, hold large estates in stock, without being, in any way, subject to the control of the State Government, or paying any tax for its support. Is it just that such exclusive privileges should be conferred? Is it proper that these men, not the most meritorious, should be entirely exempt from the burthen of taxation, whilst the true citizen is bound to yield his personal and pecuniary aid?

Another formidable objection that presents itself, is the connexion of this institution with the Government—a dangerous source of influence and power. When the People have to pay taxes for the support of Government, they feel and understand what is going on. If they should be burthened with high taxes, unless a good reason can be assigned for it, they will remove their agents, and appoint others, who will act upon a better system of economy. But give to the Government a bank with a large capital, and you afford a facility of borrowing, and a source of supplies, utterly incompatible with the genius of republican institutions. Loans may be had to enable the Government to pursue their projects; expensive establishments may be created, and kept up, in this way, that the people never would have tolerated, had they been directly called on for their contributions. The ease it would afford of getting money, would be the cause of repeated applications to this source; and we may readily perceive how a debt thus created will be constantly accumulating; upon this subject we have the light of experience to guide us. The English nation presents a sad example. It is true, the proposed capital is too small to create much clamor at present; but, renew this charter, and it will be augmented as convenience shall dictate. The capital of the Bank of England was small at its first establishment, but it increased gradually as the exigence of the Government required. Sir, whenever the Government shall have become largely indebted to this bank, it will have acquired an influence over our counsels, the idea of which is humiliating; an influence that would not only be degrading, but one that would endanger our liberties, by subjecting us to the control of a moneyed aristocracy. Permit me now, sir, to notice a few of the arguments that have been advanced in favor of renewal. It is said, that the practice of this Government is against the rule of construction we contend for: as an example, the act concerning light houses, beacons, buoys, and public piers, has been cited. This is referred to the power of regulating trade. This act is, in truth, only a mean to carry into execution a power; it is distinguishable at the first glance from the power to establish a bank. They only tend to promote commerce; they are strictly, necessary, and properly confined to the object. They go no further than the end in view, not at all impairing the rights of individuals, or of the States; besides, there is nothing in them uncongenial with the nature of our Government.

It is further contended, that the law now attempted to be renewed has been sanctioned by the States, and acquiesced in by the People. That, although it might not originally have been necessary, it has now become so. I can see strong reasons why this act, granting a charter, should not be repealed, although unconstitutional. The system had been introduced; a pledge was given to the stockholders; they invested their funds upon the faith of its continuance for twenty years; it was a contract for that period; to have violated the public faith would not, perhaps, have been consistent with sound policy. There is a difference between repealing the law and suffering it to expire. The stockholders have not even the color of a claim upon us for the continuance of the charter after the expiration of the twenty years. The contract has been fulfilled and completed. They are, or should have been, ready to close their business. Sir, if this doc-

trine of acquiescence is correct, many other obnoxious laws that have been the cause of much heat and ferment throughout the nation, might, in the same way, be proven to be constitutional, and might, hereafter, be received, for the same reason. It is one of the first principles of a representative government, that a subsequent legislature have the power to change the measures of a preceding one; and it often is necessary they should do so. No State has ever sanctioned this law by a direct declaration to that effect. Their approbation has been inferred from their having passed laws to punish counterfeiters. Sir, the States cannot repeal an act of Congress; they could not prevent the circulation of the notes of this bank. It was, therefore, essential to pass such laws, in order to secure and protect their own citizens from fraud and imposition.

It seems clear to me, that an act of Congress, not originally constitutional, cannot be made so by any lapse of time. If, in 1791, it was unconstitutional, it must be so now. The constitution does not change with the times. A republican administration should not be permitted to exercise a power that they would have denied to the other party. The love of power is natural; man is prone to abuse it. I confide much in those who are, at present, at the helm, but I will not trust them beyond the limits of the constitution. "With unremitting vigilance, with undaunted virtue, should a free people watch against the encroachments of power, and remove every pretext for its extension."

The evils to result from the dissolution of the bank, have, in my opinion, been greatly exaggerated: but, sir, this alarm, if real, impresses my mind differently from what it does that of some others. The deep interest excited; the feelings that have been awakened; the memorials constantly flowing in upon us; show the important bearing of this institution, and the great interest it has already created.

If we look forward to a period when this charter is to expire; if ever we intend to shake off this illegitimate offspring, now is the lucky moment; its embrace, though strong, is not yet deadly. Although some of its advocates threaten, and endeavor to coerce us into the measure, by the alarm they have excited, the stockholders yet approach in the respectful attitude of memorialists; we are yet at liberty to act freely; but, if this charter is renewed, depend upon it we shall not be able, hereafter, to stop its progress. Pretences will not be wanting to extend its limits, and augment its capital. The poison, already tasted, would soon reach the vitals of this Government; our efforts, hereafter, for relief, will be fruitless; they will only serve to irritate and inflame, until, at length, it will be found that we must tamely submit.

Mr. FINDLEY.—That Congress have a right to refuse the renewal of the charter of the bank, or to modify it as they think proper, is admitted on all sides. He himself wished the bill to be much changed from what it is at present. He would be even willing to join in rejecting it, for the sake of trying an experiment, if he was not convinced in his own mind, that the experiment would cost too much. We know how far and how well the present bank had answered the intention and the end for which it was instituted; but supposing another national bank to be instituted, which he knew was the wish of some members who were opposed to the present one, very great both public and private distress must take place in the mean time, without a certainty of being better served in the end.

Whatever might be said on the ground of expediency, against renewing the charter, he had been much astonished to observe the bill so much opposed, as being contrary to the constitution. When the law for incorporating the bank passed, it was opposed in the House of Representatives by a minority—about one third of the members voted against it. Though he was not then a member, yet he attended to the discussion, and he knew that those that led the opposition were equally opposed to all State banks, of which there were then but three in the United States, and none of these were instituted to promote the regular, permanent, and successful operation of the finances of the State, as some of them at least have since expressly been. He was sure that the



Bank of North America, the first that had been incorporated, was, perhaps, from the circumstances of the times, considered rather as injurious than beneficial to the State; therefore, that a bank should be useful in conducting the revenues of the United States, was, at that time, in the opinion of many, at least doubtful, or a mere theory; but, no sooner was the experiment fully made, than all parties acquiesced in its constitutionality and usefulness. Its constitutionality has been recognised by all the branches of the General Government, through all the changes of parties and administrations: this could be made evident by numerous instances.

It is true, an honorable member from New York (Mr. PORTER) has denied this, and alleged that the reason why it was acquiesced in or not repealed, was, because it was a contract which it was necessary on the part of the Government to fulfil.

Mr. F. said, that a contract contrary to the constitution was void in itself, especially where no consideration was given; that our courts of justice, who were judges both under the law and the constitution, would set such contracts aside, much more an act of incorporation, for which no valuable consideration had been paid, as the consideration only consisted of the services that were to be rendered, and which, if contrary to the constitution, ought not to be accepted. So far, however, have the courts of justice been from setting this law aside, that both Federal and State courts have, under the authority of both the Federal and State laws, made decisions for its protection. Or, if it had been contrary to the constitution, Congress ought to have repealed the law by which it was granted; there was a precedent to that purpose in this country. The Bank of North America was incorporated by Congress at a period of alarming pecuniary distress; but knowing that it had no authority to give it effect, Congress recommended the incorporation of it to the respective States. Pennsylvania and Delaware only complied with the requisition; the charter gave an *exclusive* monopoly in *perpetuity*. Another company, in 1784, applied for a charter; the Bank of North America opposed their claim with success, in right of their charter. The succeeding Legislature considered the *exclusive* right and the *perpetuity* to have been granted in violation of the constitution, and therefore repealed that charter, and afterwards granted a limited charter to the company. Political parties have changed since the United States' Bank was incorporated; those that now prevail have been the majority about half the time; yet so far have they been from repealing the charter, that they have extended its powers, and availed themselves of its accommodations. It was a mistake to consider the authority to incorporate the bank to be a separate and distinct power, and therefore not granted to Congress. It was not even, as some members have called it, a constructive power, or power by implication. It was inseparably included in the powers expressly granted, as the means to accomplish the end; for it is in all cases admitted, that where an object or duty is enjoined, the means of accomplishing the object or of performing the duty are included. This is too plain to require proof or illustration.

The powers vested in Congress, or the duties enjoined, are, to lay and collect taxes, duties, imposts, &c. to pay the debts of the United States, &c.; and the object prescribed is the public good and general welfare of the United States; they have also the power to provide for raising and supporting an army and navy, and for borrowing money on the credit of the United States.

Surely, no member will say that the safe-keeping, the most cheap and certain manner of collecting the revenues, and the most expeditious and the least expensive manner of transmitting them to the destined places, and paying them to their appropriate uses, are not included in the beforementioned powers; if they are not, the powers themselves are a nullity, because they cannot be executed. Custom house bonds are, by law, lodged in the banks for collection.

It is admitted that these powers included a choice of means and a discretion in the application of them, as they did in the various objects of taxation. Congress might have instituted numerous offices of deposit, and paid high salaries, and required sureties equivalent to the risk, and they might have

employed public officers, sufficiently protected, to transmit the money to the various places where it was required, and to pay it to the appropriate uses. To this method, no doubt, nations had resorted before banks were introduced; but, surely, this method would be more unsafe, more uncertain, much more expensive, and attended with much more delay, than the agency of a bank, whose capital gave sufficient security, and whose paper is in great circulation and credit. Therefore, whatever might have been the different opinions, before the experiment was made, yet, having been successfully made, it is evident that it was the best means to accomplish the end.

The honorable gentleman from New York, however, has admitted that banks are necessary and proper for collecting, transmitting, and safe keeping of the revenue, but alleges that the State banks are sufficient for that purpose. This, Mr. F. said, as he understood it, was giving up, in a great measure, the point. If the use of banks was necessary to carry the revenue powers into effect when this charter was given, and when there were not banks south of Philadelphia, and, it is believed, but two east of it, there not being State banks sufficient at the period when the charter in question was granted, in any degree adequate to the purpose, the Bank of the United States was a necessary means or instrument for executing the revenue powers vested in Congress, and therefore not contrary to the constitution. If, at that time, it was not, then, it may be asked when it became so?

The State banks are not, by their charters, in any degree responsible to Congress; they are not obliged to inform it of the amount of their capital, or their debt, or paper issued, as of their deposits. Surely, no member would agree to deposit the revenues of the United States with, or transmit them through, institutions, of the solidity of whose credit they were not well informed. He did not mean, however, to say, that it was not possible to select such a number of State banks as would be sufficiently safe for deposits, or that such a connexion of these banks might not be formed, as would make them responsible for the safe and speedy transmission of the revenue, and give the necessary information to Congress of the state of their affairs; yet, supposing this was all completed, this union of banks would be in so far a national bank, subject to the same objections, and to the following defects: The rates of all these banks would not pass through the whole of the United States, and the continuance of their charter would be at their discretion, and on the terms prescribed by the respective States. Indeed, it would occasion such a competition between the different States and the United States, in conducting their respective revenues, as might be inconvenient.

He did not mean to depreciate the State banks; many of them are worthy of the highest confidence, as far as their power and operations extend; but, surely, it will not be said that all of them are so. The paper of some of them is well known to have depreciated; the paper of many others are current but to a small distance; they will not carry many of the members of this House from their homes to this place; the paper of none of them will pass throughout the United States.

Mr. F. said, there had been an unusual liberty taken on this question, of introducing party epithets. He did not really know what that had to do with the question. The parties connected with all banks, are the men that have money to vest in them for their own profit and at their own risk, and those who have credit, on which they receive accommodations from the bank; and there is a third party, who have neither money nor credit, and who have no interest in banks further than the accommodations received from them sometimes enable their employers to pay them their wages the more promptly. You may call these parties federalists, republicans, aristocrats, or what you please; but those who have the most money, and are the greatest stockholders, will eventually have the direction of the banks, and those who have the greatest credit will obtain the largest accommodations. We know of some banks, instituted by one political party, which has come under the direction of another; they purchase the stock in market. We find, indeed, great opposition to the renewal of the charter of this bank, but not a single charge of miscon-

duct, except the alleged appointment of two improper directors in a distant branch. Surely, the bill might be so amended as to give reasonable security against such appointments. He was but little acquainted with the branches, but he had heard no complaint against the direction of the mother bank, and was well assured that the republicans of Philadelphia had as liberal accommodations, and that as much or more of their paper was discounted there, than in any other bank; which, if the charter is not renewed, they must then redeem.

Congress is vested with the power of receiving money on loans, and, consequently, of providing the best method of procuring loans; and it is universally admitted that banks are the best sources from which to receive loans, without delay, without difficulty, and at moderate interest, and for no longer time than the loan is necessary. In the early stages of our Government, our revenue was small, and our debts and expenses great. In addition to these, we soon became involved in a tedious, very expensive Indian war. It continued five years. During this period, numerous loans were made from the bank, till more than three-fifths of the whole capital was loaned to the Government at common interest, payable at discretion. Another crisis of difficulty and expense arrived, viz. hostilities with France. Money was wanted; the bank could advance no more, it had already loaned too much. The Government was obliged to open books for a loan at eight per cent. interest, irredeemable for ten years; but few years had passed before money could have been borrowed at a reduced interest for its discharge. Nay, but a few years had passed till it could have been discharged at the treasury, if it had been redeemable; much of it, as well as bank and other stock, was sold to purchasers in Britain and Holland.

It is believed by many, that a loan might be made to a large amount now, on better terms; but when he considered the great drain of specie from the country during the last year, the losses in Europe, and the unusually small amount of specie imported, or that was in the vaults of the different banks, he thought there was little encouragement to try the experiment. Such loans must be of a money that would pass throughout the United States for all payments.

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Mr. F. said, that, having entered more largely, on a former occasion, into this question, he did not intend to detain the House now. He had, as much as he could, avoided repeating what he had said formerly, or what others on the same side of the question had expressed. He had, therefore, avoided mentioning the public and private distress that must result from the immediate dissolution of this bank. Even admitting that the specie stock purchased by foreigners, believed to amount to \$7,000,000, should not be immediately removed from the country, yet it would be diverted from its accustomed uses; and, instead of giving relief as at present, might speculate upon our distresses. He believed that suddenly calling \$15,000,000 of current medium out of the usual circulation, could not avoid, in any country, being the cause of at least a great proportion of public and private distress. Therefore, he could not, by his vote, support the measure. It will have other inconveniences, which have not been mentioned. When the bank winds up its business and makes a transfer to trustees, it is not, by charter, obliged to call in its notes from a circulation that is widely extended throughout the United States. The holders, indeed, will have their remedy at law against the trust, but this may be a tedious and inconvenient remedy for many note holders.

It has been asserted by more than one member, that the institution of the bank was the foundation or source of the party spirit that has unhappily prevailed in this country. He wished, before he sat down, to correct this mistake, passing what prevailed before the Government took place. It was the funding system, in the manner it was conducted, and the extent to which it was carried, and the consequent speculations, that was the source of that unhappy party spirit; but, especially, the assumptions of the State debts before they were liquidated or the amount known, and which, after having been once rejected, was carried by a very small majority; as a fund for this debt, the excise and other unpopular internal taxes became necessary. It is well known that

about \$3,500,000 of this assumption is yet due to the United States from the States that were paid that much more than enough, and which no method has been, nor probably can be, found to recover. Unfortunately, almost every session, some measures are so conducted as to keep alive, if not promote that ruinous party spirit by which our national character is degraded, and our measures embarrassed. He questioned much if rejecting the bill, without even attempting to amend it, is calculated to allay that unhappy party spirit.

JANUARY 22, 1811.

The motion for indefinite postponement under consideration—

Mr. McKIM spoke in favor of it; Mr. GOLD against it; Mr. JOHNSON for it; and Mr. SHEFFEY closed the debate for the day, in a speech against the motion.

Mr. McKIM.—Mr. Speaker: The subject now under discussion involves an important constitutional principle, which presents, to my mind, an insuperable objection to the passage of the bill. It is not, however, my intention to enter on a discussion of the constitutional principle which has a bearing on the bill. That part of the subject has been ably and critically discussed by my honorable friend from New York, (Mr. PORTER) and by other gentlemen, who have spoken on the same side of the question. On this part of the subject, sir, I will only observe, that a former Congress having decided the constitutional question *for themselves*, by passing the law to incorporate the bank; the tribunals of the nation having sanctioned it, *as it respected themselves*; or the several States having, without rebellion, *but not without murmuring and complaint*, acquiesced in such decision, cannot quiet my conscience, nor satisfy my mind on the subject. The question now recurs; I have to act on it, and I must decide it for myself.

I will now endeavor, Mr. Speaker, to submit to the House a few desultory observations, which have for their object to explain some of the practical operations of the banking business; to shew the probable effect of the dissolution of the bank charter; and to answer some objections which have been raised against its being suffered to expire.

It has been urged as a motive for the renewal of the charter, that the concerns of the bank have been conducted with impartiality to persons of different political opinions. In answer to this, I beg leave to read a part of a speech, said to be delivered on the floor of this House, and reported in one of our public papers; and also a letter from a gentleman in Baltimore, to whom the speech alluded. "It had been asserted (says this speech) during the last winter, that the branch bank in Baltimore had accommodated only one particular class of political gentlemen. He (Mr. STANLEY) had it from good authority, that a distinguished republican house in Baltimore, of which a member of the Senate was partner, had obtained a greater portion of discounts than any other merchants in that place."

The letter to which I alluded, is in the following words: "Dear Sir: Will you have the justice to state to the House of Representatives, as early as you have an opportunity, and in direct contradiction of the unfounded assertion contained in the enclosed, that the republican house in Baltimore, of which a member of the Senate is partner, has received but two discounts from the branch bank of Baltimore, to wit: one of nineteen hundred and sixteen dollars and fifty-five cents, and one of eighteen hundred dollars; the first on the 14th of April, and the second on the 14th of May, 1798; although the transactions of the House with that bank amount to nine hundred and thirty-six thousand three hundred and twenty-two dollars fifty cents."

[Here Mr. STANLEY explained. Perhaps it had not been his good fortune to be understood in the remarks which he presumed were alluded to by Mr. M's correspondent. It was his meaning, if not his words, that, although partiality had been charged in the distribution of the favors of the branch bank

of Baltimore, he had been informed, from good authority, that, of its discounts, more than one half had been obtained by gentlemen of politics opposite to those of the bank; and that, in the purchase of bills of exchange, this bank had purchased a larger amount from the house alluded to (Smith and Buchanan) than from any other house in Baltimore.]

I am satisfied, said Mr. M. with the explanation. I have not introduced the speech and letter so much to support my argument, as to do justice to my friend; nor can I vouch for the correctness of the report.

It has been stated that nineteen or twenty millions of dollars are due to this bank, whose charter is now about to expire; that, if the charter is not renewed, it will produce great distress, and general bankruptcy will ensue; that the bank, in winding up its concerns, can receive nothing but specie, which will exhaust the resources of the other banks and individuals, and thereby produce a result the most disastrous to the mercantile interests of the nation. This statement is incorrect. By the returns from the treasury, it appears that no more than \$1,318,024 was due to the bank; and that the bank is indebted to the public and to individuals, in the sum of \$11,542,320; and all the offsets it had, against the heavy debt, are the above sum, *due from different State banks*, of \$1,318,024.

Mr. M. illustrated this position by the following detailed statement of the account, which he read in his place:

The bank owes to Government for deposits,	-	-	\$2,493,362
It owes to individuals for deposits,	-	-	3,891,680
It owes for its notes in circulation,	-	-	5,157,378
			<hr/>
Total amount of its debts,	-	-	11,542,320
Deduct from the amount of debts due by the bank, its only offset,			1,318,024
			<hr/>
Leaving a nett balance of debts due from the bank, of	-	-	10,240,296

This, sir, is the present situation of the expiring bank, by its own showing. Gentlemen have involved this subject in obscurity, by supposing the fifteen millions of dollars, held by the bank in discounted notes, as a debt due to the bank. Sir, there is not one cent of these notes due except a small sum that is in suit. If these notes were really due, it would materially change the state of the account. It would then possess the means of spreading terror, if it was disposed unnecessarily so to do; but we must take the account as it is; and if we would know how it stands, at any particular time, we must judge of it as we do of a race, by viewing both sides at the same point of time. Judging in this way, we find that this bank *now owes* a nett balance of upwards of ten millions of dollars.

Now, sir, I would ask, Can any gentleman believe that it will be in the power of a bank, *thus heavily indebted*, far beyond the extent of its present means, to spread such terror, and produce such distress, as has been stated, when it is deprived of the public and private deposits, of which it will be deprived, when it is known that the charter will not be renewed? It is true, that, while these funds, *the debts it owes*, and a continuance of the public deposits, are suffered to remain in its possession, it may do much to create distress; while these funds are in its hands, it can employ the whole pecuniary resources of the nation to coerce other banks and individuals into its measures, if it were so disposed.

I wish it to be clearly understood, that I do not mean to say, or to insinuate, that this bank had unnecessarily used coercion, to create distress, or to obtain the object of its wish—a renewal of its charter. But, while these funds remain in its hands, they produce this effect. They render it a measure of prudence and necessary precaution in other banks, not to issue their paper, to aid the customers of this bank, or others indebted to it, to retire their notes; and this operates powerfully on my mind, as a reason for urging a speedy decision of the question. I am of opinion, if this question is settled, let it be determined as it may, that all the difficulty and distress resulting from the

probable dissolution of the charter, will soon be dissipated, and things resume their usual course. If the charter is not renewed, the expiring bank will lose its power of holding other banks in check, by the withdrawing of public and private deposits; which, being placed in other banks, will increase their means of giving aid to those who have paper to retire from the expiring bank. This bank having now no other than its own natural means, will no longer be an object of dread to other similar institutions; they may now freely lend their aid to relieve the distressed, and their increased means will be adequate to the object.

It has been suggested, that the capital of this bank, owned in Europe, will be remitted in specie, if the charter is suffered to expire; and that such a drain of specie would be severely felt by the banks, at this distressing time, in our commercial concerns. There is no necessity for remitting this capital in specie; and I do not believe one dollar would be so remitted, because it will not be the interest of the proprietors that it should. Exchange is low; I believe bills might be purchased at  $7\frac{1}{2}$  a 10 per cent. below par; and if remitted in specie, the freight and insurance could not be less than 5 per cent. A remittance in specie would then be  $12\frac{1}{2}$  a 15 per cent. less favorable than to remit in bills. Men are usually governed by their interest, in transactions of this kind; and I do believe that the managers of this stock, *if it is to be remitted to Europe*, would remit it as other gentlemen do, in bills. But if it must be remitted in specie, it is probable there is some unknown cause, operating on remittances generally, that gives an advantage to remittances in specie; and if this be the case, the whole amount of our imports from Europe will probably be thus remitted. The amount of our imports from Europe, annually, is probably not less than eighty millions of dollars; and if specie must be shipped off, to pay for these imports, it will not add much to our distress, to let the bank capital go with it; but, I am of opinion, that one dollar will not be shipped to pay this stock.

It has been stated by my honorable colleague, (Mr. KEY) whom I do not now see in his place, (and I regret that I do not, that I might be corrected if I misstated what he said) that fourteen millions of dollars would be thrown out of circulation, if the charter of this bank was suffered to expire; that the bank discounted fourteen millions of dollars; and therefore must have issued its notes to that amount, in payment for the discounted paper. This is incorrect; one half of the discounted paper, *it might be fairly estimated*, was of what is denominated accommodation notes; and for this portion of the discounted paper, no money goes out of the bank after the first renewal; but, on the contrary, money is brought into bank in this part of the business, to pay the interest, or discount, on these notes. I beg leave to explain to the House the nature of what is termed accommodation notes. They are notes for which no value has passed; they are given by the maker of the note, to accommodate the receiver of it, on an understanding between them, that, when due, it will be taken up by the person who received it; and discounts on this kind of paper are in the nature of a permanent loan, so long as the person accommodated requires, or as it may be convenient for the bank to continue it, the note being renewed every sixty days, and the interest paid thereon. But the proposition is equally incorrect, as it relates to the notes discounted, which were given on some actual transaction in business; notes are not issued by the bank, to the amount of the real paper it discounts; money is constantly coming in for notes that fall due; and in the course of trade, it frequently happens that the money paid, in one week, on discounted notes, is, the next week, *by various windings and charges*, again in bank, to discount nearly a like amount.

The real diminution of the circulating medium, that will result from the dissolution of the charter, will be *five millions of dollars*. The report from the treasury, laid on our tables, states that the bank has five millions of dollars of its notes in circulation, and these of course will be paid off and destroyed, when the bank ceases to act; and, as it will then receive no more deposits, the means of other banks will be enlarged; whereby they may issue



an increased amount of notes, perhaps nearly equal to the extent of the diminution that will result from the decease of the charter.

I will repeat, sir, what I before said. When the question of the charter is settled, the difficulties and distress that now exist will soon cease, and an accommodating disposition will take place; the expiring bank will then relinquish its pretensions to receive nothing but specie in payment; it will see the necessity of receiving payment in the paper of other banks that are in credit; it will receive payment in such bills as other banks and individuals receive freely. And why will it do this, when it has a right to insist on specie? Because it will be urged to do so, from interest and necessity. It has a large debt, that will be shortly falling due from its customers, and how will they be able to pay, if the bank shall draw all the specie into its vaults, and keep other banks in check, so that they can afford no aid to its customers, to retire their notes when they fall due. The specie cannot be wanted by the expiring bank. Every object of winding up, remitting, and paying its capital, can be managed to equal advantage without it. And will this bank, without a motive, and in opposition to its own interest, endeavor to produce distress, by thus *unnecessarily* drawing the specie into its vaults? Certainly it will not. But, if it should act so unadvisedly, who is to be the greatest sufferer? Who has a greater interest than itself, in facilitating the payment of debts? None have a greater stake at hazard than this bank; and I venture to say, that none will be more disposed to promote the general convenience and prosperity, than it will be. I have no fears of this spectre of misery and distress, that has been artfully conjured up, to alarm us into a renewal of the charter.

My honorable colleague (Mr. KEY) has made an eloquent display of the benefits of banking establishments, in our agricultural improvements, our manufactures, and ship building; and if this bank was put down, the effects would be severely felt, in the reduced price of produce, and in our improvements generally.

I accord most heartily with the honorable gentleman, as to the benefit of banks, to a reasonable extent. No one is more perfectly convinced of the benefits resulting from them than myself; but I deny that such injurious effects would be produced, by suffering this charter to expire. Is there no other bank but this one, founded on foreign capital and administered, *more or less*, under foreign influence, that can produce and perpetuate these benefits? Surely there are others as capable, and as much to be relied on, as this. The capital of this bank forms but a small portion of the aggregate bank capital of the nation; and if its charter should expire, the benefits mentioned will not be lost. No specie will be destroyed, or sent out of the country, by its dissolution. Specie is the basis of bank capital; and if we have specie to meet them, we can easily make bank notes enough, without the aid of this bank. The bank notes that will be thrown out of circulation, are all that will be lost by the dissolution of the charter; and if we have specie, we can soon supply their place; there is no scarcity of paper among us.

The charter of this bank was granted for a limited time; the privileges and immunities it granted were great. The interest it yielded on its capital *and its credit*, are liberal; and the increased value the charter gave to its stock was great. This stock, originally only ten millions of dollars, soon became worth fourteen millions under the charter. The company have enjoyed these benefits in the fullest extent, without molestation; their chartered rights have not been infringed or violated; and the charter is now about to expire by its own limitation. And this valuable inheritance of benefits, about to descend, with the death of the charter, to the People of the United States, will become their joint property. About seven tenths of the present stockholders are foreigners; and shall we, the guardians of the rights and interests of the American People, perpetuate these benefits to foreigners, by a renewal of the charter to them, in preference to those whose interests we have been chosen to protect? Persons unconnected with the public business, might, perhaps, wink at such an act; but if we, in our representative capacity, should do it, will it not be to record our infamy?

Under these impressions, Mr. Speaker, I am prepared to give my vote for an indefinite postponement of the bill. But, if the section stricken out in Committee of the Whole shall be reinstated, and the bill shall come to a final vote, I must record my name against its passage.

Mr. GOLD.—Mr. Speaker: Although this question has long engrossed the consideration of the House, I must ask the indulgence of the House to the observations I may offer; I will not trespass on your patience.

The question of expediency, together with various extrinsic topics, I pass by unnoticed; on these, let the *judgment*, and not the *feelings*, of the House, which have been so much addressed through *ex parte* statements and suggestions, determine.

On the great constitutional question, involved by the bill on your table, it is the fruit of my best reflections, it is my deep conviction, that *the agency of a bank is necessary to the administration of the finances of this country; that it is eminently necessary to the great exigencies of war*. This is the test; on this pivot rests the question. In coming to the conclusion I have, sir, I disclaim the doctrine of *implication of powers*; of *constructive powers*; now rendered so odious and so unjustly imputed to those who maintain the constitutionality of this bank. I ask only the application of a plain simple rule, which is as old as first principles; as extended in its operation as the empire of law; to be found in all codes, applicable to all instruments, as well to conventions between States as to the contracts of individuals.

It is, that, *with the end is given, inseparably given, the means*; that, with the *express powers* given to this Government is also given the *means* necessary to carry the Government into successful operation; not merely to *move the wheels*, but to give an *effectual impulse*, necessary to the exigencies of the country. When gentlemen survey the extended Department of the Treasury, the wide theatre of the public expenditure, commensurate with the United States; the daily transmission of moneys (to satisfy the public demand) in every direction, to the furthest limits of the Union; to the frontiers; to your garrisons; to places with which there is no commerce, on which bills of exchange cannot be obtained; can they avoid seeing the treasury involved in the utmost embarrassment by withdrawing the aid of a banking institution? Such embarrassment to my mind is inevitable.

But, sir, if doubts could exist as applicable to a state of peace, in the great and trying emergencies of war, there is not, I did hope, room for diversity of opinion; the necessity of the institution in my conception is eminent, is indispensable. *Money is the sinews of war*; for want of it, to satisfy a needy discontented army, the most important operations of a campaign have been arrested, and the most disastrous results produced.

Our own country, sir; the patriotic army of the Revolution—and one more patriotic, I fear, we shall never see—furnished one, if not more, instances of discontent and actual mutiny for want of pay (for want of that which this institution could so promptly furnish) which was not appeased without resort to military execution.

However pacific in its policy, let no nation promise itself continued exemption from war; history gives no assurances of this kind; no wise Government, in its policy and institutions, ever lost sight of a state of war. In case of internal dissensions; in public convulsions, the prompt aid of a bank may be equally necessary. It is the observation of a distinguished writer who had well considered the events of the Revolution, that the independence of this country was in no small degree indebted to the Bank of North America.

But it is said, that the best resort of Government is *to the purse of individuals*; that this source will be found abundant. It is, Mr. Speaker, on public emergencies; in times of public convulsion; under the severe pressure of war, when ready supplies of money become indispensable to Government; and it is at such a period that alarms spread and *distrust* seizes on the community; it is then that the moneyed man withdraws himself, places his cash in a strong box, and not unfrequently commits it to the earth, beyond the reach

of Government. We have no power of *drawing the Jew's teeth*; no resource in a *forced loan*.

In the course of debate on this bill, it is not a little amusing to observe the desperate efforts, the contradictions and inconsistencies, which gentlemen, in their zeal, fall into. At one moment it is most strenuously insisted that nothing short of an express provision in the constitution to create corporations can warrant the establishment of a bank; the next moment it is admitted, and strange indeed had it been denied, that, if a bank be *a necessary mean* for the execution of the delegated powers of the Government, then must it be constitutional.

The most fruitful source of error, Mr. Speaker, is in the palpable misinterpretation of the term "necessary," in the constitution; it has been reiterated, again and again, under this head of the argument, that a *mean, to be necessary*, must be *absolutely, indispensably so*, without which the operations of the Government would be arrested. Now, sir, all this is contrary to the sense in which that adjective is used by the most approved writers, and in direct violation of the elementary principles of our language. If gentlemen will take the trouble, and I invite them to do it, to recur to the best writers and philologists, they will find the term used in a sense implying only what is *needful or requisite*, and not what is *extremely so or indispensable*; and why, sir, should it be extended beyond the above limits? Is it not an *adjective of comparison*? for the argument has carried us back to our schools. Is it not in every day's use, and correctly so, that one thing is *necessary*, another *more so*, and a third *indispensably so*? Have we not seen here, upon this floor, a member rise and call for the order of the day on a bill as *necessary* to be acted on, another member call for one *more necessary*, and a third for one *absolutely or indispensably necessary*? And yet, sir, gentlemen continue to urge upon us, that *necessary*, in its *positive, uncomparative state*, imports the *superlative*, and means *indispensable*. Such arguments, sir, not only prostrate the bank, but subvert the very foundation of language. Again, sir, it is said, that *no mean* is given by the constitution, if the operations of Government can possibly be carried on without it. Is this dishonor to be done, sir, to the memories of those wise men who framed our excellent constitution? Was it the height of their ambition, the fruit of all their labors, to give the country a *limping, halting Government, to move with a snail's pace*; to give to the wheels an impulse the least possible competent to move them? Upon this argument, sir, the Government itself ought not to have been established at all, as, without it, the country might have subsisted; we might probably have defended our territory and retained our liberties, at least, for a considerable period; we might have moved up and down, and *consumed the acorns of our forests*. A higher ambition moved the worthies who laid the foundations of this goodly fabric of Government; and I will not hesitate to honor them so much as to say, that they intended to give to the Union a Government for attaining the highest degree of political prosperity, which the condition of the States and the nature of a federative compact is susceptible of. Such, sir, in my apprehension, was the object of the constitution; and I beg leave to add, that this object may be carried into effect, without touching the rights, the interests, or happiness of those States. Nay, sir, the best interests of each and every State in the Union imperiously demands of Congress, in despite of all the covert movements of State banks and State politicians, independently, to carry into effect the bill on your table. Let us not, sir, shut our eyes to the quarter from whence danger threatens—to *the interests and ambition of States*, who, assuming a control or influence over the *Representatives of the People*, would, in effect, dictate to you what course you are to pursue. Here, sir, at this period, lies the danger to the constitution. We are arrived at a crisis, when it is considered almost an act of hardihood to vote, on this question, in opposition to the wishes of the State to which a member may belong, signified by a resolution of the Legislature. If this influence, sir, is to prevail over the councils of the Union, then, indeed, are we degraded, our sovereignty lost, and all the weaknesses and maladies of

the old confederation returned again upon this body politic. I repeat, sir, if this bank shall fall, it will owe its fate to the baneful influence of individual States, governed by their own banking interests, over the counsels of the Union.

The argument, sir, in support of the constitutionality of a banking institution, as a *mean necessary to execute the Government*, is greatly strengthened by the consideration, that the *jurisdiction of the Government over the specified subjects of its cognizance is sovereign*.

In the division of power, certain subjects of legislation remain with the individual States for their *sole and sovereign jurisdiction*: other specific subjects are, by the constitution, committed to the *exclusive* cognizance of the Government of the Union; all Legislative power over those subjects is not only given to Congress, but expressly denied to the States. With these plain landmarks before him, I was not a little surprised to hear my honorable colleague (Mr. PORTER,) in a speech of so much method and ingenuity, contend, that the *Government of the Union was not sovereign in any thing*; that sovereignty was to be found alone with the People. To the People, sir, we always bow with respect; it is among first principles, that all power flows from the People, and is to be exercised for their benefit and welfare; the People are the legitimate source of all power, and it is from them the constitution is derived; but, sir, the moment the constitution is formed, and the government established, the original sovereign power of the People is parted with; it is transferred to the Government, and all interference with its exercise is lost, except through the medium of elections. Need I refer to a host of writers on civil society and Government for all this? The result is inevitable, that the power of this Government over the objects specifically and exclusively committed to its jurisdiction, is *full, entire, and sovereign*. The principle of my colleague would give us a government of *men*, not of *laws*, the very definition of *despotism*. This view, sir, repels the strict, the narrow, meagre rules of interpretation which have been applied on this occasion. Another position of my colleague is equally unfounded. He insists that the Governments of the Union and the respective States have a *mixed or combined jurisdiction over the same subject matter*; and hence a new restriction is created on the power of Congress. What, sir, is the *power given to Congress*, and the *means to execute it reserved to the States?* for such is the application and consequence of the argument.

The very face of this proposition involves contradiction and inconsistency; it would make the constitution a *felo de se*, and annihilate the Government. We are carried back again into Egypt; to the old doctrine of dependence and requisition of the confederation upon the States. Such, sir, is the extent, such the desperate efforts of argument to cut down the powers of this Government and prostrate this institution.

I cannot, sir, pass over another argument against the bill, without notice. It is said that the *banks of the States* may be resorted to in the administration of the finances. Here, sir, by this argument, the whole question of constitutionality is given up, for the *very necessity of the resort to State banks* maintains the agency of a bank *as necessary in administering the Government*; it is on this pivot, *necessity*, that the whole question turns. In steering clear of Scylla the argument is lost in Charybdis. This necessity of bank agency is so indispensable to the Government, that gentlemen look with fear and trembling upon the intermission of a day between the expiration of the charter of the present bank and the new and gladdening reign of State banks. It has been stated on the floor of the House, that arrangements are already making with State banks for the accommodation of the Government. Preparations are in forwardness for celebrating the nuptials of these State-damsels, who, with little modesty, attend in the anti-chamber, eager to rush into the arms of patronage in the treasury. *Do ye not discern the signs of the times?* Are the policy, the co-operation, and active movements, of the State banks, not seen? While the United States' Bank is going down, do you not observe the *wreckers* hovering on the coast?

But, sir, this great question of constitutionality does not depend on the occasional existence or non-existence of banks, in the States, but on the *intrinsic power* given by the constitution, without regard to the extrinsic, contingent, and uncertain co-operation of State Legislatures.

What the future policy of the respective States would be; whether State banks would be established, able and willing to aid this Government, and safe depositories for the revenue, could not be foreseen by the framers of the constitution. Such an argument, resting on such contingencies, would at one period make a thing constitutional, which at another would be unconstitutional.

To all those who are averse to a multiplication of banks and bank-stock, permit me to observe, that the States stand ready to fill up, by new banks, the vacuum or space left on the expiration of the United States' Bank, as rapidly as the motion of fluids under the principles of hydraulics; nay, sir, some have already anticipated the event by a litter of banks, and hence, sir, we have witnessed the struggle of a parent's affection to protect its offspring.

It only remains, sir, for me to call the attention of the House to the *past*.

It is now *twenty years* that this bank has been in operation, in constant intercourse and correspondence with the Government under all the revolutions of parties; during which period we have the concurring testimony of all the States in the Union in support of its legitimacy, deducible from their acquiescence and satisfaction; for, sir, after the agitation excited by its creation had subsided, I have not been able to find, among all the projects for amending the constitution, that a single State has touched the power that created this bank. No, sir, this *viper in our bosom* (to use the impassioned language of gentlemen in opposition to this bill) has lain *harmless*. Harmless, did I say? Like a good genius, it has administered to our wants, and promoted our welfare.

Can the candid mind resist the conclusion, that the *People are with the bank*? Shall I remind you, sir, that this institution received its existence from the hands of the greatest and best of men, and under the presidency and with the entire approbation of Washington; that the constitutional question was decided at a period auspicious to fair inquiry; at a period when party spirit was much less virulent and destructive; that some of the most distinguished supporters of the present administration concurred in its establishment? Shall this question of constitutionality never be at rest?

Mr. JOHNSON.—Mr. Speaker: I had determined, until yesterday, to be silent on this occasion, and I extremely regret the necessity which has compelled me to trespass upon the exhausted patience of the House upon an almost exhausted subject. I am opposed to the renewal of the charter of the Bank of the United States from the strongest sense of duty which can be felt by the representative of a free People; I believe it palpably unconstitutional to renew the charter, and, if it were constitutional, it is inexpedient and improper.

It is absolutely necessary that the House and this nation should understand the real question before us: for arguments have been advanced upon premises which do not exist, and remarks predicated upon a case which is not embraced by the bill. This makes it my duty to call attention to the real question, that we may not dwell longer upon supposed cases. This is not a struggle, on our part, to repeal any act of incorporation, or to deprive any citizen of any vested rights claimed either by nature or by any political act; but an exertion in favor of equal laws and equal justice to all the People of the United States, to prevent monopolies from being given to a moneyed aristocracy, unknown to the constitution, and dangerous to the liberties of the People, and subversive of the State sovereignties. Twenty years ago, Congress, in express violation of the constitution, incorporated a bank, called the Bank of the United States, to continue twenty years, which will expire the 3d of March. It was granted by those principally who have assumed the name of federalists, and who advocated the incorporation of the bank as constitutional, upon the odious doctrine of implied powers, and which was opposed by those who have since supported the character of republicans; this very measure was the first

that laid the foundation for the two great political parties who have, since that period, agitated and divided this country. The charter granted in 1791 will expire the 3d of March, and the stockholders, and those under their influence, have petitioned Congress to renew the charter for the term of twenty years more. Will we encourage this moneyed aristocracy, and continue this privileged order in the bosom of our country twenty years longer? They have had the exclusive advantage of accumulating wealth and money for twenty years, and they are not satisfied. They wish a renewal of their charter for twenty years to come. Thus, sir, the present Congress have before them the same question which was determined in 1791, viz. to incorporate the stockholders of the United States' Bank twenty years from the 3d of next March. We are absolved from all obligations on this subject, but those of duty to the People; the question stands on its original merits and demerits: for the lapse of twenty years cannot sanctify a breach in the constitution, nor the acquiescence of the People make that expedient and proper, which is hostile to liberty, equality, and justice; thus absolved from all obligations to promote this institution, from such considerations as have been urged, I am to consult the good of the People.

First, to incorporate the stockholders of this bank, and thereby continue in existence a moneyed aristocracy, and a privileged order of men, is a violation of the constitution of the United States; that constitution of union which binds the States together, and which we are individually bound to support by a solemn appeal to heaven.

It cannot be unpleasant to trace back to its source the union of the States. It brings to the patriot's mind the events of the American Revolution. It was in this glorious Revolution that the union of the States had its origin; at a time when we were distracted by domestic faction, and threatened with a foreign power, when, in fact we were invaded by a British army, and our political existence was threatened. Thus, while General Washington was at the head of our forces in the North, the sages in Congress were planning articles of confederation as early as June, 1776. Before the declaration of independence, a committee, composed of a member from each State, was appointed, to draw up articles of confederation by which the States should be bound to each other.

These articles of confederation were finally adopted by all the States in 1781, until which time Congress was the type of union, and the rallying point for the States. So great was the influence of these men who conducted us safe through the Revolution. This summary will give us the objects of the union of the States. It was not for the purpose of interfering with State rights, for the purpose of regulating the laws of credence, and the laws of descents, of creating county court-houses and jails, opening State and county roads; this would have been impossible; it would have been an assumption of power destructive to every principle of independence. It was, on the other hand, for the great and mighty objects of common security from foreign enemies and domestic treason and insurrection, that the union was formed. The objects of the union are confined to those great matters of the confederacy which could not be effected by a single State. We should, therefore, confine ourselves to these objects of the confederacy, that we may not weaken the bonds of union by a usurpation of power not given to us by the confederation; a union sacred in its origin, cemented by the sufferings of the States, strengthened by habit and affection, and sacred in its objects of common security against external danger and internal commotion. The articles of confederation being the first written bond of union, let us examine the system and point out its defects, that we may more easily see why the articles of confederation were abandoned for the present federal constitution. The articles of confederation gave to the old Congress the powers enumerated in the present constitution. The objects of both instruments were the same, the powers principally the same, but different in the execution of those powers. The powers of confederation were federal in extent, and federal in their operation. The resolves of Congress, therefore, under the articles of confederation, had



no other force than recommendations to the different States. If men were wanting, the States were required to furnish their quotas. If Congress wanted money for the great objects of union, they could lay and collect no tax; they could only recommend to the States severally to furnish the requisition. But Congress had no power to force the States to a compliance. And the States could, as many of them did, refuse to furnish the requisition of men and money demanded by Congress; thus the powers of the United States were federal in extent and federal in their operation. The old Congress had no judiciary, because that would have been unnecessary, as their resolves could not be enforced upon the States in their sovereign capacity, or upon the property or persons of individuals. In this state of things, when commerce languished, when, under British influence, we were engaged in a bloody Indian war, and our ports and frontiers in British possession, and the States refusing to furnish men and money, and comply in all things with the resolves of Congress, although under constitutional obligation to do so; it was agreed, by all, that the articles of confederation wanted revision and amendment; the States sent their deputies for the purpose of forming a more perfect instrument of union between the States. This was a great and a delicate trust.

Thus the present constitution *originated* from the defects of the confederation—embracing the same great objects of common security; and the power of both instruments are limited and federal. In fact, they are both a grant of specified powers, and powers not granted to Congress are reserved to the States or to the People. We discover the same objects and powers in the two instruments of union: differing in their operation upon the States and the People. Congress has the power to lay and collect taxes, and to operate upon the person and the property of every individual in the United States, and, with that view, federal, judicial, and executive branches were established, by the present constitution, to carry the laws into effect, and to appoint officers to collect the revenue. Congress has a right to raise an army from the body of the People, and to force a draught if necessary, whereas the old Congress, under the confederation, had the same right to require men and money for the objects of the Confederacy; but these requisitions operated only as recommendations to the States. From this statement we plainly discover the great and only radical difference between the confederation and the present constitution. The powers now exercised by Congress can be enforced upon the persons and property of the People. This operation, and carrying into effect the powers of Congress, is the national and consolidating principle of the constitution.

Although experience had proven the want of power in Congress to carry into effect the legitimate objects of the confederation, this national or consolidating principle in the federal constitution, was a subject of alarm and solicitude to the friends of liberty. This principle was the fruitful source of the most obstinate and rational objections to the adoption of the federal constitution; and it was with vast difficulty that the States adopted it. In fact, it was adopted under a conviction and promise that amendments would be made, which would leave nothing to doubt or implication, and important amendments were engrafted accordingly into the constitution, all tending to demonstrate that we were to assume no power by implication, but confine ourselves to the letter of the constitution.

To prove that the constitution should be thus construed, I need only advert to the 8th section of the 1st article, in which the powers granted to Congress are specifically enumerated, to lay and collect taxes, to borrow money, to regulate commerce, to establish a uniform rule of naturalization, to coin money, to constitute courts of justice, declare war, raise armies, to call forth the militia, &c. And to the 10th section of the same article, where certain powers are prohibited to the States, which had been previously vested in the Congress of the United States, viz: no State shall enter into any treaty, alliance, or confederation, nor grant letters of marque and reprisal, coin money, emit bills of credit, or grant any title of nobility, nor lay imposts or duties on imports or exports, or lay duties on tonnage, keep troops or ships of war in

time of peace, or engage in war unless actually invaded, or in such danger as will not admit of delay, &c.—and the 9th amendment in these words: “the enumeration in the constitution of certain rights, shall not be construed to deny or disparage others retained by the People;” which amendments refer to the prohibitions to be found in the 9th section of the 1st article, and others of the same kind, viz: “The writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it. No bill of attainder or ex post facto law to be passed. No tax or duty shall be laid on articles exported from any State. No money shall be drawn from the public treasury except in cases of appropriation by law. No title of nobility shall be granted,” &c. And, more especially, the 10th amendment, viz: “The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the People.” The parts of the constitution recited prove the position taken, that the constitution is a grant of specified powers; that we can exercise no power not expressly delegated to us by this instrument; that our orbit is circumscribed by the grants of the constitution, and we should be careful not to usurp authority not given to us. The exercise of authority not delegated, but reserved to the States, or to the People, is the very essence of consolidation, which, if enforced by the United States, would lead to monarchy or a despotism. If not enforced, it would convulse the whole nation, and we should see the People quitting their daily avocations; the farmer his plough, the mechanic his shop, to remonstrate against a tyrannical exercise of power. This we have seen on former occasions, not less memorable than this, arising from the same doctrine of implication, and arising from the acts of the very same set of men. The harmony of the States should not be disturbed. It should not be agitated by the breath of discontent. Its value is more precious than gold or silver. The spirit of union should be cherished by us all in words and in actions. Nothing will produce more happy effects than keeping in the path of our rightful powers; otherwise you generate the most angry passions of the People; you start up the most malignant invectives—order will be disturbed, and tranquillity will be interrupted. To produce these unfortunate effects, nothing can contribute more than to disregard the enumerated powers in the constitution, and exercise tyrannical powers by implication, or under some general phrases, such as the “general welfare;” expressions which contain no grant of power, but limited and explained by enumerated authorities; by which construction the power of Congress would be arbitrary and unlimited, as Congress would take upon themselves to judge what measures would promote this general welfare. I wish, on this occasion, to do justice to the People of Kentucky, by asserting their inviolable attachment to the Union, more especially since, in this House, its sacredness has been profaned in a manner not to be forgotten. If the People of the West, and beyond the mountains, have any political idol, it is the union of the States. As the bible and new testament are dear to every Christian and true believer, as the basis of his happiness here, and the foundation of his future hopes; so the union of the States, in a political point of view, is considered, by the People, as the surest pledge for the blessing of liberty, and the security we enjoy, and the ark of our future hopes and safety. Their union is never profaned by conversations or speculations about disunion. You never hear disunion mentioned in private circles, much less in public bodies. A professor of religion to deny the existence of an over-ruling Providence, would not be more disgraced, in the estimation of the real Christian, than a statesman would be disgraced, politically, by even doubting the advantages of the union of the States. The word disunion, as applied to the States, would produce a heart-rending pang in the bosom of a Western patriot, and, I hope it would, throughout the seventeen United States and their territories.

The people are republican, and they abhor all measures of a monarchical tendency—they know the United States have been governed alternately by the two great political parties in this country; they have a regard for and a confidence in the republican party; this regard is not confined to the western

States, but extended to every part of the United States. They believe that truth and equal justice will prevail, where the opportunity is equal, and where the People do exercise the powers of sovereignty. The People represent, and in fact the whole of the States have confidence in every part of the United States. As a People they cherish and harbor no jealousy about large and small States, of commercial monopolies, &c. Nor are they thus attached to the Union from selfish and interested motives; no, sir, their attachment to the Union arises from a noble and generous affection, a magnanimous and disinterested display of patriotism, and love of independence; we have given many proofs of this. At a time when this People were agitated and alarmed at the prospect of having some of their most essential rights interrupted, and when they declared their determination to support those rights, the gold and silver of Spain, in the hands of Spanish emissaries, could not alienate the affections of this People, with all the influence of arch intriguers; and the treason of Aaron Burr had as little effect upon the minds of this virtuous and happy People; and any other attempt would be as vain, however well matured. I feel the consolation which arises from a knowledge that I represent in part such a People, whose affections cannot be estranged from the great American family, by promises of future greatness, the hopes of golden harvests, or the expectations of governing provinces with the silver mines of Mexico. With these sentiments, I am now to examine for the particular parts of the constitution and the arguments which have been advanced to justify this measure. It is not contended by any, that the power of incorporation is an express power given by the constitution to the Congress of the United States, beyond this ten miles, over which Congress has exclusive legislation. If then this power is not expressly given, I might here stop and deny the right to exercise it. So far from finding any express clause in the constitution, giving this power, the word corporation or bank cannot be found in any part of this instrument of our Union.

We have seen the exercise of great abilities, and we have been entertained with great research by those who advocate the renewal of this charter; but, unfortunately, these gentlemen cannot agree among themselves. Is this not the strongest proof that the power to incorporate this bank is not given by the constitution, and does it not demonstrate the danger of constructive powers? One has contended that this power was inclusive in some of the specified powers; another has contended that this power is given by implication; and a third contends, that it is an incidental power given to carry some specified power into operation. This is not all; the advocates cannot agree upon the specified power in the constitution, out of which this power or means arises. One has contended that the power to lay and collect taxes gives this power, as a means to execute the specified power; and to support this position, it has been contended that this national bank is necessary and proper, as a means to lay and collect taxes, duties, &c. To strengthen this construction, that part of the 8th section of the first article, which says that "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers," &c. has been resorted to; another has said that this instrumental power grows out of the express power to borrow money; and a third, that this power was incident to the power to regulate commerce, and in fact these three great objects are embraced by the preamble of the bill which passed in 1791, which incorporated this moneyed aristocracy and erected a privileged order of men. With respect to the declaration in the constitution, that Congress may make all laws necessary and proper to carry the express powers into effect, I should state that the framers of the constitution intended by this declaration to prevent the doctrine of implication, and to leave nothing to doubt. It was introduced through abundant caution against the strides of usurpation, and it should be the last clause to which he should advert, upon which to build the doctrine of unlimited means, to carry the express powers of the constitution into effect. If our means are unlimited, our powers need not be defined; because one, as much as the other, is a destruction of our freedom and independence. I shall contend, that the means by which

we are to carry into effect any express authority should be adapted to the end in view; that it should not embrace other objects, not contemplated by the constitution, although it may be made instrumental in carrying into effect a specified authority. Under this cloak we might conceal our usurpation of power.

I will ask if this national bank is necessary and proper, as a mean to carry into effect the power to lay and collect taxes, duties on imports &c. to borrow money, or to regulate commerce. If necessary and proper, is this bank confined to any one of these objects, exclusively, or to all collectively; or does it embrace a vast variety of other objects, which are the primary ones, in fact, of this institution, and only embracing these powers in the constitution, incidentally and as secondary considerations? Sir, it will be difficult to convince the People that it is necessary, in the language of the constitution, to create a moneyed aristocracy and a privileged order of men, extending its branches, its influence, and its strength, into the interior of every State, to collect taxes, to borrow money, or to regulate commerce. The primary object of this incorporation was to promote usurpation of power, to support the dangerous doctrine of implication, and to amass wealth from the labor of the People, and not for the exclusive object of carrying into effect any express authority in the constitution. Thus, it is evident that this moneyed aristocracy, embracing such a vast variety of objects, no ways connected with the execution of any specific grant of power, that it departs from the letter and meaning of that part of the constitution which gives the power to carry into effect the specified powers of the constitution. But now let us inquire what is the necessary means to lay and collect taxes. If a bank was not intended, I will take duties upon imports, as in that way we collect our revenue. First, a law must pass designating the articles upon which a duty shall be laid, the amount of that duty, and the manner in which it shall be paid, either upon the delivery of the goods, or upon a credit, by giving bond with security, and last, to appoint collectors of the revenue and other officers to collect and receive this revenue for the United States, with authority to bring suit upon failure of payment. This is a necessary exercise of the power to lay and collect taxes, &c. And where is the statesman who has denied the power as unconstitutional? Here these means are confined to the object in view, the collection of revenue, and certainly the United States have power sufficient for all the objects of the confederacy, as, in the exercise of all the specific grants of authority, Congress may operate upon the person and property of the individuals of the States to enforce that authority.

It is no argument with me, that we are in prosperity and health, and such an institution will not be dangerous. No, sir, establish a precedent in the days of prosperity, and it will come upon you in the hour of adversity. This same doctrine of our being unlimited in our means of carrying into effect the grant of powers in the constitution, has already endangered the liberty of this nation. If the doctrine contended for on this occasion be correct and carried into full force, Congress would be as omnipotent as the parliament of Great Britain—the constitution would no longer restrain us—and the independence of this nation would depend upon the caprice of Congress—our constitution would be like the boasted constitution of Englishmen; and what is that constitution? Sir, it is not lettered or defined like ours. It may be changed by parliament, as the crown party, or the people, shall prevail. 1st. The great charter of liberty, obtained from King John, violently, and in duress, declaring what should be considered the fundamental laws of England. 2d. A statute in confirmation of the great charter, making provisions to read the same to the people in their churches and public places, semi-annually. 3d. A number of statutes, called the conforming statutes, from the reign of Edward I. to Henry IV. 4th. Next the petition of rights, a declaration by parliament of the liberties of Englishmen, extorted from Charles the first, before the rupture with his parliament. The habeas corpus act, in the reign of Charles II. 6th. The bill of rights, and declaration of lords and commons of England, in 1689. 7th. The act of settlement at the commencement of the 18th

century, endeavoring to secure the English subject in his personal liberty, security, and property. These, and the like parliamentary declarations and statutory provisions, constitute the constitution of England, which the same parliament has a right to alter or abolish. I never wish to see Congress invested with a power to change the constitution, sanctioned by the People in their highest sovereign capacity. The constitution has vested us with power enough, and if we want more, amend the constitution in a constitutional way, and not tyrannically exercise power never delegated to this body. The ground on which we stand is delicate, and the duty we owe the People should teach us caution, more especially when we see men in power too apt to grasp at more, and exercise it oppressively. We should never forget that all power flows from the People; they are sovereign—I hope they will ever remain sovereign in this country. Our safety is with them. They are unambitious, they are virtuous, and have no temptation to overturn those liberties which they themselves enjoy. But this measure is a violation of the constitution in another respect, by interfering with State rights. This corporation can send a branch bank to any part of the United States, without consulting the States or the citizens of the States. Suppose, sir, they should send one of these branches to Frankfort, Kentucky, with a great capital, and under the sanction of the General Government, would it not lessen the profits arising to the State, and to the People of the State, from the State bank of Kentucky, as established by the laws of that State? I presume it would. It would contract very much the circulation of the State bank notes, and would, in many other respects, come in collision with State rights. Every State has a right to regulate its own moneyed concerns; to incorporate banks or not, as interest or inclination may dictate. But, in the zeal of some gentlemen, to continue this moneyed aristocracy in the United States, for twenty years to come, they have denied the right of the States to incorporate banks, and that Congress alone has the power. This doctrine is new to me. When Mr. Madison and other patriotic statesmen denounced this measure, as unconstitutional, in 1791, it was not contended that the States had no right. It was admitted, by the lovers of implication, that there was a concurrent right. Thus we behold the progress of opinion to support a favorite measure.

If this bill passes, and the States have no right to incorporate banks, I suppose the State banks throughout the United States must be put down or burnt up, to give way to this great engine of foreign influence. "The States shall not emit bills of credit." This is the prohibition relied on to take the right of incorporation from the States. Bills of credit is another phrase for paper money. The States shall not issue paper money and make it a legal tender. The men of the Revolution know this. The great calamity which individuals suffered by the paper money, demonstrated the necessity. But no man is obliged to take the bank notes of a State bank, for the payment of a debt, or in common transactions. It is at his option, and the moment you get a bank note, you may present it to the bank and demand your money. Not so with bills of credit or paper money, issued and made such by the State. It would be extremely difficult, I presume, for any gentleman to convince the States by argument, that they had no right to incorporate banks, and it would be equally difficult to force the States to destroy their local banks for the United States Bank, owned principally by foreigners. Not only the bank, in its moneyed operations, would interfere with State rights; but the rules and regulations of the bank, as heretofore established by Congress, have interfered with the laws of the several States in these municipal regulations, as to the tenure of property, and the liability of the corporation to pay their debts.

Mr. Speaker, I have said as much as I conceive it my duty, upon the unconstitutionality of the bank charter. I am to ask your indulgence, while I endeavor to prove its inexpediency, and its dangerous tendency to the freedom of this nation. In the hand of a private citizen wealth will, at all times, have its influence, and may attach to him an importance beyond his merits. But this influence is not so dangerous as to induce a government to interpose and limit the honest accumulation of property by any citizen. And though this

wealth may have its influence, it is always limited. It may frequently be in the hands of the benevolent man; and, if not of this character, this vast wealth seldom survives the death of the individual proprietor. It is either divided among numerous relations, or squandered by his heir. But not so with a body corporate, extended throughout this vast empire, possessed of a capital of ten millions of dollars, and extending their credit and accommodations to double that sum, notwithstanding their limit to ten millions. It is stated by an advocate for this bank, that the stockholders commenced their discounts with about 625,000 dollars, and that, upon this sum, they discounted to the amount of 6,000,000 of dollars the first ten months after it went into operation. To divide this 10 millions or 20 millions of capital in local or state banks, no serious danger could be apprehended, because the stockholders of one institution would be strangers to all the other stockholders; so of the directors of the different local institutions, and consequently there could be no combination between the different banks. But it is otherwise, and the danger is imminent, when you, by act of the General Government, give unity of action, unity of will, and unity of strength, to a moneyed aristocracy, vested with a capital of ten millions of dollars, with power to increase their accommodation to twenty millions, and to send their branch banks into the bosom of every State and territory. This is not all: your revenue bonds, to the amount of millions, are deposited with this bank for collection, and the public money deposited in this bank to the amount of millions for safe keeping, and their notes made payable to the United States the same as gold and silver. Sir, is there no danger in such a monster, fostered by the General Government, and possessing so many advantages by the laws of Congress? Such a bank, in its beginning, would confine its engagements to the means of payment—but as their credit increases, they engage beyond their means; their vaults are empty, and the institution relies upon its great credit and exclusive privileges. Thus the character of the bank is changed, and it becomes a system of speculation, and a political engine to destroy virtuous individuals, or mould the Government to its notions.

I have no knowledge myself about the political workings of this United States' Bank. But if I were to believe the declarations of members on this floor, and complaints from every part of this continent, I must think that this institution has not been silent and indifferent spectators to the reform of the administration to republican principles—but they have endeavored to support that party who gave them a charter. I do not, however, introduce this as a conclusive argument against this bank. No, sir, I would equally object to it in the hands of republicans. It would still be a moneyed aristocracy, too vast and too powerful not to be dangerous to the freedom of the United States. But without these declarations\* of political influence exercised by the stockholders and directors of these banks, our own reason would teach us to believe all we have heard of the oppression and partiality of this bank. It is composed of individuals; these individuals have their passions, their feelings, their prejudices, their partialities, and their politics, and they will act accordingly. Self-preservation will always induce them to support and keep in power the party who will be most friendly to moneyed aristocracies and their own institution. The influence of this bank is palpable and notorious. We have the evidence from the long roll of petitioners now imploring Congress to renew the charter.

If in twenty years this bank is to be the idol of some and the alarm of others—if the solvency of so many individuals depend on it—if ruin and devastation will, in the event of its dissolution, spread wide in the country—then, sir, it will only require twenty years more to make it stronger than the Government. To induce us to vote for this institution, we have been persuaded, flattered, alarmed, petitioned, and threatened, and we have been amused with the rise and history of the banking system. It originated in Italy, it has travelled through Europe, crossed the British channel to Great Britain, and lastly, it crossed the wide Atlantic to America. And much has been said of the utility of those institutions. Without dwelling upon the utility of banks at present, I could only admit them as a necessary evil, and not dangerous, if left to



the control of our State Governments. But the history of those banks which have been quoted, will furnish no argument in favor of a national bank.

We wish no political engine of a moneyed aristocracy. We wish to rest upon the virtue and will of the People.

It has been stated that Georgia is republican, notwithstanding this monstrous machine has extended a branch bank to this State; and it is stated that Connecticut is federal, and has no Branch Bank of the United States. This does not prove that the bank is not a dangerous engine against the liberties of the People; but it proves, that the People of Georgia withstood this dangerous influence, and deserve more credit. It is a proof of the virtue of that People. If this institution is so necessary and beneficial, why do not the representatives of Georgia, who have been blessed with this institution, come forward and advocate a renewal of the charter? But you find the respectable members of Georgia opposing a continuance of this evil in every form. In fact, the State of Georgia taxed the paper of this bank, and the State was determined, by taxation or legislative prohibition, to drive this circulating medium from their territory. But considerations of wisdom induced a postponement of this determination, until it should be seen whether the charter would again be renewed, in violation of the constitution, and in defiance of our liberties. My colleague (Mr. McKEE) whose opinions I had been in the habit of considering as my own, until this unfortunate question, which divides us, has stated, that, in his opinion, the dissolution of this institution would be felt by the citizens of the western country, and that our surplus hemp would not command as good a price. I differ in opinion from my colleague, if he supposes the western country will feel any great pressure from the dissolution of this bank. I grant, the People of Kentucky may not be entirely exempt from some inconveniences common on such an event. But our produce will fall from other very different causes. Interruptions in commerce, stagnation in trade, bankruptcies throughout the commercial part of the United States, arising from the bankruptcies in England, which have occasioned the return of many bills from England protested. These are the causes which produce distress, and will continue to produce it, until we are a People less dependent on foreign commerce. But believing as I do on this subject; viewing the effects of this great political moneyed institution with abhorrence, I would not vote it, let the temporary distress be what it may. I would rather see the present crop of hemp brought to one deposit, which would make a bulk larger than this capitol, and consumed with a lighted torch, and ascend to the heavens in smoke as a bonfire, rather than vote for the passage of this law; and, sir, the People I represent would justify my vote. They would bear the loss without a murmur; they would act the part of freemen worthy of freedom; they would magnanimously bear the calamity without complaint, if their patriotism required the sacrifice. They are a most worthy People—a virtuous People—an enlightened People—a glorious People—descendants of this great American family; inheriting that spirit of independence which equally sustained our cause under defeat and victory, upon all the battle grounds of the Revolution. I will not be alarmed out of my vote by clamor, no matter from what quarter it may assail me. I never will be driven from my duty by alarms and fears. I will stand firm to the cause I conceive to be just, and the People will support me; they despise wavering and temporising. If you continue this charter twenty years more, you can never put it down. No, sir; instead of having petitions which would reach from the speaker to the seat of the members, you would have them packed upon your table, until they would intercept my view in addressing you. Yes, sir, they would rise up higher, and implore that goddess of liberty which presides over the deliberations of this House. We are told, that this bank is necessary to the collection, the safe keeping, and the transmission of the revenue, to different parts of the United States. It is stated that the State banks are strangers to us, and cannot be trusted with the deposits of public money. I am sorry to hear such a sentiment. It has originated from a panic, an alarm, an ideal danger. That great and good man, the Secretary of the Treasury, has

told you otherwise, by his report now before me, of date 12th of January, in which it appears that, of about 2,400,000 dollars, upwards of 800,000 dollars are deposited in the State banks, \$75,000 of which are deposited in the State Bank of Kentucky, and I should be sorry if it was not as safe there, as in the hands of the United States' Bank, in the possession of foreigners; if State banks will not do, let the United States build vaults for the safe keeping of the revenue.

But, sir, the alarming consequences which must arise from a dissolution of this corporation. It will deprive us of a circulating medium; it will interrupt commerce and produce bankruptcies. It is to produce the distress of farmers and the ruin of merchants; it is to prevent emigration; and it is to shake the foundations of the Government. This picture gives me no alarm. It is the picture of a wild and distempered imagination. If serious injury will be felt by many in the power of this moneyed aristocracy, I feel and sympathise with the sufferings of those who may be needy without any fault of their own; but something is due to posterity; and even in that point of view, I am not willing to entail upon them the baneful effects of a great moneyed corporation, with a capital of twenty millions of dollars, extending their arms of power and influence to every part of the United States, and having the destiny of good men within their control, whenever they receive the nod to exercise their giant power. No, sir, I am ready to see and feel the sad crisis which has been described. If we die with less money, we shall live in more honor and enjoy more happiness. I wish to see whether so much depends upon this corporation. If so, it is the greater reason why the poison should be destroyed. Like the strong man we read of in holy writ, let us see if the violent death of this corporate body will pull down the pillars of the constitution, that another Volney may sit upon the ruins of this capitol, and mourn the fallen empire of this great and happy republic.

MR. SHEFFEY.—Mr. Speaker: It was my intention not to address any observations to you on the subject now before the House, but reasons which I cannot disregard have induced me to request your attention. I am confident, when the importance of the question is considered—a question in which is involved the integrity of a constitution we all profess to adore, and the prosperity of a country we all profess to love, the House will listen to every thing that can be said, not only with patience, but with pleasure.

I have been led to make the remarks, which I am about to offer, by considerations distinct from the intrinsic merits of the question. In the vote which I shall give, I shall disagree with a majority of my honorable colleagues, whose opinions are entitled to my respect. The sentiments of a great portion of the People of the State which I have the honor in part to represent, so far as they can be collected from the opinions of her Legislature and my own, do not correspond on this occasion; and I must superadd, that no question ever was presented to my mind, in the course of my public duty, *which, at first view*, appeared attended with more difficulty. I have, therefore, thought it proper to state the reasons of my vote to the House, to enable my country to appreciate them, and my constituents to interpose their corrective, should they deem them unsatisfactory.

I had hoped that this question would have been discussed, and determined, abstracted from all party considerations; that our attention would have been exclusively directed to the effects of this measure upon the community, whose interests are committed to us; and our solicitude employed to keep within the limits prescribed by the constitution. But we have been invited to a different course. My honorable colleague (Mr. FPPES) told us the other day, that we need not expect that this question would be determined on any other than party principles; that party principles gave birth to the charter of the bank originally, and that *that* was the first great question which separated the two parties in this country. Was the fact ever conceded, the conclusion does not appear to me inevitable that this *must now be* a party question. At *that* time it was a matter of *speculation and conjecture*, what *means* would be “necessa-

ry and proper" to give effect to the delegated powers confided to this Government. The light afforded us by twenty years' experience has banished *them* and substituted *certainty* in their stead. We have now before us the practical operations of the Government, calculated to show the fallacy of reasonings founded on plausible but untried theories. With these means within their power, it does not appear to me that those act inconsistent with their former *principles*, who now conceive the necessity of a bank as an instrument to carry on the fiscal concerns of the Government, though (unaided by the best of all human guides, *experience*) they might have thought different in the infant state of an operation.

But my honorable colleague has committed an error in point of fact in giving the statement to the House, that this originally was a party question. I had taken it for granted that the fact was as stated by him, but, on recurring to the Journal of this House for the year 1791, (which I hope I shall be pardoned in receiving as better evidence than his declaration, however implicitly I might rely on him on other occasions) I find that a considerable portion of the federal members voted against the incorporation of the bank, and a still greater portion of the republicans for it; besides, as the measure was then contested on the ground that there was no constitutional power in Congress to adopt it, which always involves matter of *conscience*, I cannot submit to the idea that one political party exclusively entertained conscientious scruples when violence was threatened to the constitution. This would be degrading one half of the American People.

[Mr. EPPES rose to explain. He said he apprehended, from the various observations which had been made, that he had been misunderstood in what he said a few days ago. He meant to say, that there were, from the commencement of the Government, two opposite opinions entertained, with respect to its powers. One was, that they were strictly conformed to the objects delegated; the other was, that there were certain implied powers which the Government might exercise, that did not appear on the face of the constitution; that the latter opinion gave birth to the alien and sedition laws, and the stamp act, and that this was the party principle he meant, which gave birth to the bank charter. As to conscience being monopolized by one party, he had never entertained any such idea; he knew men of the federal party, who were as conscientious as he was, and as much attached to the welfare of the country.]

Mr. SHEFFEY proceeded. Mr. Speaker, I do not believe that my honorable colleague was actuated by any improper motive, in making the declaration he did. During the time I have been associated with him in public life, I have had no cause to believe that he was under any such influence. That the opinions stated by him, existed early in this Government, cannot be denied. They are attributable to very obvious causes. On the one hand, those who were the friends of the constitution, were friendly to the exercise of all the legitimate powers confided to the General Government, under the impression that it was necessary to preserve the Union; many, indeed, supposed that the powers delegated were still too feeble to secure that great object, unless supported by a very extensive and liberal construction. On the other hand, there were those who were apprehensive that the powers of the General Government were of a character calculated to swallow up the State authorities, and subvert the rights of the People. These, after their efforts had been unsuccessful in the conventions of the States, on the adoption of the constitution, brought with them (with the best intentions) into the counsels of the new Government, their solicitude for popular rights and State sovereignty, without sufficiently regarding the importance of the Union, and the means necessary to preserve it; and, while some of their political opponents contended for a construction which produced some very obnoxious measures, they, if success had attended their efforts, would have brought the Union to the feeble state in which the old confederation had left it, and I hesitate not to declare, by this time, we should have been a divided, distracted, and enslaved People.

Much has been said, in the course of this debate, about the State rights, and the offence which will be given to the States, should this measure be adopted. There is certainly propriety in preserving to the States their legitimate authority, and in manifesting a jealousy whenever it is threatened with any infraction; because the rights of the People are then in jeopardy. But, let it not be forgotten, that every relaxation on the part of this Government, weakens the Union, without which, the rights of the People are but an empty name. Sir, he who impairs the powers properly belonging to us, is as much the enemy of the People, as he who subverts the State authorities possibly can be; he is as criminal, who weakens in the least degree, the bonds which unite us, as he who places upon our necks an iron yoke to keep us together.

If we should pursue the course which the observations of some gentlemen seem to recommend, not to adopt the bill before you, because it will give offence to the States, and bring us into collision with them; to what a miserable state must this Government, and consequently, this Union, be very speedily brought? It is in the nature of man to thirst for power, and to employ all his means to obtain it. From this spirit, the State Governments are not exempt; but, on the contrary, we have abundant reason to know that it prevails *there* in an eminent degree. Let it once be established as a principle, not to exercise any particular power, because it is disagreeable to *some* of the States, and I pledge myself, that, in a very little time, you will not be able to exercise any whatever. You will have to recede, step by step, as they advance upon you, (which they will be sure to do) until you possess nothing but the shadow of authority; and this Union, the last and best hope of the friends of liberty, must dissolve in its own weakness. Sir, I fear, when that is gone, there never will be sufficient patriotism and unanimity, nor a sufficient portion of a conciliating spirit, to reunite us in any form of government, which, while it secures to us the principles of a free constitution, has sufficient energy to maintain itself. The consequences are easily foreseen. We shall be tossed about, divided and distracted, until we finally share the destiny of other nations—seek repose from the evils of anarchy in the arms of despotism.

A principle, equally untenable, and equally productive of mischief, has been advanced in debate, particularly by the honorable member from New York, (Mr. PORTER) that no power *can* be exercised by this Government, which interferes with the remaining powers of the States. Sir, some of the *primary* powers confided to us, are concurrent with the powers of the States. Such, for instance, is the power of internal taxation. Every cent which we draw from the citizen by virtue of that power, diminishes his ability to pay his taxes to the State of which he is an inhabitant, and, consequently, *narrows the circle of State legislation*. And, indeed, cases might be supposed, where the necessities of this Government required taxes commensurate with the utmost ability of the People to pay, which, in effect, would be a *total suspension* of the power of the States to *lay and collect* taxes. Yet, can it be pretended, that, in the *amount* of public contributions, which it may be necessary to require, we are limited by any other restriction than that which a sound discretion and a due regard to the welfare of the community imposes? The same principle applies to the *means* which may be necessary to carry the delegated powers into effect; they may be legitimate, though they interfere with the legislation of the States.

Having detained you thus long with the preliminary remarks which I had to offer, permit me now, sir, to lead your attention more directly to the subject before us.

The most important principle involved in this question, is, whether the constitution has delegated to us the power to legislate upon this subject, in the manner proposed. It is admitted on all sides, that, unless that power exists, let the inconveniences, and even calamities which will follow the rejection of this bill, be what they may, the high duty which we owe to the country, not to transcend the limits prescribed to us, is superior to every other, and must imperiously lead us to that result. In order, therefore, to approach the minor question of expediency, it is necessary to ascertain, whether, by a rational

and unbiassed construction of the constitution, this power is fairly apparent, either as directly or indirectly given—either as a power original and express, or derivative and implied.

It has never been contended that the constitution expressly delegates the power to create banks; but that such institutions may be established as *instrumental* in giving effect to some one or more of the delegated powers. In the course of the observations which I propose to submit on this part of the subject, I shall attempt to prove that Congress are not restricted in the *means* to execute the delegated powers, except so far as the constitution expressly restricts them; but that they may employ any, which *they deem* “*necessary and proper,*” without violating the constitution.

To enable us to give correct constructions to the acts of individuals and of public bodies, it frequently becomes important that we should consider the time in which they happened, and the circumstances under which the persons concerned acted. In legislation and jurisprudence, this is a very general maxim, and seems to me peculiarly proper to be called in aid on the present occasion. It will afford us the best ideas of the evils under which this country labored, when the constitution, under whose authority we now act, was proposed and adopted, and, consequently, of the extent of the relief which that remedy was intended to give.

Let us, then, see what was the situation of this country at that period of our history, and what were the causes which led to that great event. It was not the want of a general government that induced the People of the United States to seek security in the present constitution, but the want of one with sufficient powers for the purposes of union. That want of efficiency which characterized the confederation, emphatically styled “a rope of sand,” was not the effect of the *limited subjects* confided to the *deliberations* of Congress, but the *limited means* to carry their *determinations* into effect. On recurring to that instrument, it will be seen, as has been stated by an honorable member from Kentucky, (Mr. JOHNSON) that the subjects embraced are little short of those vested in *this* Government. Congress was clothed with all the *great* attributes of sovereignty. They had the power to determine on peace or war; to regulate commerce (through the medium of commercial treaties) with foreign nations; to regulate trade with the Indian tribes; to grant letters of marque and reprisal; to coin money, and regulate the value thereof; to raise armies and navies; to borrow money on the credit of the United States; and many other powers of minor importance. Had they had the *means* to carry their resolutions into effect through the agency of their *own* executive and judicial authorities, and could their acts have reached the People, instead of being dependent for their execution on the will of the States, I venture to say that this constitution would not have been proposed. It is true, that the organization of the Government, under the confederation, was greatly defective; yet, that was not the cause of its dissolution. It was the imbecility, arising from the want of means, in the old Congress, that assembled the general convention. It was that which produced the constitution of the United States, the primary object of which, and of the People who adopted it, was to place into the hands of the new Government, *means* commensurate with the due execution of *all* the powers confided to it. Is it rational, therefore, to suppose, that, under this impulse, under the pressure of the evil which every one felt, and the cause of which every one knew, those who framed and adopted this instrument could have intended that we should be circumscribed in the means deemed necessary to give effect to our measures, or (as some gentlemen strangely suppose) be dependent on the States for them? Is it in the least probable, that the men, selected for their wisdom, perfectly acquainted with the progress of man in every age; who foresaw the changes which the state of society must undergo, in this country, from the increase of population, commerce, and the arts, could act so absurdly as to prescribe a certain set of means to carry on the operations of a Government, intended, not only for the present, but for future generations? There are, indeed, some express limitations, which the circumstances of the times, and the jealousies of the parties, produced;

but, they being expressly stated, prove that the means, not interdicted, remain entirely at our discretion.

When we examine the various parts of the constitution, with a view to this question, we shall see many reasons in support of the principle for which I contend. The last clause of the 8th section of the first article invests Congress with the "power to make all laws which shall be necessary and proper to carry into effect the delegated powers, and all powers vested in the Government of the United States, or in any department or office thereof." To whom is confided the *right to judge* what shall be "necessary and proper?" I presume it will be admitted that this right is exclusively inherent in Congress. And, if Congress alone have the right to judge of the necessity and propriety of the means, is it not absurd to say that they must judge *rightly*, or they have no *right to judge* at all? I have always supposed, when a subject is within the legitimate authority of any men, or body of men, an erroneous decision upon such subject does not prove a want of jurisdiction, but of correct judgment. On this, as on every other subject, there will be a variety of opinions as to what is "necessary and proper." The majority must determine that question; and, although there may, in this, as in every other case, be flagrant abuses of power, for which we are responsible, there never can be any usurpation. It must always be a question of sound discretion, guided by the interests of the Union, and not a question of power; unless, indeed, we should fall in with the fancy of my honorable colleague, (Mr. BURWELL) who opened this debate, and interpolate the word "absolutely," so that he could adopt no *means* but such as are "absolutely necessary," which would leave us, as has been ably demonstrated by the honorable member from Maryland, (Mr. KEY) without any power at all.

Every subject which is presented to us within the acknowledged sphere of our authority, involves the question whether it is "necessary and proper." If a tax be proposed, which (as the constitution is expounded by some, and which, I believe to be correct) can only be laid "to pay the debts and provide for the common defence and general welfare," it may be objected that it is unconstitutional: because these objects may be provided for without any tax, or without the one proposed. But there can be no doubt that this would be exclusively a question of expediency and discretion.

The constitution of the United States has universally been considered as a grant of *particular* and not of *general* powers; those powers are the primary or expressly delegated, and the derivative or implied. The character of the instrument precluded the necessity of a "bill of rights," because the question never could arise, *what was reserved, but, what was granted*. The framers of the constitution were well aware of this; and so were the People who adopted it. It is, therefore, fairly to be inferred, that, whenever there appears a limitation or restriction in the shape of a negative clause, Congress might have exercised the power interdicted, had such clause not been made part of the instrument. By examining this part of the subject, we will be able to determine how far it was supposed derivative or implied powers would extend when not restricted.

The first clause of the 9th section of the first article, provides, that "the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

Among the delegated powers, the *right to prohibit* the migration or importation of persons into the States, is no where to be seen; but it was justly conceived that it was incidental to the power "to regulate commerce with foreign nations."

The second clause of the same section restricts the suspension of the writ of habeas corpus to certain circumstances. There is no express power given to any department to *grant* it, in any instance. But Congress have the power to organize the judicial courts, to which is incident, the power to regulate writs and other processes. And as this celebrated writ was deemed the



birth-right of the People of the States, under the State authorities, as the instrument to release them from arbitrary imprisonments, it was taken for granted that its benefits would be extended to them under this Government, and it was conceived necessary to restrict the discretion of Congress in suspending its salutary operations.

In the third clause of the same section, Congress are prohibited from passing any bill of attainder, or ex post facto law. Congress are no where directly authorized thus to interfere with the ordinary course of justice, so as to subject an individual to the consequences of an attainder, at their own mere will, without a trial; or, to make an innocent act criminal, by a posterior declaration. But they have the power to define and punish certain offences, which would have implied the power to do it in any manner they might have thought proper: hence it became necessary to interpose this restriction.

The next three clauses contain restrictions on the power to lay and collect taxes, and appropriate their proceeds; and shew that it was considered as unlimited, unless *expressly restricted*.

The last clause in the same section gives a more comprehensive idea of the extent to which the framers of the constitution conceived the implied powers of this Government might be exercised, if not restricted. It provides, "that no title of nobility shall be granted by the United States." The whole context of the constitution does not afford the most distant hint, that the creation of an aristocracy is among the delegated powers. And yet the interdiction to create such a body, the very name of which is so justly abhorrent in this country, was deemed necessary. And why? Because this Government has the power to raise and support armies and navies. It has various important concerns committed to it, in which eminent men may render great and meritorious services. And, as it would not have been restricted in rewarding them according to its pleasure, it might, in conformity with the usage of other nations, have conferred distinction upon them; which, though they could give no exclusive right to office, might be attended with emolument and honor.

If the doctrines which have been advanced upon this floor, during the present debate, are truly genuine and constitutional, then does the history of this country, for the last twenty years, present a spectacle the most alarming: then have the operations of our Government been nothing but an uninterrupted scene of usurpation. From its organization, under the auspices of the first of men and of patriots, until the present moment, violation has succeeded violation; the constitution has been trodden under foot by all parties, and is no longer worth preserving. Sir, I will go further. I venture to say, that, if those doctrines are adhered to and *acted* on in every instance, this Government is at an end. It cannot adopt the simplest measures necessary for its own existence and for the welfare of this People, without resorting to means *not expressly delegated*. If this critical construction prevails, we have no right to disband one single man from the army or navy. Congress are expressly authorized to *raise and support* them; but the power to lessen and destroy them, is not to be seen on the face of the constitution. We are invested with the power to *regulate* commerce with foreign nations; but where is the authority to *suspend* or *annihilate* it by an embargo or non-intercourse, unless it is implied?

To those who are not carried away by these doctrines, pregnant with so much mischief to this community, it is well worth the trouble to examine the operations of the Government under every administration. They will be able to ascertain the opinions of men of every party manifested by their public acts, as to the extent of the *means* confided to us to give effect to the delegated powers. And this inquiry will, I am persuaded, tend to confirm the construction which I have attempted to give to the constitution.

By the constitution, a judicial department, with limited jurisdiction, is established, to give effect to the due administration of justice, so far as it is confided to the Government of the United States. Congress have made provision for the punishment of perjury, bribery, stealing or falsifying records, rescue, opposition to the execution of judicial process, and other offences. It

does not appear that the particular definition to these crimes and the punishment designated are "absolutely necessary." Some other means, perhaps, more conducive to the end, might have been employed: and, indeed, it might be said, that, as Congress, by the constitution, are authorized to "define and punish" certain crimes, it implied a negative to define and punish any other, and consequently those just mentioned. But can it be necessary to waste the time, or insult the good sense of this House, to attempt to prove, that, in these cases, Congress exercised their constitutional power only?

The power to borrow money, on the credit of the United States, has been exercised by authorizing the commissioners of the sinking fund to issue certificates, pledging the public faith to pay so much money as therein stated, to be sold in the market for what they could bring.

To give effect to the revenue system of the United States, Congress have employed means, which, instead of appearing "absolutely necessary," have a very remote connexion with the object; besides the many penalties and forfeitures which are created, the citizen is subjected to the more arbitrary searches and seizures dependent upon the mere will of the collector; yet, the authority to do this has never been questioned. Under the power to regulate commerce, Congress have erected light houses, beacons, and buoys; they have established rules for the regulation and government of the seamen in the merchant service; they have adopted measures for their protection on the high seas, and in foreign countries; they have imposed a tax to be exacted from them, even when abroad, to raise a fund for the sick and disabled; they have established in this country, within the jurisdiction of the State authorities, and without their consent, hospitals for their reception and support. How remotely connected are all these things with the primary power "to regulate commerce?" Are they "absolutely necessary" to give effect to that power? Or, can it be pretended that the erection of a hospital is more immediately connected with the regulation of commerce than a bank is with the various fiscal operations of the Government? After having gone thus far, let me ask every rational man, could Congress not incorporate the trustees of such an hospital, with a view to give them individuality, the better to enable them to preserve the funds, and administer the concerns of the institution? Unless there is something magical in the word "corporation," it appears to me there can be no doubt on the subject.

That Congress have the right to create corporations, as instrumental to effect objects confided to them, seems to me susceptible of the clearest demonstration. For example: The power "to regulate commerce" includes the power to "promote it by all possible means." Suppose a new branch of commerce should rise into view, which promised great national advantages, but its commencement was surrounded with difficulties, and required resources to which individual enterprise and capital were incompetent—will it be contended that the power which erected hospitals to nurse seamen, because it may have a favorable effect on commerce, cannot incorporate a company with certain privileges, so that, while the *means* of many are united, they can act as *one*, in promoting the same object? As to monopolies, of which much has been said, though I am not a friend to them, yet circumstances may exist in which the interests of the community will be promoted in granting some, if prudently regulated; and, therefore, the power ought to exist. Under the power to regulate trade with the Indian tribes, Congress have adopted a system which, though not a monopoly in name, is one in reality. They have established trading houses on their own account, and under the severest penalties prohibited every person from trading with the Indians without a licence from the public superintendent. What is this but a monopoly, an exclusive privilege, vested in the Government and persons licenced? And in what do these licences differ in effect from the privileges granted by the incorporation of a commercial company?

By the laws establishing post offices and post roads, various offences have been created, and severe punishments directed, affecting those not in the service of the Government: persons have been exempted from serving in the mi-

lita and on juries, who, by the laws of the States, are expressly subject to that service; this is a direct interference with the State authorities, yet its constitutionality has never been questioned.

The constitution empowers Congress "to declare war," but no express authority is given to *preserve peace*; yet, can it be doubted that the power to effect that object is implied? With a view to it, Congress have passed laws making it criminal to set on foot any enterprise against any foreign nation with whom the United States are in a state of amity, or to hunt upon the lands belonging to the Indian tribes.

Congress have power to call out the militia to *repel invasions*. An invasion I understand to mean a military force actually in our territory; yet, an authority has been given to the President to call forth the militia in case there shall "*be imminent danger of invasion*," with a view to *prevent it*.

The last instance which I shall give, showing the extent to which Congress have conceived their powers reached, is the purchase of the public library. I would ask the sticklers for express powers, where they find the authority for this act? Sir, taking a detached view of the subject, it might be said that we have the same right to purchase houses for our accommodation. The act can only be justified by reasonings apparently remote from the object. To us are committed the great concerns of this nation. It is our duty to be well informed upon every subject that comes before us; in order, therefore, to be able to get all requisite information, we think a library necessary as one of the *means*. This course of argument at once proves every thing for which I contend.

Such, sir, has been the uniform practical construction of the powers confided to this Government, by men of every political description. Sir, the principles upon which the constitutionality of this question rests, have not only been recognised, in every shape, but the measure itself has received the sanction of acquiescence, if not of approbation, for twenty years. Although I do not feel precluded from thinking and acting for myself, yet, fallible as I know myself to be, I am induced to have great respect for the acts of eminent men, whose wisdom and patriotism it would be vain of me to pretend to rival. And believing, as I do, that, among the greatest evils which attend republics, are the instability of public counsels, and the want of character and consistency in public measures, I feel it a portion of my duty to entertain some veneration for the acts of my predecessors, supported by time; at least so far as not to dissent from them, unless they appear to me palpably improper.

When the bank was incorporated, the People of the United States, with one consent, acquiesced; not a single murmur was heard; not a single petition was laid upon your table alleging its unconstitutionality, and praying its repeal. Was the patriotism of the community then asleep? Were they less sensible, then, of the necessity of preserving the great charter of their rights free from violation, or less acute in their perception of its infraction, than we are now? Was it left for the Argus eyes of the present generation to discover the deadly powers of this Hydra; and to their prowess to rise and strangle it? Sir, I should reason differently. Believing that there was as much intelligence, as much vigilance and patriotism, in the country, then, as there are now, I am inclined to think that, had there been real cause of alarm, it would, according to the usual course of things, have been manifested when the subject was new; and when the public attention was immediately directed to it.

Since the establishment of the bank, several laws have passed for the punishment of frauds in counterfeiting their notes—one of them under the late administration. If the incorporation act was unconstitutional, could any person be punished for counterfeiting the notes of the bank? A person accused must be indicted for having made or counterfeited a note or notes purporting to be the act of the president and directors of the bank. If the law is unconstitutional, then, in legal construction, there are no such persons; and as well might the accused be convicted of forging a note on some fictitious person, as the note of a bank when none such existed. How has it happened that, in all the trials which have taken place, this ingenious discovery has

never been made? The counsel, always sufficiently vigilant in the cause in which they are engaged, have never pretended to question the legal existence of the bank, involved in the constitutionality of the incorporation act. The courts, composed of the most enlightened men, and of different political parties, sworn to support the constitution, have consigned the reputations of men to lasting disgrace, and incarcerated them within the confines of loathsome prisons, where they have been suffered to remain for years; when a single breath from the Executive would have released them, which it was his bounden duty to do, had the act been considered as unconstitutional.

Many of the public acts of the Government might be cited to prove the frequent and uniform recognition of the validity of the incorporation; but I will not fatigue the House with mentioning but one other. As recently as the extra session in 1809, you authorized the commissioners of the sinking fund to borrow money from the Bank of the United States, on the credit of the Government. If the incorporation is invalid, then there is no corporate capacity in the president and directors, and they have no power to make a contract to loan the money of the stockholders.

The *necessity* of a bank to carry on the operations of the Government, seems to have been admitted by all who have spoken in opposition to the bill on your table. But they have insisted that a *Bank created by the United States* is not necessary, because the State banks will afford us the same conveniences. This admission, in my humble conception, completely surrenders the question. If a bank is necessary, as *instrumental* to give effect to our fiscal concerns, ought it not to be completely under our direction? Is the instrument to govern the hand that employs it, or the hand the instrument? The State banks are under the control of the State authorities, who may permit them to accommodate us or not, as they please. Can it be seriously conceived that this is the kind of government the People intended to establish for the great concerns of this Union, which is to be dependent on the States for the execution of its power? It might as well be contended that we have no *right* to appoint the collectors of our revenue, because those appointed by the States to collect their taxes would answer all the purposes necessary.

But the honorable member from New York (Mr. PORTER) has said that there is nothing new in the doctrine that we should be dependent on the States for the execution of our measures, because the same principle appears on the face of the constitution, that the agency of the States is requisite in the election of senators, representatives, and electors. Was this argument even apposite, I should suppose it a correct answer to say, that the intention of those who instituted the Government was to confine the agency of the States to the *cases expressly stated*; and the present not being one of them, *our own discretion* was alone to be consulted, and our means employed. But the argument has no connexion with the subject. We are dependent upon the States and the people for the *organization* of the Government; but whenever it is organized, we are dependent upon our own *means* to give effect to our powers. As well might the honorable member have contended that we are dependent on the sheriffs of Virginia, who hold the elections, and make the returns, and without whose agency no representation could exist from that State on this floor.

The argument which admits the necessity of a bank for the purposes of this Government, but which contests our right to create one, because that necessity is supplied by the State institutions, leads to the very extraordinary conclusion, that what is unconstitutional to day may be constitutional to-morrow. If the States should abolish their banks, or prohibit them from accommodating us, we would have the right to erect them ourselves: but so long as that is not the case, we have not the power. Can any thing show in a stronger light the untenable position which gentlemen occupy, than the necessity which compels them to advance arguments which will make this constitution (intended as the strong bond of union, the same at all times and under all circumstances) a flexible instrument, to be contracted or extended, to be feeble or strong, as the caprice of State power may direct? Call this what you will, sir, it is in reality nothing more than the old debilitated miserable system of the confederation. That a *bank* is ne-

cessary for the administration of the national finances, is not only admitted by the opponents of this bill, but tested and confirmed by the experience of other countries as well as our own. Does the Secretary of the Treasury, in his reports on this subject, propose to manage our money concerns without the aid of *any bank*, in the event of a dissolution of the Bank of the United States? Such an idea has not entered into his imagination, or that of any other man who has the most distant pretensions to any practical knowledge on this subject. Sir, it is the instrumentality of the State banks that must, and is contemplated to be resorted to in that event; and the Secretary speaks and writes of the subject in that way. That a bank is "*absolutely necessary*" I will not pretend to say. There is scarcely any thing effected by human power where there is a physical impossibility to do it but in one way, or but by a single mean. The necessity of which I speak is this: that it is more convenient, more prompt, more certain, and less expensive, than any system that can be substituted, to collect our *revenues*; to safely keep our money; to pay our debts; to support our armies and navies; and, in fact, to give effect to every operation in which money is concerned. Sir, even the inconvenience arising from the expense and hazard of transmitting large sums of money to distant parts of the Union, when the military or other concerns of the Government require it, is very considerable. Through the agency of the bank it is done without one single cent expense, and without any risk to the United States. The instrumentality of a bank was deemed proper at a time when the fiscal concerns of this Government were comparatively but very limited. Congress, under the confederation, found it necessary to have the aid of such an institution, notwithstanding they had not the power to "lay and collect taxes," and that necessity gave birth to the Bank of North America.

From the principles for which I contend, and the uniform practice of the Government, this inference is deducible; that, wherever a power is given to do an act, or to legislate upon a subject, all the *means*, whether *remote* or *direct*, to accomplish the object, in *any manner* deemed best, accompany the grant. If this be correct, have not Congress the right, under the power to "borrow money," to adopt precautionary measures, so that the *capacity to lend* may exist, when the *necessity to borrow* requires it? "To borrow" sums of sufficient magnitude for the exigencies of the Government, in a country where there is very little capital free from employment in the ordinary pursuits of life, may be very difficult, unless the small surplusses, scattered through every part, can be united. This tendency banking institutions have, in an eminent degree. Under the power to "*regulate commerce*," Congress have cherished and protected those whose *labor* contributed to *its success*. Under the power to regulate trade with the Indian tribes, they have furnished all the means to carry on that trade; and why not, under the power to "borrow money," incorporate a bank, which, while it creates the ability, on the part of the institution, to loan, by uniting the funds of many, may be so modified, as the bill on your table, as to make it a condition that they *shall* do so, when the necessities of the Government require it?

Sir, of the effects which the dissolution of the Bank of the United States will have on the community, I am, perhaps, incapable of forming a correct judgment, as I do not profess to have any very extensive practical knowledge of banking. But it appears to me, without resorting to any artificial means, judging only by the rules of common sense, that they must be very serious, and even calamitous. In a society like ours, comparatively yet in its infant state, I presume it cannot be asserted, with the appearance of truth, that there is a greater floating capital, or a greater portion of circulating medium, than its necessities require. Withdrawing, then, from public use, fifteen millions of dollars, at least one-third of the whole money capital of the United States, (which it matters not whether it is in specie, or paper answering the purposes of specie) must be felt as a very great inconvenience. The products of the country must diminish in price, because their value, according to the present standard, will be much greater than the amount of money to purchase. One of two things seems to be inevitable, either that a great portion

of the domestic produce will be inactive on our hands, or that the whole will sink in value to a level with the amount of money to purchase.

The merchants will more immediately feel the baneful effects of the dissolution of the bank. Their situation is, at this time, peculiarly embarrassing. Their property, to a very large amount, has been confiscated, sequestered, or detained for adjudication in Europe, in consequence of the nefarious measures adopted by foreign Powers against our commerce; and a great portion is lying inactive in their warehouses, for the want of a safe market to which to send it. Having failed in receiving their expected means by remittances from abroad, to enable them to comply with their engagements, they require, more than ever, the accommodation which banks can only afford. Disappointed in that, ruin must stare them in the face, though they may be abundantly solvent; a general, if not a universal bankruptcy will ensue, which, while it falls immediately on the mercantile classes, ultimately affects every department of society. For nothing is more obvious (I wish it was better understood) than that the affairs of this community are so closely interwoven, that no material injury can be done to any one great national pursuit, without finally affecting every other. From this impending ruin, some may fly for shelter to the money capitalists who reserve their means to prey on the misfortunes and calamities of their country, and borrow at exorbitant premiums; but, though this may parry the evil, it is calculated to make it the more certain.

But, we are told that the wants of the merchants can, and will be supplied by the other banks. It may be so; but, reasoning as I must, without the aid of the mysterious elements of logic, (for they are perfectly so to me) resorted to by those *who pretend to practical knowledge*; guided only by the rules of common sense, I should come to a different conclusion. I should suppose, that, in the present difficult and embarrassed state of our commerce, the whole banking capital in the United States is scarcely competent to supply the necessities of the country; that, withdrawing more than one-third, must leave a great deficiency, which will not only have the effect of leaving those, accustomed to be accommodated by the Bank of the United States and its branches, without *any* accommodation, but tend to diminish the discounts of the other banks. Sir, this result is very obvious. The great capital, large deposits, extensive credit, and circulation of its paper, enabled the Bank of the United States and its branches, from time to time, in the usual course of business, to have considerable claims on the other banks, as balances arising from the intercourse between them; which, in ordinary times, under the influence of an accommodating spirit, are either not rigorously exacted, or received in paper. But, when the affairs of this institution are to be finally closed, those balances must be paid in specie, and the specie of the other banks will, of course, diminish; they must, then, either curtail their discounts, or hazard their credit, by leaving a surplus of paper in circulation, beyond the usual means to redeem it; even the suspicion of which, prudent and experienced men will never encounter.

Against the Bank of the United States, prejudices have been excited and clamors raised, in every shape and in every tone. It has been said to be a deadly viper lodged in our bosom, which, at some time, if suffered to live, will sting us to the heart; fancy has converted it into a political engine which will subvert our liberties; an association of men who will prostrate our Government. Sir, had I nothing to direct but my imagination, I might, perhaps, be drawn into this vortex of terror; but there is a much safer guide at hand. These dreadful apprehensions have already been exposed, by the honorable member from Kentucky, (Mr. M'KEE) who so eloquently, the other day, referred to the *experience* of the country, as a conclusive answer. It is the best test of the effect of an institution. I would not give one single year's experience for all the speculations of all the philosophers and politicians that ever existed; by its salutary precepts let the present question be judged. It will be seen that this pretended viper is an harmless animal; that our liberties and our Government have been preserved, and our prosperity has increased, amidst the operations of this fancied dreadful engine. Sir, it will be further seen,



that the bank, with all its influence in favor of the men formerly in power, could not avert the change which took place in the public councils of this country. After all this, let me ask every rational man, what danger is to be apprehended from their opposition to the Government, when their aid and their friendship produced so little effect? The fact is, that, practically, the *bank* must always be friendly to the Government, whatever may be the abstract opinions of the individuals composing the stockholders.

Some of the arguments (or rather assertions) which have been uttered on this floor are strangely inconsistent. At one time it is said that the capital of this bank is mostly the property of foreign stockholders, who thus have improper influence in this country, which ought to be destroyed by putting down the bank. When it is stated by the friends of this bill that it will be a great public inconvenience that upwards of seven millions of dollars in specie should be taken out of the country so suddenly, the same gentlemen tell us, that that will not be the case, for that the foreign stockholders will vest their money in other banks in the United States. Is this the way by which we are to get clear of foreign influence, by driving it from its present confined situation, that it may be infused into every concern in this country, and corrupt every part of the body politic? Foreign stockholders either have undue and improper influence, injurious to our welfare, or they have not; if not, why this clamor, unsupported by any real danger? If they have, is it not augmenting the evil by extending the circle of its operations?

So much has been said about the improper influence which foreigners have in our country, on account of their being stockholders of this bank, that it merits a more minute inquiry; directed, not by prejudice, but by common sense, and governed, not by assertion, but by fact. On looking into the act incorporating the bank, I discover that no person but a citizen of the United States can be a director; that foreign stockholders have no right to vote, either in person or by proxy, for directors. Now, I would ask, without any of those privileges, how is this foreign influence put in motion? Through what channel is it communicated? Sir, the influence is the other way, if any. These men have their interest committed to the care and control of our Government and our citizens, and, so long as men feel an affection for their interest, so long something like influence arising from this circumstance may be expected.

The mere employment of foreign capital, instead of being an injury, is a real benefit to the country. It implies a want of a domestic capital co-extensive with our necessities, as it is one of the first axioms in political economy that sufficiently extensive domestic means will exclude the employment of foreign; and therefore the existence of a foreign is proof of the deficiency of the domestic capital. If this idea is correct, the beneficial effects are alone apparent. The foreign capitalist lends us his money, for which he draws eight per cent. as a dividend, which yields us twelve or fifteen; and the tendency it has to promote the wealth of the nation may be exemplified by supposing the case of an individual, who borrows money at six per cent. which, by applying its use to proper objects, yields him twelve. It would make no difference to such an individual whether the person loaning was a foreigner or a citizen; he had furnished the means which made him rich, while, without them, he might have remained poor. So it is with this nation; we have grown wealthy from a comparatively poor state; in this change the employment of foreign capital has had great agency.

It has been alleged against this bank that it confines its selection of directors to one political party, as well as its accommodations. As to the political complexion of those who manage the concerns of this institution, I have no personal knowledge; the fact may be as stated. Without approving of this course, which I by no means do, I conceive that, in all money associations, those interested may safely be trusted to manage "their own affairs in their own way." The statement that the bank confines its benefits to its own party, if true, certainly shows intolerance, and would be with me highly objectionable. But I have great reasons to doubt the fact. I have been told by one of the directors of the office of discount and deposite at Baltimore,

that more than one half of the amount of discounts was granted there to persons of opposite political sentiments from the direction; and as nothing but suspicion and surmise have been offered in support of the imputation, I am induced to believe that, as it respects other places, it is equally unfounded. These things, however, if even true, would have no effect on my vote on the present question: for, if the objections are valid, they affect not the principles of the institution, but its management.

I have detained you longer than I intended; my apology for occupying so much of your time must be found in the great interest which this question is calculated to excite; a question on which I confess my opinion heretofore inclined the other way; it was, however, like many opinions, formed without a thorough investigation of the subject.

Permit me, in conclusion, once more to direct your attention to a subject of the first importance, on which I have already made some remarks—I mean the partialities which have been manifested for State rights and *State pretensions*. This subject has been presented to us in the most lively and interesting colors. To pass the bill on your table, has been deprecated as leading to collisions with the State authorities, to discord, and civil war. Sir, if we have arrived at that point when it becomes necessary to inquire what will please the States, and what acts they will permit, instead of what is right, then, indeed, are our proceedings (and even is our existence) a miserable mockery. If we cannot be permitted to think for ourselves, it is much better to close our doors and go home. If we cannot act independently, but only in the character of humble instruments, to register the will of others, let us not act at all. I conceive it a duty equally imperious, from which I have taken a solemn oath not to depart, to oppose the encroachments of the States, as I do not to encroach on them. It is as essential that we should exercise the powers confided to us, uninfluenced by them, as it is that they should exercise those reserved to them, without being influenced by us.

If it is seriously wished that this Government and this Union should be preserved, it is time that the spirit of encroachment and control, assumed by some of the States, should be discouraged. If it is suffered to gain strength by our compliance or acquiescence, it will ultimately subvert that liberty and independence purchased by the blood of our best patriots. Here is indeed a viper, (much more deadly than the one fancied by the honorable member from New York Mr. PORTER) which, if you do not expel it from your bosom, will surely sting you to the heart—*sting you to death*. The experience of the two or three last years sanctions the apprehension that the seeds of disunion will be sown by the State authorities. There is no well grounded fear that any encroachments by us on the States can ever be successful; they have many means to resist them; they who administer the State Governments are comparatively numerous, and dispersed through every part of the community; hence they will always be able to collect to themselves and to their measures a greater portion of popularity than we have in our power. The distance of many parts from the operation of this Government, and the nature of our powers, create jealousy. If to these causes are added fear and imbecility on our part, the bonds which unite us must become every day more enfeebled, until this Union shall be destroyed—a Union in which is involved every thing dear to freemen, and which, I had fondly hoped, would endure to the end of time.

JANUARY 22, 1811.

Mr. SMILIE presented to the House a resolution of the Legislature of the State of Pennsylvania, instructing their Senators, and requesting their Representatives in the Congress of the United States, to use every exertion in their power to prevent the charter of the Bank of the United States from being renewed, or any other bank from being chartered by Congress, designed to have operation within the jurisdiction of any State, without first having obtained the consent of the Legislature of such State; which was read, and ordered to lie on the table.

JANUARY 23, 1811.

Same question depending.

Mr. GARLAND said he was sensible of the anxiety of the House on all sides to take this question, and it was with extreme reluctance that he now trespassed on any portion of their time; but, as he should probably, on this question, give a vote different from that of most of his colleagues, and many of his political friends with whom he had been accustomed to act, he trusted that he should stand excused for the small portion of time that he designed to occupy. In the view (said he) which I intend to take of this subject, it is not my intention to go into a critical examination of the constitutional ground on which it is conceived this subject rests. I am willing to believe that those who made the constitution understood it in all its bearings, and the spirit in which it was adopted; and as many of the persons who were members of the convention were in Congress in 1791, when the charter of the Bank of the United States was granted, I cannot be so uncharitable as to believe that they would have been the first to violate its sacred principles. I am willing to believe that they possessed as much understanding and patriotism as we do, and therefore believe that they would not have been the first to violate the sacred principles of that instrument. In this opinion I am strongly supported by the conduct of the different States, the most of whom have passed laws for punishing, and have consigned to imprisonment, the counterfeiters of the notes of this bank. I presume it will not now be contended that all the States have united in carrying into execution an unconstitutional law, and that the United States have at different times, and under different administrations, recognised its legality and enforced its principles for nearly twenty years. It does appear to me, Mr. Speaker, that the uniform acquiescence of the country in a measure for such a length of time should put the constitutional question at rest; and, for the sake of something like stability in our proceedings, this should be considered as an adjudicated case, in which the law and constitution seem, to have been settled by universal consent. But, Mr. Speaker, I will call your attention for a single moment to the eighth section of the first article of the constitution of the United States. It will there be found that "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the general welfare of the United States, and to pass all laws which are *necessary* and proper for carrying the foregoing powers into execution." I shall attempt to show, from this clause in the constitution, that Congress have ample power to pass the bill for extending the charter of the United States' Bank, and this I expect to do without calling in the aid of the general grant of powers as contained in the constitution, from which some gentlemen seem to turn with such disgust; and in discussing this point I shall attempt to reason on things as they now exist. Congress have imposed duties and imposts, which, from their nature, must be collected in the different States. Then, connected with the right of laying is the right of collecting, and with the right of collecting is that of deposite and transmission, in that manner which is best calculated to carry on the fiscal operations of the Government; and the proper inquiry for this House is, How can these objects be best effected? Will not a bank be most desirable, on many accounts, and one, the paper of which shall be known and well circulated throughout the United States? This bank will receive your money, and transmit it to any part of the United States where it may be wanted, at the risk and expense of the bank. By this means the expense of collection will be lessened, and the money transmitted to any part of the United States, so as to enable the Government to pay the debts and provide for the general welfare. In this point of view I consider the bank necessary and proper; and if it be necessary and proper, then the plain language of the constitution is satisfied, and is not made to depend on being absolutely necessary, as gentlemen seem to argue. And whether this is done by one individual, or by incorporating a number of individuals, is not material on the present question, only as it relates to effecting the object, and that will be best effected by the incorporation of a number of individuals, ex-

tending their offices of discount and deposite from one end of the United States to the other, all linked together by common interest and duty.

But some gentlemen say that this will be a corporation, and that all corporations are anti-republican. This is a naked assertion, and is unsupported by any kind of evidence; the propriety of granting acts of incorporation is made to depend on the object to be accomplished thereby; and, to my view, republicanism has nothing to do with the present question; this is only the means necessary to carry into effect one of the specific grants of power contained in the constitution. But it has often appeared to me that the word republicanism is used in this House as a kind of watch-word, without any appropriate meaning or application to the subject under consideration; and in this case it seems to be addressed to the feelings of members more than to their judgment. But, sir, will it be said that, to collect and transmit the revenue of the United States free of expense, is an anti-republican measure? I presume not. Is any man's rights invaded, or are the great principles of equal liberty destroyed? I presume not. Then what can republicanism or anti-republicanism have to do with the present question? It does appear to me that it can have nothing.

But, gentlemen say they can furnish us with a substitute to carry on the fiscal operations of Government; and what is that? One gentleman tells us, to collect the revenue in specie, and ship it coast-wise; and another tells us that the State bank paper will answer all the purposes of the Government, and that the State banks will be safe places of deposite for your revenue. But, have not these gentlemen furnished you with strong arguments against both of these plans? They tell you that you need not be under any apprehension of the specie being carried out of the country; that the risk would be so great, that no man in his senses would attempt it; and, notwithstanding, they recommend it to this House as a course to be pursued by the Government. They also tell you that State banks are not to be trusted; that they carry on a kind of licensed fraud, and issue their notes to a large amount, without having any specie in their vaults. If this be true, then I presume that they would be very improper places for the réception and safe keeping of the public revenue, and therefore should not be resorted to. And this is not the only objection to State banks; their paper will not circulate generally throughout the United States; there will be a different value stamped upon it in different parts of the country, and it might well be refused by the creditors of the Government. In addition to this, they do not form and keep up that chain of connexion throughout the United States that would enable them to transmit the money to such places as the demands on the Government might require.

Then, Mr. Speaker, if the Bank of the United States shall be put down, (a measure which I consider almost certain) your revenue will be payable in specie, and nothing else can be received, agreeable to the existing laws of the land. And have gentlemen given themselves time to consider where this specie is to come from? Have they reflected that, from the best data on which we can form a calculation, there are less than twenty millions of dollars in actual specie in the United States?—a sum not more than sufficient to meet the demands of the Government, in one year of commercial prosperity, even if it was in your power to unlock the chest of every miser, and to bring into circulation every cent of actual specie now in the United States. And this, you well know, will not be in your power. And was it in your power to bring into the treasury of the United States the whole amount of specie now in the country, and in that way were you able to discharge the demands of the Government for one year, what will then be left to give currency to the bank paper, as a circulating medium in the country? To give currency to bank paper, it must carry with it a belief (at least) that there is, in the vaults of the bank from which the paper issues, a sufficiency of actual specie to render to you a dollar in specie for every dollar in paper which you return them. But, Mr. Speaker, this impression cannot be made in the present state of things. It will very soon be known that the treasury of the United States has gathered into its vaults all the actual specie in the country. This being the case, there can be

no specie in the vaults of the bank. Of course the paper will cease to circulate, or, if it circulates at all, it will be at a rate below its nominal value.

But, sir, will those gentlemen, who advocate the doctrine that State bank paper shall be receivable in discharge of the revenue, tell me who is to make the selection from amongst the banks whose paper is to be received? Do they mean to throw the responsibility from their own shoulders on the Secretary of the Treasury, and make him individually liable, in case the bank should fail? I presume not; this would be an unreasonable responsibility; and if this is not the case, the public revenues will be exposed to great risk, and frequent losses will be the certain consequence. In addition to this objection, if the Secretary of the Treasury is to be left at his own discretion to take such State bank paper as may suit his mere will and pleasure, without any individual liability, do you not at once give him a decided control over all the moneyed institutions of the country, and an influence greater than what is possessed by all the rest of the Government besides, and that at the risk of the loss of the revenues of the United States? I am willing to admit that I have the highest confidence in the integrity and talents of the present Secretary of the Treasury, but we do not know how long he may hold that office, and we know not who may be his successor; and if there was a certainty that he would continue to administer the fiscal concerns of the Government, still I contend that it would be unwise and unsafe to place so much power and influence in the hands of any officer of the Government that is so far removed from the People, and to whom he feels no kind of responsibility.

But, sir, if the Government refuses to receive State bank paper, as I presume they will, then it must depreciate, and will no longer be a circulating medium in the country at its nominal value. We shall then witness the strange phenomenon of a country, with an export trade worth upwards of seventy millions of dollars annually, without one single cent in circulation that will be a tender in the payment of debts, or receivable in the purchase of produce at its nominal value. How far this will comport with the interest of this nation is for those to determine who preside over its concerns. It has always been my opinion that the true interest of a nation consisted in her having a circulating medium at least equal to her export trade and one year's revenue; and, if she did not possess that in actual specie, it should be the wisdom of Government to create an artificial capital equal to those objects; and that it should be so secured as to possess the confidence of the nation. Without this circulating medium, the spirit of industry will be checked—agriculture will no longer flourish—and a universal stoppage of payment must take place. I hope gentlemen will at least take time to reflect before they draw down on their country those direful evils, and will not suffer their minds to be occupied too much by party feelings, which, in my opinion, have nothing to do with the present question. But some gentlemen seem prepared to denounce every man who does not give his negative to the bill under consideration. Sir, considerations of this kind will have but little weight with me. I know no party but the People; I know no interest but the public welfare; and I shall on this, and on all other questions which are presented for my decision, give such a vote as in my judgment is best calculated to promote these great objects; and if I err, I shall have the consolation that I have independently exercised my best understanding, and that I have not been the blind follower of any political party.

But, Mr. Speaker, I will take gentlemen on their own ground for a moment, and see how this measure will operate. They say that the State banks will go on to issue their paper, and it will continue to circulate as usual; but, sir, let it be recollected that, by the dissolution of the charter of the Bank of the United States, about seventeen millions of dollars are at once taken out of circulation, which is equal to one-fifth of all the floating capital of the United States. Then, independent of the individual distress which this must produce, it will reduce the value of all produce and property in market in the proportion that the sum taken out of circulation bears to the whole sum now in circulation. I presume that such a state of things cannot be desirable: for,

although you may by your measures reduce the price of tobacco, flour, hemp, &c. still you will not be able to procure a bushel of salt, or a pound of sugar, for less than what it is now selling for. But my honorable colleague (Mr. BURWELL) seems to think that this would be very desirable. He says it would reduce the price of labor, and, in that way the farmer and planter would be forced to abandon his agricultural pursuits, and become a laborer in some manufacturing institution at low wages, and thereby enable the manufacturer of this country to undersell the manufacturer of Europe. To my mind this appears to be a wild theory, at war with the best interests of the country. I consider agriculture as the fountain of wealth in this country, and commerce and manufactures as the hand maids; and I never can consent to the depression of the former for the benefit of the latter. It would be with extreme regret that I should see the independent cultivators of the soil obliged to abandon their farms and take up their residence in a work shop, and become the dependant of some lordly tyrant, instead of being the independent cultivator of the earth. In addition to this, I have always considered the agriculturist as the best citizen; as entertaining more rational ideas of liberty, and being more strongly attached to the independence of his country; and it is on agriculture that we must rely for wealth in time of peace, and plenty in time of war; and it, therefore, has a primary claim on the patronage of Government.

The gentleman from New York, (Mr. PORTER) has told us, that, inasmuch as the friends of the bill under consideration have relied on different parts of the constitution, therefore, no one part gives us the power. The singularity of this idea is manifested to the weakest capacity, and the fair deductions very apparent; I presume that, if the measure can be supported and justified under different views of the constitution, it proves that the measure is abundantly justified on constitutional grounds, and that it is in unison with the general principles of the instrument; and shall we be told, because it has the support of many parts of the constitution, it is weaker than if it had only one? To exemplify my idea, suppose a proposition in arithmetic, that by many modes of calculating you could arrive at the same result, would it be said that this was less true than where you could only come at the result in one particular way? I presume not. But, Mr. Speaker, if any measure could derive strength from the inconsistency of its advocates or opponents, then, sir, I am persuaded that the opponents of the bill have done as much in its favor as its friends have against it. I beg you, sir, to recollect the different grounds on which the opposition have relied. Some gentlemen are opposed on constitutional grounds; some gentlemen are opposed because they are afraid the bank will coalesce with the Government, and overturn the liberty of the People; others are opposed because the bank is hostile to the Government; others are opposed because they want a national bank; and others are opposed because a part of the capital stock is owned by foreigners; and here they attempt to awaken all the angry feelings of the nation against the use of foreign capital, while they carefully keep out of view the fact, that a republican administration sold to foreigners all the capital which they had in this bank; and thus, by uniting all those heterogeneous objections, a majority is formed in this House opposed to the passage of the bill. But, sir, I do not expect to derive any aid from these incoherent objections as giving any support to the bill: for, from the zeal that gentlemen have shewn in their opposition to this bill, it was to be expected that they would touch every string that was likely to sound in unison with the feelings of any part of this House.

Mr. Speaker, I shall pass over many of the minor objections that are made to the passage of the bill now under consideration, and come to the conclusions of the opponents of the measure. They are all obliged to admit that the establishment of such a bank as is contemplated by the bill under consideration, would be convenient, and would aid the fiscal operations of the Government, and say that, if it was the only way in which the finances of the country could be administered, then it would be justifiable. And here, in my opinion, the gentlemen give up the constitutional ground: for, if the measure *be necessary and proper* to carry into execution any of the specific grants of



power contained in the constitution, then the plain language and meaning of that instrument is satisfied, and is not made to depend upon the question whether there is no other way in which it can be done.

I have endeavored, Mr. Speaker, to examine this subject with candor, and prepare my mind to decide on it without taking into view the ruin of thousands, that must be the certain consequence of withdrawing from circulation at one time, so much of the floating capital of the country. And it does appear to me, in every point of view in which I have been able to examine it, that, at this time, to break in upon the established order of things, under which the United States have progressed in wealth and prosperity, unexampled in any preceding twenty years, would be, to say the least of it, a dangerous experiment.

Mr. TALLMADGE said, although the bill now before the House had undergone a pretty ample discussion; and although he felt almost disqualified from speaking distinctly, from the pressure of a severe cold, yet he could not reconcile it to his sense of duty to permit the question to be taken on the present bill, without submitting a few remarks to the consideration of the House. In doing this, he would endeavor to place the question on its proper basis, divested of any extraneous considerations, by the admission of which some gentlemen appeared to have lost sight of the true merits of the question.

Before I proceed to discuss the bill now before the House, (said Mr. T.) I take occasion to remark, that some gentlemen appear to entertain very limited, and, in my judgment, very incorrect ideas of banking institutions. From some observations which I have listened to, I should suppose that a bank was considered nothing better than a broker's office, in which Jews and money brokers meet to prey upon the community. Others have compared the institution to *Pandora's box*, from which have issued the principal evils which have afflicted this country. Many similar remarks, equally crude and irrelevant, have been submitted by some gentlemen, who wish the dissolution of the Bank of the United States. For the information of such gentlemen, I take occasion to remark, that the use of banks by the principal commercial nations in the civilized world, stamps a value upon the institution, too broad and too well attested to be questioned at this time.

The Bank of the United States, whose corporate existence we are called on to continue, seems to have been instituted principally for two purposes, viz. that of *discount* and *deposit*. Under the first, loans and facilities are obtained, both by the Government and individuals; and by the last, corporate bodies and individuals are enabled to lodge their money, or other precious treasures, in the vaults of the bank, for safe-keeping, to be withdrawn at pleasure.

It will not be a fair course of reasoning to infer, that, because *some banks* have been used for bad purposes, therefore *all* must be of pernicious tendency. The abuse of any blessing can never be fairly urged against its use. The great multiplication of banks, by the different States in the Union, proves the sense which the public entertain of their utility. The Bank of North America, which was incorporated in the year 1780, served greatly to invigorate public credit, and unquestionably shed a salutary influence on the measures of that eventful epoch in our Revolution. But I will not enlarge on this point, presuming that few can be found within the sound of my voice, who will question the utility of the Bank of the United States.

The remarks which I propose to submit, will be comprised under the two following general heads:

I. Has Congress a constitutional power to renew the present charter of the Bank of the United States?

II. Is it expedient, at this time, to permit its charter to expire?

That the field of controversy may be narrowed as much as possible, it may not be improper to consider the points in which all agree; and, also, the most prominent subjects of debate. I, therefore, consider the three following points as agreed to by the friends, as well as the enemies, of the present bill.

1. That Congress have the constitutional power to make all laws necessary to carry into execution the constitution of the United States.

2. That banks are among the necessary means to enable the Government to carry on its fiscal arrangements.

3. That no *positive injustice* can be chargeable upon the Government, even if it should refuse to renew the charter of the bank, inasmuch as it will expire by its own limitation.

The points in controversy between us are the three following:

1. The opposers of the bill on your table assert, that, to renew the charter of the Bank of the United States, Congress must assume a power not warranted by the constitution.

To this doctrine I enter my solemn protest.

2. They further assert, that the State banks are competent to answer all the demands of the General Government in their fiscal operations.

This doctrine I can, by no means, admit.

3. It has also been asserted, that the Bank of the United States *originated with a party*; that it has been *supported by a party*; and must now be decided on *party principles*.

The two first parts of this proposition I deny, but fear I shall be constrained to submit to the last.

I come now to the consideration of the constitutional question, and, inasmuch as it embraces consequences very momentous, both to the General Government and to our individual citizens, I hope this honorable House will hear me with candor.

The ground taken by the opposers of the present bill rests upon the tenth article of the amendments to the constitution, which declares that the powers not delegated to Congress are reserved to the States, &c. and hence, an inference is drawn, that, because no express power can be found delegating the authority to grant incorporations, therefore Congress cannot constitutionally exercise such power. The fallacy of this argument may be shown in numberless instances, and from every day's experience in legislation. As a familiar instance, I beg leave to inquire, by what express authority in the constitution has the Government any power to establish custom houses, or to appoint officers for the collection of the revenue? And yet, the orderly management of the Treasury Department so imperiously demands the exercise of this power, that no doubt has ever been entertained as to its constitutionality.

In defining the powers of Congress, there seems to be a three-fold rule given in the constitution:

1. Positive as to the power granted.
2. Negative on the General Government.
3. Negative on the States.

If gentlemen will turn to the first article of the constitution, under the 8th section, they will find the powers enumerated which Congress may exercise. Inasmuch as Congress has the power to lay and collect taxes, duties, imposts, and excises, so it is also provided, "That they may make all laws which may be necessary and proper for carrying into execution the foregoing powers," &c. Here is the basis on which I am willing to rest the argument, that the Legislature of the United States has the right to incorporate a bank for the purpose of collecting, in the most safe and facile manner, the revenues of the country, as well as of disbursing the same with the least expense and inconvenience to the Government, in any part of the United States where the same should be needed. If it should be conceded, that banking institutions are necessary to the convenient and orderly management of our fiscal concerns, (and I flatter myself this will not be contested) then shall I consider the constitutional question nearly settled, unless it can be proved that State banks can be a safe substitute for the Bank of the United States. On this point, I shall have occasion to remark hereafter.

In the ninth section, under the first article of the constitution, the exercise of certain powers is prohibited to the General Government, but nothing can there be found touching the present question. It must, therefore, be included

in the amendment before quoted, the explanation already given of which I hope may be satisfactory to this House.

In the tenth section of the same article, the States are prohibited from exercising certain powers. Among other things, they are not permitted "to coin money; emit bills of credit; make any thing but gold and silver a tender in payment of debts," &c. Although I am not disposed, in this place, to contest the right claimed by the several States to incorporate banks *ad libitum*, yet I have no hesitation in saying, that there appears to be a more literal restriction on the State authorities to grant charters to banks, than on the Government of the United States. This construction receives additional confirmation, when it is remembered that, in some States, bank bills have so far been made a *legal tender*, as to be receivable for State taxes, &c. The inference from these remarks is simply this, that, as *bank bills* are a species of *bills of credit*, the several States cannot constitutionally authorize their emission; and as they are the best representative of gold and silver, Congress alone has the power, under the constitution, to regulate the same.

In the modern rage for putting down former institutions, we seem to arrogate to ourselves more wisdom than our predecessors possessed. In the preamble to the act establishing the Bank of the United States, among other reasons assigned for the passage of the law, it was deemed that such an institution "would be conducive to the successful conducting of the national finances; would tend to give facility to the obtaining of loans for the use of the Government, on sudden emergencies, and would be productive of considerable advantages to trade and industry in general."

If such an institution was necessary for the operation of the Government *then*, it is not easy to conceive that it can be less useful *now*; nor can it be comprehended why a measure should be deemed unconstitutional in the year 1811, which, in the year 1791, was pronounced by some of the first sages of our country, with Washington at their head, not only very beneficial to the Government, but strictly constitutional. This argument derives no inconsiderable weight from the circumstance that, under all the successive administrations of our Government, acts have been passed confirmatory of this principle. The law enacted for the punishment of those who should counterfeit the bills issued by this bank, sanctions the original law; and the laws of the different States to the same effect, prove that they had no scruples on this point. The loans which have been repeatedly made of this bank, under the sanction of law, greatly corroborate the opinion, that the charter was not deemed unconstitutional, and I presume most of the gentlemen who now appear so scrupulous about violating the constitution, actually voted for the passage of the law of the last session, authorizing the bank to loan several millions of dollars to the Government. Now, if the original law was unconstitutional, the charter is void, and all the operations of the bank must have been illegal. On the same principle, every subsequent law relative to that incorporation must have partaken of its original depravity, being equally unconstitutional. In the year 1804, a law was passed authorizing the bank to establish offices of discount and deposit in the territories of the United States; under which law the bank was established at New Orleans, for the accommodation of the Government, and yet no constitutional objection was made to this measure, although the sage of Monticello was then President of the United States.

I cannot dismiss this head of my argument without adverting to the use which some gentlemen have made of the terms *power* and *means*, confounding them together, as of synonymous signification, in the present question. If Congress possesses the *power* of collecting and disposing of the revenue, its wisdom must devise the best *means* of effecting the object. In this view of the subject, the creation of a bank must be considered among the means necessary for the "successful conducting of the national finances." My own judgment has long been settled on the constitutional question, and I cannot but hope that a candid consideration of the views in which I have presented the subject to the House, will induce some gentlemen to hesitate, who may have heretofore been fixed in opposition to this bill.

I come now to the consideration of the second general head which I proposed to discuss, viz. the inexpediency of permitting the present charter to expire. In doing this, I will endeavor briefly to state some of the consequences which will probably result from such a measure.

1st. A general distrust of bank credit must be the inevitable consequence. As soon as the bills issued from the Bank of the United States shall cease to circulate, the holders of other bank paper will become suspicious of their ultimate payment, and, of course, will either refuse to receive them in payment of debts, or will send them to their proper banks to receive specie in exchange for them. As evidence of this, I will state to the House that the mere conjecture that such an event may happen, has already begun the call for gold and silver in exchange for bank bills.

2d. Such a measure would be distressing if not destructive to State banks. To prove the truth of this position, I call on gentlemen to examine the report of the Secretary of the Treasury, in which may be seen the amount of notes on hand, issued by the State banks. If these should be presented for payment, nearly the whole of the specie in their vaults would be drawn out, and perhaps some banks might not be able even to meet the demand. The unusual export of dollars from this country, for some years past, and the failure of the accustomed imports, have continued greatly to increase this distress.

3d. It would be ruinous to individuals. Perhaps a more inauspicious period than the present could not have been selected for the destruction of this moneyed institution. Our mercantile brethren have more than \$20,000,000 locked up at this time in Europe, and unusually large importations of East and West India produce are on hand for exportation. Accommodations must therefore be obtained, or their credit as well as property must be lost. I beg gentlemen to re-examine the Secretary's report, where will be seen the amount of discounts in our principal commercial towns.

I then inquire, Mr. Speaker, whether all the specie in the United States is sufficient to pay up the notes which have been discounted by the Bank of the United States, and which are now on hand. If you should oblige them to wind up their concerns on the 3d of March next, they will be constrained to call in their dues, and as no new loans can be made by this institution after their charter shall expire, so the State banks will be constrained to shorten their discounts, lest their debt should be increased to the Bank of the United States by accommodations to her debtors. In this way the distress will be greatly increased, and the State banks, being crippled in their operation, will be unable to afford the needed relief.

The bills issued by the Bank of the United States, and now in circulation, exceed five millions of dollars. Let this sum be called out of circulation, and the merchant, the farmer, and the mechanic, will sensibly feel its effects.

4th. If this charter should expire, I feel persuaded it must be injurious to the operation of the Government. Of the present regular collection of the revenue I will say nothing; but, of the distribution of this money, I venture to say that no process through the State banks can be so safe or so expeditious. Suppose that the operations of the Government should require the payment of a million of dollars at New Orleans. Through the agency of the United States' Bank, this deposit and payment could be promptly made; but how could this be effected by any State bank? From the very nature of those institutions, the bills issued by the State banks must have a limited circulation, and could not possibly answer on such an emergency. But, if the Government should suffer no inconvenience from the State bank emissions, mercantile men and private citizens must feel the embarrassment very severely. In addition to these considerations, will it be safe for the Government to entrust their funds to moneyed institutions, over which they not only have no control, but have not even the power to demand a view of the statement of their business? On this point I flatter myself there can be but one opinion; and inasmuch as weekly reports are now made to the Secretary of the Treasury, from the Bank of the United States, the safety of trusting the revenue to this institution, rather than to any other, must be very apparent.

5th. It is somewhat questionable, in my mind, whether the honor of the Government will be unimpeachable if the charter of the bank should not be renewed. I have said before, that, in point of strict justice, the Government is not bound to re-charter this bank; but, when I recollect that, not many years ago, the Secretary of the Treasury sold all the bank stock belonging to the United States (being 2,220 shares) to foreigners, at a premium of forty-five per cent. I cannot reconcile it to my ideas of *honorable conduct*, to reduce that stock at once to par. By that operation the Government raised the sum of 1,287,600 dollars, making a nett profit to the treasury of 399,600 dollars. If the average rate of dividends has been about eight and a third per cent, on the nominal capital, it is very manifest that the purchasers of this stock of the Government have not received six per cent. on their money, and all the advance paid on the principal must be lost. From the remarks made by some gentlemen, this argument will probably have but little weight; more especially as the purchasers were Englishmen. But by me the same rule shall be meted out to an Englishman or a Dutchman, to a Frenchman or an American.

Give me leave, Mr. Speaker, in this place to notice a very popular objection to the renewal of this charter, because two-thirds of the stockholders are foreigners. Are not the rights of foreigners in our country to be protected as well as those of our own citizens? Is it not enough that, by the act of incorporation, foreigners are not eligible as directors to manage the funds of this institution? I know it has been urged that foreign capital brought into this country is injurious to the community. With this opinion I do not accord, more especially when placed under the direction and control of our own citizens. But, say some gentlemen, in case of a war this influence might be injurious to our country. I should believe the very reverse would be the fact. If it be true that, where a man's treasure is, there will his heart be also, then surely it might be useful for any country to have the funds of its enemies to use and improve in case of a war. Not only would this serve to keep the true owners of the property from being active against us, but it would also serve as the sinews of war to aid us in the contest. So long as the moneyed capital of our own citizens can be better employed, let not the policy of this Government be directed against the introduction of foreign capital into the United States.

I will conclude my remarks on this subject, Mr. Speaker, by calling the attention of this honorable House to a few statements taken from the report of the Secretary of the Treasury, which has been laid on all our tables. From this it appears that the amount of bills and notes discounted, and now on hand, exceeds 14,000,000 of dollars; of which Philadelphia owes about \$5,000,000 and New York \$4,000,000. If these sums should be demanded, is it possible to find the gold and silver in our country to pay them up? Certainly not. What is then to be done? Either the Bank of the United States must extend the times of payment, or the State banks must afford their aid. It is questionable how far it would be safe for the bank to proceed in the first case; and, in the last, it has been shown, that, if the State banks should afford the needed accommodation, their own ruin would be sealed. By a report lately made to the Legislature of Pennsylvania, (which I hold in my hand) it would seem that the amount of all the specie in their State banks did not much exceed 1,000,000 of dollars.

What is the state of the *specie capital* in the city of New York? If pretty correct information may be relied on, all the State banks in that city cannot produce half a million of dollars. It is then utterly impossible, with all the specie in those two large cities, to pay up the demands of the United States' Bank upon the citizens; and if gentlemen suppose that no distress would ensue from so sudden a pressure upon the citizens, they must have data on which to found an opinion with which I am wholly unacquainted.

As a further evidence of the real diminution of specie in our country, I would state that, in January, 1810, there was in the vaults of the bank of the United States and its branches, \$9,051,704, and in the December following, there was only 5,492,879; making a diminution, in eleven months, of 3,568,825. In the same month of January, the State banks owed the Bank of the United

States \$579,653, and in December following, the sum was increased to \$1,546,027. If you add the difference (which is near 1,000,000 of dollars) to the amount in the vaults of the United States' Bank and its branches, in December, the diminution of specie in about eleven months will be found to be about \$2,600,000. This alarming diminution of the precious metals ought to have some weight with this House in deciding on the present question, that the pressure may not be increased upon the community.

Notwithstanding my full conviction that it will be highly impolitic, as well as peculiarly distressing to the People of the United States, to reject the bill now before the House, and thereby permit the charter of the bank to expire, yet I must confess I am not without my fears, that such is to be the fate of this institution. It can never be sufficiently deplored, that the feelings of party should have ever influenced the measures of this Government. When this prevails, we must expect that rash and impolitic measures will be adopted. On the present occasion, a leading member in opposition to this bill (Mr. EPPES) has declared his belief, that the bill now under consideration was purely a *party question*, and would be decided accordingly. If this is the case, the fate of the bank is fixed; and on this ground alone can I account for that peculiar apathy and unconcern which is exhibited, when the evils to be apprehended from a non-renewal of the charter have been so forcibly exhibited to Congress, in the numerous petitions which have been presented. But when I further reflect, that agents are known to be within these walls, who are already fattening on the prospect that the State banks which they represent are to receive the deposits of the Government arising from the collection of the revenue, I fear my feeble attempts to arrest the progress of this desolating spirit will be of no avail.

Mr. NICHOLSON.—Mr. Speaker: As I shall vote against an indefinite postponement of this bill, because I shall vote for the entire bill, when rendered as little liable to objections as possible, and, as this vote will probably stand at variance with many of those for whose opinions I entertain a high respect, I deem it essential, as well for my own justification, as for the information of others, to state the reasons upon which my vote is to be given.

The system of banking being an improvement upon the moneyed system, by which commerce, or the exchange of commodities, is carried on, and therefore still more complex in its operations, and more difficult to be understood, has excited the approbation of some, while it has equally excited the prejudices of others. Those, however, who have been best acquainted with its operations, when properly regulated, have, in all countries, united in a general expression of a conviction of its utility, not only as it respects personal convenience, but also as it regards the facility with which the financial affairs of nations can, with its aid, be conducted.

As this subject has become quite interesting, it becomes the duty of every one to assist in an endeavor to throw all possible light on the subject, not only as to the constitutionality of this Government legislating upon it, but also as it regards its operations and effects; in order that we may have as clear a view of the whole ground as possible, and thereby be better enabled to judge, with more certainty, of the merits or demerits of the bill now under consideration. I shall, therefore, endeavor to explain my views of the subject, as concisely as possible; and if I shall, in any respect, be found groping in the dark, in the remarks which I shall offer, I trust that an ordinary degree of candor will be sufficient to shield me from the imputation of sinister design. First, then, as to its constitutionality.

Perhaps, sir, the doubts entertained by some, of the constitutionality of this bill, arise from an extreme, and, as I conceive, unfounded jealousy, that this Government is calculated gradually to usurp the powers of the State Governments. This jealousy is a foible with many well-meaning legislators; I however respect it, as I am sensible that it arises from a good motive; and I believe that, if it be kept within reasonable bounds, it may, at least, be of no disservice in preserving our federative system of government. Probably we, in



some measure, derive this jealousy of the exercise of powers from our ancestors. The *crown*, the *peerage*, and the *commons* of Great Britain, are three distinct and *conflicting* interests: the crown to preserve its *prerogatives*; the peerage to preserve their *privileges*; and the commons to preserve their *rights*, if they can. But here, sir, we have neither crown, nor peerage; we have no interest but the interest of the commons, or the People. Our General Government, as well as our respective State Governments, emanate directly from the People; the People have the same control over each; and why we should be so *jealous* of the *former*, and so *partial* to the *latter*, seems somewhat difficult to determine.

When our federal constitution was adopted, the knowledge of a federative system, upon its present plan, was new, and existed merely in theory. The objects, however, intended to be effected by its adoption, are clearly and distinctly set forth in its preamble. They are, "to form a more *perfect union*, establish justice, ensure domestic tranquillity, provide for the common defence, promote the *general welfare*, and secure the blessings of liberty," &c. Yet, in the eighth section of the second article of that instrument, which contains an enumeration of certain specific powers, there is not the same clearness and precision. In the first paragraph of that section, powers are given to Congress to provide for the common defence and *general welfare* of the United States; and these powers, which are necessarily unsusceptible of precise definitions, are coupled with others, in the same paragraph, in such manner as to render their meaning doubtful, especially in the minds of those who entertain a strong partiality for the powers of the State Governments. The powers of this Government, which arise from the operation of common law, are still more indefinite, and, in the minds of many, difficult to comprehend. Perhaps, sir, generally speaking, it would not be too much to say, that it must remain for that good sense, which is the offspring of experience and mature deliberation, more than to specific definitions of powers, as set forth in that instrument, to ascertain precisely what powers the General Government ought to possess, and what the States ought, individually, to retain. In forming that instrument, no doubt, sir, such powers, if not all necessary powers, were intended to be given to this Government, as should be adequate to all the purposes of national sovereignty; that it was not, for want of these essentials, to hobble on crutches, through an imperfect state of existence, to premature decay. In short, that it, being like the State Governments, an emanation from the People, should be so far self-existent as to depend for its support on that power only—the collected power of the People—which first ushered it into existence. In the federative system, which I esteem the perfection of the science of government, the rule to be observed, in the distribution of its powers, between the confederated States and the federal head, is, as I conceive, simple and plain. It is this: Can any particular power, which is about to be vested somewhere, be exercised in local and separate districts or States, consistently with the *safety* and *good* of the *whole*? If it can, it ought of course to be exercised by the respective State Governments. All other powers, which cannot be thus confided, consistently with the safety and good of the whole, ought to belong to the General Government.

According to this rule, it will be seen that the powers which belong to the States are much the most numerous, and by far the most important in securing the rights and privileges of the citizen.

I am not contending that the federal constitution is exactly conformable to this rule; but it does not, however, essentially vary from it. There are, as I conceive, two or three additional powers which ought to be incorporated in that instrument, to wit: the powers to provide for a general system of education, and to make canals and roads; and it contains at least one power, the "power to establish a uniform system of bankruptcy," which, as experience has evinced, ought to belong to the States. But, sir, the power now under consideration, the establishment of a banking system, I am fully convinced, is properly and strictly within the limits and meaning of the constitution, and I think I can clearly and plainly shew that it is so.

In the eighth section of the second article of that instrument, are contained most of the enumerated powers which are granted to Congress; and the last there enumerated is the power to make all such laws as are "*necessary* and proper to carry the foregoing powers, and all others contained in the constitution, into operation." Among those enumerated powers are to be found, powers to *raise revenue; to borrow money; to regulate commerce; and to provide for the general welfare.* Now, sir, such a bank as is about to be made or re-established, by the operation of the bill before us, is, in my mind, a "*necessary*" thing to enable this Government to carry each of the foregoing powers into effect. I lay particular stress upon the word "*necessary*," because gentlemen who oppose this bill have re-cted much of their arguments upon it.

It is "*necessary*" for *raising revenue.*

There is, generally, a profit of about three or four per cent. derived to the owners of bank capital, beyond what they could obtain for the use of their money, by lending it out at legal interest. This being a benefit, which can only be secured to them through the interference and protection of Government, it is but just that they should pay the Government something in return for the favor thus conferred; and the bill before us contains a provision to this effect. Twelve hundred and fifty thousand dollars is the sum contemplated as the *least* which ought to be accepted by Government, for a mere renewal of the charter, with its present capital, for the ensuing twenty years. By passing this law, therefore, we shall derive to the Government that amount of revenue, which, in these times, is, in my mind, no contemptible thing. If the capital of the bank be eventually enlarged to thirty millions, we shall derive at least four millions of revenue from it, in addition to some interest which will at times become due on deposits which may be made in the bank. Thus the passage of this bill becomes a *means* of raising revenue.

It is "*necessary*" for the purpose of *borrowing money.*

Governments, like individuals, in unforeseen emergencies, must frequently experience very pressing occasions for more money than they have at command; and to supply this deficiency, must resort to borrowing of others. A prudent Government, therefore, like a prudent individual, ought to have the means of borrowing made as *certain* as possible, in order to avoid the derangement, or distress, which may ensue, in consequence of being unable suddenly to procure a loan. The passing of this bill goes to effect this desirable object; as it contains a provision for borrowing, with certainty, as large a sum as this Government will probably at any time suddenly stand in need of. It is, therefore, in that point of view, very "*necessary*," and, in all ordinary cases, a *great convenience*, for the purpose of enabling this Government to borrow money.

It is "*necessary*" for the purpose of *regulating commerce.*

A very essential regulation in commercial affairs, is, to have that which serves as the representative of all the articles which are the subjects of commerce, as small, light, and portable, as possible. To travel any distance, and carry with you twenty or thirty thousand dollars, of silver money especially, is extremely inconvenient; but, if you can carry in your pocket something which represents this sum, the inconvenience is at once removed. Yet, this representative must be such as will be received as such in every part of the country, or else it fails of producing most of its beneficial effects. A man residing in New England, has occasion to go to Natchez, to purchase \$20,000 worth of cotton; but the bank bills of his own State will not pass there; to carry hard money, is incurring a great risk, and, at the same time, expensive in transportation; hence, it becomes "*necessary*" to provide a representative of hard money, which will be received as such in every part of the country; and that can only be done by the establishment of a bank, whose bills will have this general currency. Thus, the passage of this bill, or something similar, is "*necessary*" for the purpose of *regulating commerce.*

It is "*necessary*" for the purpose of *promoting the general welfare.*

This expression is certainly very broad, and seems, at first view, to include a great deal. For this reason, many well meaning politicians have been startled

at the idea of a delegation of powers so indefinite, and so comprehensive. I imagine, however, that the expression is not pregnant with any mischief or danger. It certainly would not be "promoting the general welfare," to place any power in the hands of this Government, which could as *safely*, and as consistently, with the *good* of the *whole*, be exercised by the respective States. It would be upsetting the first and leading principle of a confederated Republican Government. If we, therefore, invariably adhere to this leading principle, we shall find the expression not only harmless, but very proper to be placed in the constitution. What I have already said of this bill being necessary for the purpose of raising revenue, for borrowing money, and for regulating commerce, is perhaps all that is necessary to be said, to shew that it tends "to promote the general welfare;" because, in this case, the one is necessarily included in the others.

Permit me now further to add, sir, that this bank, and its branches, are also essentially "*necessary*" for the *collection* of your revenue, for its *safeguarding*, and for the purpose of transmitting it from one part of the Union to another, as occasions may frequently require.

We are indeed told, sir, that our revenue can as well be collected by, and deposited in, the State banks. What, all the revenue collected in any one State, to be deposited in *one* State bank? No, we are told, we will put five or six hundred thousand dollars in one bank, as much more in another, and so on, until we get it all stowed away in some way or other. Indeed! What an admirable plan! And which banks will you *select* for this purpose? Will not the selection of one, excite the envy and opposition of others, so as to induce them to unite in endeavors, and perhaps successfully, to ruin such selected bank? Will these selected banks pay the United States as large a sum as is contemplated in this bill, for the privilege of having the revenue deposited in their vaults? No, they contemplate nothing of the kind. It would be a *bribe*, we are told, sir! Besides, it is even said by some, that three or four millions dollars is but a paltry sum, unworthy the notice of this Government! Can you contrive any method to compel the directors of such selected banks to render you, at stated times, a true statement of their situation, of their discounts, of the sums due them, of their deposits, in order that you may be convinced that it is *safe* to *trust* so much money with them? No. Suppose you want to borrow money, how will you manage matters then? Why, we will borrow a hundred thousand dollars of one bank, a like sum of another, just as a needy man borrows a dollar of one, two of another, and so on, till his wants are satisfied. Better still—this is really excellent! Well, suppose you wish, and have made out to borrow, as much, as you have to send the money to a different, and perhaps distant, quarter of the Union, are you *certain* you can make it pass *current* there? Will not those banks, which have not been so fortunate as to have received a share of governmental favors, take measures for counteracting any such currency? And would it be just to pay off a poor old soldier his hard-earned pittance in bills on which he would probably be obliged to make a discount of five, ten, or perhaps twenty per cent. before he could get them off his hands?

Gentlemen, sir, who oppose this bill, have got into a dilemma, in opposing it on the ground that the State banks can be made to answer the purposes of this Government; as they thereby virtually *admit* that banks of some kind are "*necessary*" in managing its concerns. The point of difference then becomes resolved into this: what *sort* of banks are necessary? We all understand that the stockholders of State banks would be *glad* of a slice of the "loaves and fishes." My neighbor, who keeps a horse to let, might say to me, it is not "*necessary*" that you should keep a horse, for I keep one, which I should be glad to have you make use of. In such case, the *arrogance* of my neighbor would be so manifest, that all would commend me in telling him that his horse was but a *sorry* animal, which he might keep to himself; and that I knew best what kind of horse suited *my* purpose. Sir, State banks are the *creatures* of States; this Government cannot *control* them, and, therefore, ought to have no concern with them. If, however, *particular* States will be so arrogant as

to insist that this Government *shall* make use of *their* creatures, why can they not, on the same principle, go a little further, and say to this Government, "here is a collector, a district judge, or a district attorney, which we have created ready to your hands; it is not "*necessary*," therefore, that you should create these officers within our jurisdiction, because those which we have created will fully answer our purpose?" We are not quite ripe for this mode of doing business, sir; but I believe we are in a fair way for its accomplishment.

I perfectly understand, sir, that this preposterous plan of substituting State banks, has been suggested, and, in some measure, urged, through the influence of some of those banks. I see runners out from different quarters, endeavoring to convert people to this new doctrine. I see presses prostituted to the purpose of endeavoring to raise a popular ferment against the passage of this bill, or any other of a similar nature; but, that any disinterested man can seriously think, that this miserable quackery with which it is proposed to administer to the wants of the body politic, is really worth a moment's attention, is more than I am willing to believe. Should it, however, prove too true, that a measure which, during the last session, could have been carried by a majority of nearly thirty, shall now be lost, although I shall deplore that instability of opinion which shall have produced this sudden change, or that dereliction of independence which should yield to temporary clamors, artificially raised, I shall, nevertheless, console myself with the conviction, that time and experience will correct the error, and that the merits of this measure will hereafter be decided upon with more correctness of judgment.

But, sir, I have thus far merely shown that this bank, or some other of a similar nature, is "*necessary*," in several distinct points of view, to the purposes for which this Government was established. I have not, however, shown, nor can I show, that it is *indispensably* "*necessary*." But here, sir, lies the error of those who have contended against the constitutionality of the measure. It will be recollected, sir, that, when this bank was first established, those who opposed it on constitutional grounds, and for their opinions I have the highest respect, contended that, although the measure might be useful, fit, and expedient, yet, if it was not *indispensably* "*necessary*," it must, of course, be unconstitutional. Let any one examine the debates of that time, and they will perceive that this was the strong ground of opposition that was then taken, and the same ground is now taken; but to this I reply—

If the words of the constitution were, that "Congress shall have power to make all such laws, only, as are indispensably necessary to carry the foregoing powers into effect," then, indeed, the opponents of this bill would, on constitutional grounds, be correct; because, that, although the Bank of the United States, or a national bank, if you please, may be a "*necessary* appendage to this Government, still are neither of them *indispensably* "*necessary*;" this Government can do without them in the same manner that a farmer can do without a hoe, by substituting a spade, or that a carpenter could do without a plane, by substituting his broad axe.

The word "*necessary*" is of the class of adjectives, and admits, though irregularly, of the degrees of comparison incident to words composing that part of speech; the positive, *necessary*; the comparative, *more necessary*; and the superlative, *indispensably necessary*. We mean by the first, *needful, fit, or proper*; by the second, *more needful, fit, or proper*; and, by the third, *that which we cannot do without*. If the words of the constitution were, "Congress shall have power to make all laws which shall be *needful, fit, and proper*, for the purpose of carrying the foregoing powers into effect," the difficulty would, probably, vanish at once; as I trust we could soon determine whether a Bank of the United States, or a national bank, is a *needful, fit, and proper* appendage to this Government. But, sir, we have first given to a harmless expression a most formidable meaning; we have made the word *necessary* mean *indispensably necessary*. And, having thus raised a mountain out of a molehill, we are now about to resolve, very *wisely*, no doubt, that we cannot get over the mountain.

If I were to agree to provide a farmer with such tools and implements as are *necessary* for carrying on the business of farming, I should suppose that I was bound to provide *all* such tools and implements as are commonly used in that business. I could not say to him, here is a *sled*, which must answer the treble purpose of *sled*, *cart*, and *wagon*; or here is a *spade*, which must answer both for digging and hoeing; I could not avoid my engagement by telling him the cart, the wagon, and the hoe, were not *indispensably* necessary; because he could make the sled answer the place of the two former, and the spade the place of the latter. No, sir, this would not be complying with the terms of my engagement. Now, sir, it is a poor rule that ought not to work both ways alike. The People of the United States have granted to Congress certain specified powers; and have further granted the *means*, that is to say, the necessary tools and implements, for carrying those powers into effect. By this grant, then, it becomes proper for us to make use of *all* or *any* of the means that are needful, fit, and proper, for effecting these purposes; but, sir, we are about to determine that we will *not* make use of *some* of them as long as we can *possibly* do without them; we will reject the *cart*, and the *wagon*, because they are not *indispensably* necessary; we will mount ourselves upon the *sled*; and thus we will *heavily* drag along the concerns of this Government.

Sir, in the estimation of some, this may be wisdom; it may be patriotism; but, in my estimation, it is neither: it is folly; it is destructive to the best interests of this country.

I shall further here observe, that, if we are determined to test the constitutionality of all laws which are passed by Congress, by their being *indispensably* necessary, we shall find that a great many unconstitutional laws have been passed. During the last session, we passed a law for creating three new officers in the post office department; yet no one will pretend that the passage of this law was *indispensably* necessary; because that department had been, and could still have been, conducted without them. Indeed, sir, if you look at your statute books, you will see that many laws have been passed that were not *indispensably* necessary, but were merely needful, fit, and proper. Even this splendid hall must stand in judgment against you, if such a narrow construction of that part of the constitution is to prevail; these pillars, of costly workmanship, which surround us, and the elegant dome which they support, were made in conformity to the laws passed for the purpose. And are they *indispensably* necessary? Could we not do the business of this nation in a room that should not have cost one tenth of the money that has been expended on this? Instead of these easy and expensive seats, with which every member is accommodated, could we not sit on such as that on which "the immortal Alfred sat?" Again, sir: laws providing for the erection of light houses and for the establishment of a military academy, have been passed by Congress. These laws must spring out of the power given by the constitution to "promote the general welfare:" for to no other power, given by the constitution, are they properly referrible. Erecting light houses is not "regulating commerce," properly and strictly speaking; neither is teaching military science, to those who are *not* soldiers, "raising and supporting armies;" but each are *means* of "promoting the general welfare," by the usefulness of the former to commercial business, and of the latter to armies, when they shall have been raised. But are either of these *indispensably* necessary? Certainly not. But, perhaps, I have said enough on this subject. Believing, as I do, that the General Government ought to possess all such powers as necessarily concern the best interest and good of the whole, and believing, too, that the constitution, however indefinite it may in some instances be found, was intended to contain a grant of such powers, with the exceptions which I have before mentioned, it must remain for others, and not for me, to gauge and limit it to such narrow constructions as are equally incompatible with the purposes of national sovereignty, and the obvious meaning of words in our mother tongue.

There can be no doubt, sir, that our written constitutions are of excellent use in designating the form, and drawing the outlines of Government, in such

manner as renders them but little liable to capricious variations. While, in this way, they serve as durable landmarks to those in power, they will, also, be of essential benefit to posterity, if they should incline to a degeneracy of political principles, by exciting their emulation, in holding up to view those principles by which their nobler ancestors were governed. Having been the originals, however, in the adoption of written constitutions of Government, we have made them quite a hobby-horse; and seem to imagine them adequate to all the purposes of preserving our liberties forever. For myself, I am not quite so strong in this belief. I fear that, if we place too much reliance on this specific, without providing some other means for guarding and preserving our liberties, they may depart from us while we are in full possession of our written constitutions. Instead, then, of being over scrupulous about giving to particular expressions, in our constitutions, a narrower meaning than they obviously import, let us try to investigate the *principles* by which powers must necessarily be regulated in a free confederated republic, if regulated as they ought to be; and, having ascertained this point, having ascertained what powers necessarily concern the *whole united*, and what powers may be *locally* exercised, without *injury* or *danger* to the whole, we can then easily perceive what ought to be, and what is the real meaning and intent of words in our written constitutions. And, above all, let us not be terrified by those who, for want of better arguments, appeal to our fears; who tell us of the *danger* there is in adopting this or that construction, or this or that measure; that, if you admit of powers by implication, you open a wide vortex, in which will *certainly* be swallowed up all the powers of the States; or that, if you adopt one measure, you will, *therefore*, adopt another, and another, until you have absorbed all powers whatever. Sir, this kind of argument, if argument it may be called, has become stale with me; it has no weight on my mind; and, for this simple reason, that *demonstration* and *prophecy* are two very different things. Whatever may have been the case in ancient times, I have always observed, in my own day, that weak arguments, and a spirit for prophesying, are usually coupled together. In my mind, there is more danger that the State Governments may, from the selfish motives or the ambitious views of some, eventually reduce this Government to a mere skeleton of power, than that this is ever essentially to weaken the powers of the States. I trust, however, that the danger of the one absorbing the other is not very great on either side. As all our Governments emanate from the same source, the People—this for *national*, and the others for *local* purposes—as long as we retain our present equality of condition, and of rights, and our consequent independence of sentiment, I should suppose that even a sense of *convenience* alone would always correctly dictate where the different governmental powers ought to be placed. The danger to civil liberty, therefore, lies, not in the formation of our different Governments, but in the foundations of civil society. If our descendants should lose sight of those principles of civil liberty which we have learned, or if the condition of men should become so unequal, as to produce a state of abject dependence of the *many* upon the *few*, then, and I trust not till then, will our present civil institutions be in danger of being overturned.

As I proceed I shall here briefly notice an amendment to the constitution, under which my worthy colleague, (MR. PORTER) and an honorable gentleman from Pennsylvania, (MR. SEYBERT) have taken refuge, in order to fortify themselves with an argument against the constitutionality of this bill. It is in these words—“The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the People.”

If gentlemen really imagine that they have discovered any thing in this amendment, which goes to render the passage of this bill unconstitutional, I shall merely observe, that

“Optics sharp it needs, I ween,  
“To see what is not to be seen.”



If any thing be absolutely passed from one to another by *grant*, as is the case before us, the grantor becomes *divested* of that thing, and it becomes immediately vested in the *grantee*. All then that is necessary, in the present case, is first to ascertain what powers *are* granted by the constitution: for it is very certain that what are not granted are still vested in the grantor. A has granted to B certain things; now, says A to B if my hat is not included in this grant, the hat shall still be mine. Agreed, says B. This is a very plain case, sir, and how such intelligent gentlemen could think of entrenching themselves behind this amendatory article, which, in fact, means nothing, is really more than I can conceive.

But, my worthy colleague, to whom I have just referred, has taken another ground, on which he has attempted to rest much of his argument against the constitutionality of this bill, and which is therefore worthy of some notice—that is, that, by the constitution, this Government derives no powers by *implication*. Sir, this appears to me the most absurd doctrine that I have yet heard advanced on this subject. It would be a waste of time to go into lengthy details to show the absurdity of this proposition; but let me ask that gentleman wherein could have existed the necessity of those amendments to the constitution, which are almost wholly *restrictive*, if it was not admitted that, *without* these amendments, Congress would have had an uncontrolled power to legislate on the subjects to which they refer; and yet many of these subjects of legislation are not even mentioned in the constitution. The first of these restrictive amendments is, that “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or of the right of the People peaceably to assemble, and to petition Government for a redress of grievances.” Now the constitution is silent on all these subjects; yet, if Congress possess no powers to legislate upon them, where could have existed the necessity of *restricting* them by this amendment, to certain bounds, if they should at any time deem it proper to make them the subjects of legislation? Again, sir, the constitution makes provision for the establishment of a judiciary, but says nothing about the system of law, whether the civil or common law, by which the courts, thus established, are to be regulated; how was it then understood that the common law was to be adopted? By implication, undoubtedly.

But, sir, in showing that this Government derives many powers by implication, I am sensible that I am travelling somewhat out of my way. It is sufficient to say, that the power of passing this bill is not derived to this Government by implication; the power accrues by *express* terms in the constitution—the power of providing the best *means* for carrying other governmental powers into effect.

There is one other ground which my worthy colleague has taken, in his endeavor to show the unconstitutionality of this bill, which I also deem worthy of some slight notice: that is, that the constituted powers of this Government are mere delegated powers, not from the *sovereign People*, but from the States, as *States!* And how does he prove this strange doctrine? Why, says he, if the States should neglect or refuse to elect the Senators which compose one branch of this Legislature, this Government would be dissolved. *Therefore*, this Government depends upon the *will* of the States for its organization; and, *therefore*, it is a creature of the States! Really, sir, this is very *profound* reasoning! Let us just look at the other side of the question, sir, and we shall then be enabled to see what a very *convenient* method of reasoning this is. I am going to prove, in the same way, the very *reverse* of this proposition; that is, that the constituted powers of this Government are mere delegations of powers, *not* from the States, as *States*, but from the *sovereign People*. I prove it thus, sir: If the sovereign People should neglect or refuse to elect the Representatives, which compose one branch of this Legislature, this Government would be dissolved: *Therefore*, this Government depends upon the *will* of the *People* for its organization; and, *therefore*, it is a creature of the People. In the same way, sir, you can prove that the State Governments owe their existence to the will of the returning officers of the different counties; because, if those offi-

cers should neglect or refuse to make the returns of the elections, there could be no State Legislatures, and thus the State Governments would be dissolved. *Therefore*, a State Government depends upon the *will* of the returning officers; and, *therefore*, it is a creature of those officers.

Admitting, for argument sake, that we could not go to elections unless our horses would carry us there, we can, in the same manner, prove that all our Governments are creatures of those animals; because, if our horses should refuse to carry us to the election polls, there could be no elections; if there were no elections, there could be no Representatives chosen; and, if none were chosen, there could be no Legislatures; and thus the Governments would be dissolved. *Therefore*, all Governments would depend upon the *will* of our horses; and *therefore*, they would be mere creatures of those animals.

We are very apt to run a wild goose chase, sir, when we attempt to demonstrate, by reasoning, *facts* which are obvious to the senses. Thus, if you would prove that there is heat in fire, don't go to reasoning about it, but put your finger into it, and the fact will be ascertained at once. In the same manner, when we want to ascertain whether this Government is a creature of the States, as *States*, or whether it is a creature of the People, let us just look at the constitution itself—the text book, as an honorable gentleman from North Carolina calls it—and there we can ascertain the fact precisely. Its preamble determines the point. The words of that preamble are, “We, the *People* of the United States,” &c. Not “We the United States, as *States*,” &c.

But, sir, even if this Government was a creature of the States, as *States*, what bearing could it have on the question before us? Ought we, on that account, to give to words in that constitution a different *meaning*? Would the words, “Congress shall have power to make all laws which are necessary and proper to carry the foregoing powers into effect,” be liable to different interpretations, according as it should be ascertained that this Government is a creature of the States, as *States*, or of the *People*? Certainly not.

I have thought proper, thus far, to notice some of the principal grounds on which my worthy colleague has rested his arguments against the constitutionality of this bill; because, if these grounds are not tenable, his arguments must fall of course; and thus would be justified the assertion of the honorable gentleman from Massachusetts, (Mr. PICKMAN) that the whole argument, taken together, is “an ingenious piece of sophistry.” It is so, indeed; and it is nothing more. Another inducement which I have had for this, is, to enable myself with propriety, and at the same time with pleasure, to observe, that the grounds taken by my colleague, have been the principal reliance of the opponents of this bill; as many gentlemen on that side have, probably with a very *becoming* diffidence in the strength of their own views of the subject, pointed to him as one amongst them whom they seemed to imagine had sustained the argument—a tribute of applause which I think those gentlemen were bound in conscience thus justly to bestow.

Having, as I trust, obviated the constitutional difficulties which have been urged against the passage of this bill, it remains to say something about its merits; and in doing this, I shall be as concise as possible.

It would be arrogance in me, sir, to go into a lengthy and minute detail of the operations of banking, as it is proper to *presume* that every member has made himself acquainted with the subject. I might, however, be permitted generally to observe, that, from the constant depreciation of gold and silver money for centuries past, and the probability of their still continuing to depreciate, the necessity of a well established banking system becomes, every day, more and more obvious. Ten thousand dollars, which in these days is but a moderate fortune, is nearly a cart load in silver. Thirty years ago, half that sum would purchase as much as the whole will now. Possibly, in the course of a century, a pound weight of gold will not be more valuable than a pound weight of silver is at present. Gold, as a currency, will then have become very cumbersome; and silver, as a currency, will then be scarcely portable. What then is to be done? Why, put these metals into the vaults of banks, and issue, in paper, that which *represents* them; or rather, that which

jointly represents them, and the promissory notes, or rather liens on property which are deposited there. This, sir, is the only remedy of which I can have any conception; and therefore it appears to me highly important, that the best possible plan of banking should be devised and adopted by this Government.

It has been my opinion, sir, that, instead of the present United States' Bank, a National Bank ought to be established, upon a general plan, and be so organized as to invite, and eventually draw into it, much of the other banking capitals, in order that the business of banking might be reduced more to one entire system; that it should not be under the *control* of Government, but nevertheless under their *inspection*; that, for this purpose, Government should appoint a small proportion of the directors in every branch, and in the mother bank, whose business it should be to render, at proper intervals, stated accounts of its debts, discounts, and deposits, in order that it should always appear that it was properly conducted, and kept within due bounds; and finally, that Government should share such part of the profits of the establishment, as might be deemed reasonable. Proper provisions ought also to be made to prevent its being rendered subservient to political or party purposes, which I imagine would be no very difficult thing.

The principal advantage to be derived from a *general* system of this kind, in addition to some which I have before mentioned, would be, first, its affording a permanent revenue; secondly, its greater security and stability; and thirdly, the uniformity of its currency, and the better means of providing against losses by counterfeiting.

I am, however, sensible, sir, of the great difficulty of convincing every one, by whose vote it must pass, of the practicability of any new plan of this kind, however perfect, and well matured it might be when offered. I am also sensible of the inconvenience of pulling down one system, in order to build up another, and of the distress and ruin of individuals it would occasion, if it should be done suddenly. I am, therefore, willing to adopt such plan, as, if not the best, shall be thought, by a majority, the most expedient at present, and leave to futurity the building up of a different system. I shall therefore vote for a mere re-incorporation of the present bank, if nothing better can at present be had; and if any thing can be added to it, by way of improvement, so as to render it less exceptionable, I will also vote for that.

Perhaps, sir, it might be as well to re-incorporate the present bank for eight or ten years only, and, in the mean time, be making provision for building up another, upon a more approved plan.

I conceive, sir, that the advantages of banking depend much upon the manner in which the system is organized. If properly organized, they are undoubtedly a great national benefit; if badly organized, they become a nuisance to the community; and some of the banks which were established in the Eastern States, are striking instances to illustrate the truth of this remark. Generally speaking, it may be said, that all petty banks are in danger of becoming such nuisances; because they are but too apt, in the first instance, to be established, and sometimes managed, upon improper, or even dishonest principles. In some instances they have proved mischievous, from the mere ignorance of those by whom they have been managed, of the only true principles on which banks can be safely conducted.

When properly organized, the great and most essential benefit derived, consists in the saving of labor, if I may so express myself, in procuring the requisite quantity of gold and silver, to represent all the various articles of wealth in a nation. Suppose, for instance, that a million of inhabitants were to be placed by themselves, without any gold and silver amongst them, but, at the same time, with a sufficiency of all the other articles which constitute wealth; they would then require, say five millions of dollars for a circulating medium, to represent those articles, in order to be enabled to carry on commerce or exchange, amongst themselves; of course five millions' worth of their articles of wealth, or, in other words, five millions' worth of their labor, must be sent abroad to purchase and bring back this necessary quantity of gold and

silver. Now, by the establishment of a banking system, on proper principles, one half of this hard money would answer their purpose, and thus they would save to themselves two and a half millions' worth of their labor, or its products, which they could apply to other purposes.

Now, the territory of the United States will, according to their present ratio of increasing population, in the course of a century, be filled with a hundred millions of inhabitants. They will therefore require, say five hundred millions dollars for the necessary circulating medium; at present, there is, say forty millions in circulation; of course four hundred and sixty millions' worth of the products of their labor must, in the course of a century, go abroad, to bring back its value in gold and silver, to provide this necessary circulating medium. But, if we can establish and perpetuate a safe and durable banking system, only one half of this value in the products of labor need go abroad to bring back the requisite quantity of gold and silver; and thus a gain is, in that time, made, to the amount of two hundred and forty millions' worth of labor, which would probably be nearly sufficient to make all the canals that may become requisite within our territory. I have made this statement in general terms, to show how immensely important it must be to the United States to establish a banking system, upon the most durable and best possible plan.

An honorable gentleman from Virginia on my left, (Mr. BURWELL) has informed us, if I understood him rightly, that he is, on the whole, opposed to the banking system entirely, because it tends too much to encourage commerce; that we are already too commercial. I am sensible, sir, that, in the Southern States, a prejudice has existed against commerce; and this very prejudice has served to build up a great many houses in our Northern towns, at the expense of the Southern States, because, if those States, particularly Virginia, had exerted themselves in encouraging commerce to be carried on within their own limits, much of the wealth, so rapidly acquired in commercial pursuits, which is now to be found in those towns, might have been amassed in those States. But does that honorable gentleman really believe that, by putting down this bank, there will be less banking business done in the United States? No, sir, the capital that is now employed in this bank, will soon find its way into State banks. Permit me also to say, sir, that the notion of trying to make ourselves less commercial, is idle and visionary; it is the "stuff that dreams are made of." I admit, sir, that, for the purpose of rendering ourselves less dependent on other nations, it might be well to encourage manufactures to a certain degree. But suppose we should, would we be essentially the less commercial on that account? I trust not. Commerce seems to be congenial to the dispositions of a large portion of our countrymen, and it is in vain to attempt to change their habits and pursuits. Indeed, sir, if we will but look at the nations of the world, both of ancient and modern days, we shall find that those who have been most commercial, have ever been the most active, enterprising, intelligent, and free. I consider commerce as one of the great levers by which the world has been raised from darkness into light; from barbarism into civilization and refinement.

An honorable gentleman from Maryland, (Mr. M'KIM) has given us a statement of the situation of the Bank of the United States, which I will just notice. That gentleman made this bank indebted to *somebody*, I don't know whom, in the sum of about ten millions dollars.

The gentleman also informed us that he had been a bank director in his time—of course, that he must understand the business.

Presently, however, the worthy intelligent gentleman began to say something about notes deposited in the bank for discount, to the amount of fifteen millions dollars. But these notes, he strenuously contended, were *not* due to the bank. So much knowledge must, I suppose, have resulted from having been a bank director. I think the gentleman afterwards admitted, that, if these notes were really due to the bank, it would then, indeed, possess the means of producing a general state of distress, if we should compel it suddenly to wind up its concerns. Exactly so, sir. So far the gentleman was correct.

But, with respect to the rest of this statement, I shall merely observe, that, if a gentleman could make a mistake of fifteen millions dollars in half a minute, how far would he probably travel out of the way in half an hour? Why, sir, he would be in danger of becoming one of the antipodes.

Another objection urged against the renewal of the present bank charter is, that a large part of the stockholders are subjects of Great Britain; and that, if we should happen to be at war with that nation, these capitalists would have it in their power to injure the best interests of this country.

On the first impression, it struck me that this might possibly be the case; but, on more mature reflection, I cannot see how this could be done, even if those capitalists were so base and so regardless of their own interests, as to attempt any thing of the kind. They have no direct control over the concerns of the bank; it is managed by directors, who are citizens of the United States. If any one can, however, point out any effectual method which could be taken by these capitalists, and which it is even remotely probable would be taken, I will then admit that this may be a greater or less objection, not against the re-incorporation of the bank, but against the policy of suffering European capitalists to hold much property in the bank.

Another objection which has been urged is, that this bank is under the management of those who are, for the most part, opposed in political sentiment to the present administration.

If I believed that those who manage the concerns of this bank could wield it as a political engine, as was formerly the case, I should be induced to vote against the bill entirely. But, sir, the fact is, this is not the case at present, nor do I conceive it can ever be the case again. So many State banks have been created, that men of all political descriptions can now be accommodated at one bank or at another; so that the idea of bestowing bank favors, as a reward for political professions, has been long since abandoned. As the English mastiff has, therefore, lost his teeth, he can no longer bite those who are not of his household—and knowing this, his fierceness has abated; he has become more civil to strangers, and more fit and willing to be made subservient to the wishes of all.

Sir, there is another string which is yet necessary to be touched, and I shall touch it but lightly; for it is a tender one. It is the distress and ruin which must ensue upon the vote that is about to be given, if that vote shall, as I believe it will, be against the re-incorporation of this bank, in some shape or other. From this distress, sir, probably all of us will be exempt; the storm will pass over us, and we shall only hear it at a distance; yet, the individuals on whom it shall most heavily fall, will not, on that account, feel it the less sensibly. When I speak of individuals, I mean to express myself emphatically. There are *incorporated* individuals, whose favorite dwellings may yet, by this vote, be shook to pieces over their heads. But, as far as any of these may have been instrumental in producing the present state of things, so far will their labors have obtained their just reward. I hope, however, that none of this description, in my own State, have had any agency in this business. But, sir, for those unincorporated individuals who are to be sacrificed by this measure, I feel some commiseration; because, I have some idea of the feelings that a ruined man must experience, particularly if he has a family to be supported by his exertions. It would be easy, because it would be natural, to draw a picture of this kind of distress. But this is not the only dark side which might be presented; its demoralizing effects ought also to be noticed. By too frequently, and, in this case, I may add, wantonly, deranging and prostrating the affairs of individuals, particularly of mercantile men, you naturally encourage in them, from mere motives of self-defence, principles which tend to render them a set of sharpers.

I have heretofore mentioned that there were, at the last session, nearly thirty of a majority for re-incorporating this bank. And among those were two of my honorable colleagues, whom I now find on the other side of the question. It would now seem that there is, probably, a majority against it. *How* does this happen? I can account for it in part, but not wholly. The

Legislatures of some States have undertaken to “*instruct*” or “*request*” their several delegations to vote according to their views of the subject. It is generally understood, I believe, sir, that those who may not think proper to listen to this monitory warning, are to be denounced, cast off, and thrown, not into a den of lions—for those animals, though fierce, are somewhat noble in their nature—but into a den with one or two ugly wild beasts, exotics, I believe, sir, who seem to be kept on account of the peculiar facility they possess of besmirching others with their own filth. But I would ask those who have thus undertaken to instruct and direct members here, how, in God’s name, did they become invested with this controlling power? Were they elected to manage the affairs of this Government? As well might the State delegations to this Government assume to themselves the right of instructing and directing their several State Legislatures how they should act. No dictatorship in this free country, sir! I, for one, protest against it. I hold myself responsible to my constituents only, for the vote I may give on any question; and that vote which my conscience tells me I ought to give, shall never be controlled by the imposing frowns of any man or set of men, whatever.

Sir, if this doctrine is to prevail, that the State delegations are to direct us how we must act, then we shall be in danger of becoming a fallen People! It will go to subvert the purposes for which this Government was established. It will be reducing us to a state which may even prove worse than the old confederation: for, even under that system of government, the State Legislatures did not attempt to dictate to Congress, but, on the contrary, Congress used to recommend measures for them to adopt.

My idea, sir, of the best method of getting along with our various concerns is, for each to mind their own business. I am not so arrogant as to have any wish to control the opinions or the votes of others; and all that I require in return is, that the same measure of courtesy be dealt out to me.

Sir, I have thought proper, in order to vindicate my own sentiments and my own independence of feeling, to say thus much; I have little more to say, further than to repeat, that I am opposed to putting down this bank suddenly and unexpectedly; and in no way, whatever, unless it be done gradually, while another, less exceptionable, is rearing up to fill its place. Permit me to add, sir, that it requires so much less capacity to pull down than to build up, that I am afraid that some who never can distinguish themselves in the one way, may, in their love of fame, aim at an acquirement of some distinction in the other. I confess I have some little fears on this subject: for I am fully convinced, sir, that, if ever this Government shall be prostrated, which God forbid, the work will be accomplished, not by Romans, but by hands such as those under which Rome sunk and perished.

Mr. CRAWFORD.—Mr. Speaker: A solemn impression of the duty which I owe to the public, and more particularly to that portion which I more immediately represent, can alone induce me, awkwardly circumstanced as I am from habit, to come forward on the present occasion; or support me under the embarrassment I feel, in presuning, for the first time, to deliver my sentiments on a question of great national importance, before a deliberate assembly. The subject having been already very amply examined, I shall confine my remarks to a very few of the most prominent principles connected with the bill. In so doing, I shall manifest my inclination rather than my ability to perform my duty.

Indeed, after the very eloquent and conclusive argument of the gentleman from New York (Mr. PORTER) on the constitutionality of the bill for the renewal of the charter of the Bank of the United States, any farther attempt to elucidate that part of the subject may appear equally unnecessary and impertinent. But as some very partial and indirect attempts have been made to set aside his argument, I request your indulgence, whilst I endeavor to investigate the positions, relied on by his antagonists, as a means of palming this counterfeit again upon the nation for twenty years longer. If, in this discussion, I depart from the usual form of addressing you, by giving it somewhat



of a colloquial form, I must rely upon the liberality of the House for indulging so unusual a claim upon their attention.

As a Representative of the People, then, I assume what has been called an inclusive power to establish a bank, as incidental to the power granted to lay and collect taxes, duties, imposts, and excises, by the constitution, in section 8th, article 1st. as incontrovertible. In granting this power it necessarily follows, that I possess all the means necessary to carry such power into effect. It is left to my discretion to employ the best means which offer for that purpose. This opinion is supported by article 17th of the same section, which empowers me to make all laws 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. If, therefore, I consider a bank as *necessary* and *proper* to carry into effect the power to lay and collect taxes, it thence becomes a power growing out of constitutional authority, and it is my duty to carry it into execution.

Here I am interrupted by my constituent, who objects, that I have failed in the establishment of my premises, and in proving that a bank is the most suitable means to accomplish the end in view. That many other measures, more adequate, present themselves to his mind; and if taxes may be collected by safer and better means, banks become, agreeably to your own doctrine, unnecessary, and therefore unconstitutional.

This objection I endeavor to surmount, by alleging that banks, by furnishing money, provide the means of purchasing the fruits of my industry; and thus, bringing more competitors into the market, I am enabled to dispose of my productions with greater certainty, and at a better price. Hence I am qualified to comply with the demands of Government, without seriously suffering from the pressure occasioned by such demand. Banks, therefore, affording more convenient means of paying taxes, become *necessary* and *proper* to their collection, and are therefore constitutional.

Here again my constituent objects, that those who hold bank paper will not part with it without adequate value, in produce or other property. If it should so happen that there shall be little or no demand for such produce or property, the paper holder will either refuse to exchange his paper therefor, or reduce the price, in proportion to the unsaleable or perishable nature of the commodities offered. Nay, having, by his fictitious representative, nearly banished gold and silver from the market, he may feel disposed to take an undue advantage of this withdrawn competition; and thus further diminish or destroy the capacity to comply with the public demands. Banks, therefore, afford only a problematical resource on which to rely for the payment of taxes. They are themselves the effect, and not the cause, of increased commercial prosperity. The consumption of, and demand for, the articles produced, furnish the true means of meeting all demands, by the equivalent given for such productions. Bank paper stands, by agreement, as the sign only of such equivalent, and not as the thing signified, and possessed of intrinsic value. The thing signified is therefore alone essential to the payment of taxes. This is the result of my labor, or of such articles as that labor has been exchanged for. Whilst there is a demand for the products of my labor, there will be no deficiency of means to pay taxes. If this demand cease, bank paper will not relieve my distress. Banks afford, therefore, only a conditional, and not an absolute means to favor the laying and collecting of taxes. They are not the best which offer as necessary and proper; and are, consequently, not constitutional. This argument may be strongly enforced, by tracing it through its various relations and tendencies. The constitution prohibits the State Legislatures from making any thing, save gold or silver, a legal tender. Hence, you may infer, that Congress possesses the power to establish a bank, and make its paper a legal tender: for, if they possess a power to establish a bank, as a means for the laying and collecting taxes, they must also possess the means of making such bank paper efficient. If they possess a power to make bank paper a legal tender, to support the institution of a bank, they possess, likewise, the means of enforcing this power. The best means of enforcing

this power is a standing army. Congress, therefore, according to your doctrine, possess the power, in the last resort, to compel us, at the point of the bayonet, to receive their bank paper as a legal tender, that they may give facility to the laying and collecting of taxes. Such are the dangerous conclusions to which the admission of such arbitrary doctrines necessarily leads—doctrines to which, I trust, we will neither of us submit while life remains. But I will now endeavor to show, that you possess no constitutional authority to enforce such tyrannical doctrines. In article 10th, amendments to the constitution, the doctrine is expressly laid down, that “the powers not delegated by the constitution to the United States, nor prohibited by it to the States, are reserved to the States, respectively, or to the People.” But the power to erect banks is no where prohibited, by the constitution, to the States; it is therefore reserved by it to the States, respectively, or to the People. Congress, therefore, cannot usurp this power over the States, so explicitly and expressly reserved, without a flagrant violation of this (*not an interpolation, as it has been jesuitically styled, but*) integral part of the constitution. This opinion is confirmed by article 9th, amendments to the constitution, which declares, that the enumeration in the constitution of certain rights, shall not be construed to deny, or disparage others retained by the People. But the People have retained the right to establish banks: for all powers not delegated to the United States, or prohibited to the States, are reserved to the States, respectively, or to the People. The States and the People have exercised this right. Their power to do so has never been questioned. Every attempt to exercise this power, on the part of Congress, is an encroachment on this right, is a denial or disparagement thereof, and becomes thence a violation of the constitution. The States are prohibited from making any thing but gold or silver a legal tender. They possess an unquestionable right to erect banks, but they cannot make their paper a legal tender. If Congress possess the power to create a national bank, they are not prohibited from making its paper a legal tender. This silence may be construed into a power of giving legality to their paper, by making it a tender. It may thus be exercised so as to construe their right into a denial or disparagement of the rights retained by the People.

If any doubts still remain, respecting your want of constitutional authority to create a national bank, I will proceed to satisfy you that you are clothed with no such dangerous power.

By the constitution you are merely the servants of the People, acting under a specific power of delegated trust. You are strictly limited to the powers therein delegated, or to such incidental powers as are necessary and proper to carry into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof; that is, you shall possess all the means necessary and proper, provided the powers vested in you by the constitution cannot be carried into effect without such means; or where your power to use such means is not doubtful or limited. In art 5th of the constitution we are instructed, that “The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress, provided that no amendment which may be made, prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article, and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.” If the States and the People were so extremely cautious and guarded in procuring any amendment to the constitution, will they calmly witness a sacrilegious infraction of its most sacred principles? Will they permit you, by a constructive power, to create rights which deny or disparage those which they have expressly reserved to themselves? Have

they not ordered you, whenever your powers are doubtful, defective, or limited, to apply to them for the remedy? Have they not explicitly provided the manner in which such remedy shall be applied? They have not permitted you to cut and carve for yourselves. A power is given to lay and collect taxes, duties, imposts, and excises. You shall have collectors and excise officers as incidental to their execution; you are to provide the safest depositories for them within your constitutional reach; you must preserve them under your perpetual control, by contract; you will be allowed stationary, store room, and house rent, with every other essential accommodation; but as we have reserved the power of creating banks to the States or to ourselves, you can claim no constitutional power over them, unless within the district over which we have given you exclusive legislation: and this power you are invested with, merely as Legislators for that district, and not in your capacity of Representatives of the States, respectively, or of the People.

But you conclude that the question of constitutionality is settled by precedent, acquiesced in by all the constituted authorities for twenty years. Such a conclusion facts will not justify. It is a most dangerous doctrine; it is an abandonment of the State sovereignties, who have for twenty years practically opposed and denied such doctrine. More than three-fourths of the States have, for a large portion of that period, been in the practice of establishing banks within their respective State sovereignties. If they had divested themselves of this sovereignty, by a delegation of such power to the United States, they would never have dared to exercise such a flagrant usurpation of power. Congress could not, without violating their oaths, have permitted this usurpation of their delegated authorities. Upon all other occasions they have been sufficiently jealous of the encroachments of State authorities. Can it be imagined that they would have witnessed such a daring and dangerous innovation, if such powers had been unequivocally delegated? On a subject of such magnitude, no one can believe such improbable suppositions. But it is all important to the peace, safety, and happiness of the Union, that this subject be fully and fairly met; that it may be set for ever at rest. It is a subject on which we cannot suppose the constitution was intentionally silent; provided the power was intended to be given by the States. It is one in the exercise of which collision would most frequently occur. The power would therefore be expressly given, expressly reserved; or an agreement made to share it mutually. If any such agreement exists, it must, from the necessity of the case, be specific, express, and accurately defined and limited. No such compact exists in the constitution of the United States. Upon this subject there is therefore only one alternative. The power is either expressly given or reserved. It is of too imperious a nature to be sought for by implication, inclusion, or as an incidental means to carry any other power into effect. It has never been contended that any such power is expressly given by the constitution. If it had ever been parted with, it was all-important that it should have been parted with expressly. If it has been parted with, it can be shown. If it can be shown, it requires no casuistry to support it. Casuistry may involve and obscure—it can but seldom enlighten its subject. The sole power given to the United States, to coin money, regulate commerce, or make war, has never been questioned. Upon these subjects no State has ever shown a disposition to interfere, either with the powers, or the means necessary to carry these powers into effect. No similar delegation of power on the subject of banking can be shown. It is therefore expressly reserved. For if it has not been so reserved, the individual States have, most of them, been in the daily usurpation of a power which did not of right belong to them, which of right belonged to another, for nearly twenty years. But, if they have been in the exercise of a legitimate authority, then have the United States been exercising a dangerous and arbitrary usurpation of power, never delegated, expressly reserved, and practically denied and opposed by the States, during the whole of that period. Those who advocate the power of the United States over this subject must yield the sovereignty of the individual States. They must show this yielding of sovereignty, otherwise their power is a usurpation. They have not shown

any such delegation of sovereignty by the States. They never can shew it, in this constitutional instrument. It is therein expressly reserved: for, "the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the People."

Obliged thus to abandon my constitutional position, I endeavored to rally my scattered forces, on the extensive field of expediency. I expatiated on the immense advantages resulting from a common circulating medium, the facilities afforded thereby to our fiscal and commercial relations, and the stimulus given to industry by a large foreign capital. My constituent suddenly arrested my progress, by observing, that it appeared idle to consume our time in castle-building, while we possessed neither the power nor the materials to erect them: for, when the constitutional authority is denied, no expediency can justify such an assumption of power. Such an assumption would, if acquiesced in, break down all the bounds raised by the People for their protection against the lawless encroachments of power. It would remove those landmarks, set up by them for their guide: and, whenever such encroachments would be attempted, exposed them a defenceless prey to their enemies. I will, however, offer a few observations on the subject of expediency, and hope to shew you that, even on that ground, you are exposed to defeat. As to the fiscal operations of the country, they may be readily and safely conducted through less dangerous channels—by a different modification of means, within constitutional reach. A large foreign capital is equally susceptible of being injuriously as of being beneficially employed. We had better remain unemployed, than use means to promote industry which may only place us more completely at the discretion of foreign Powers, by giving them the discretion of, and command over, our industry. It cannot be questioned, that the large foreign capital in our country has been highly instrumental in deluging our country with unnecessary and extravagant articles of foreign growth and manufacture. These foreign gewgaws have nearly destroyed our economical and simple habits, as an agricultural People, and rendered us tributary to those foreign Powers, whose meretricious arts have inveigled us into such prodigal consumption of their commodities. The same funds have been employed to retard our progress in manufacturing for ourselves, lest we should become in reality independent, and disobedient to our task-masters; whose artful policy has nearly banished gold and silver, by the introduction of their fictitious capital, that they might thus disarm our energies—if the expiring embers of personal liberty or national independence should again rekindle, and nerve our arms and animate our hearts against every insidious or perfidious encroachment upon the dearest rights of freemen.

Again I endeavored to arrest the glowing progress of my constituent, by directing his attention to the numerous memorials on our table; painting, in fascinating colors, the beneficial operations of this institution on our country, and its Government, and shading the back ground of the picture in sombre colors, with the ruin which a refusal to re-charter the bank of the United States must bring down on the devoted heads of our State banks, and our commercial cities, and which threatens to extend its desolations to every description of our citizens.

What, my friend, exclaimed my constituent, have these basilisks so fascinated you, by their legerdmain artifices, as to deprive you of the evidence of your senses? Have you not, from the same description of people, numerous representations which boast a redundant capital? So redundant as to induce them to vest their superfluity of wealth in speculations upon British manufactures, and other articles of British commerce, by anticipated remittances? Is it unreasonable to trace these contradictory statements to the same impure source? May not this redundant wealth consist of national or mercantile deposits, in the national bank, granted to such special friends as trade in British commodities, to favor their immense importations, and destroy our infant manufactures, that they may shackle our commerce in foreign fetters? May not the fictitious capital of the same institution be employed to coerce American citizens—the friends of American prosperity and independence—into a re-

newal of their favorite bank charter? To this rational solution of memorials, so contradictory in their nature, I could offer no satisfactory reply—I gave up the cause as hopeless, on American ground. As an American citizen, I can never yield my assent to a measure, so apparently pregnant with mischief to the rights and liberties of my constituents. I cannot thus betray the confidence reposed in me as a Representative of the American People, or violate the oath which I have taken to support the constitution of the United States.

JANUARY 24, 1811.

The House resumed the consideration of the motion to postpone, indefinitely, the further consideration of the said bill.

And the question being taken, it passed in the affirmative—ayes 65, noes 64.

Those who voted in the affirmative, are,

Messrs. L. J. Alston,	Messrs. Gholson,	Messrs. Rhea, of Penn.
Anderson,	Goodwyn,	Rhea, of Tenn.
Bacon,	Gray,	Richards,
Bard,	Holland,	Ringgold,
Barry, <i>Ky</i>	Johnson, <i>Ky</i>	Roane,
Basset, <i>Va</i>	Jones,	Sage,
Bibb,	Kenan,	Sawyer,
Boyd, <i>Ny</i>	Kennedy,	Seaver,
Brown,	Love, <i>Va</i>	Seybert, <i>Pa</i>
Butler,	Lyle,	Smilie, <i>Pa</i>
Calhoun, <i>Sc</i>	Macon, <i>Nc</i>	G. Smith,
Cheves, <i>Nc</i>	McKim, <i>Md</i>	S. Smith,
Clay,	McKinley,	Southard, <i>Va</i>
Cochran,	Mitchell,	Troup,
Crawford, <i>Va</i>	Montgomery,	Turner,
Cutts,	N. R. Moore,	Van Horn,
Dawson,	T. Moore,	Weakley,
Desha, <i>Ky</i>	Morrow,	Whitehill,
Eppes, <i>Va</i>	Mumford,	Winn,
Franklin,	Newton,	Witherspoon,
Gannet,	J. Porter,	Wright—65. <i>Nd</i>
Gardner,	P. B. Porter, <i>Ny</i>	

Those who voted in the negative, are,

Messrs. Allen,	Messrs. Helms,	Messrs. Pottor,
W. Alston, <i>Nc</i>	Hubbard,	Quincy, <i>Mass</i>
Bigelow,	Hufty,	Randolph, <i>Va</i>
Blaisdell,	Huntington,	Sammons,
Breckenridge,	Jackson, <i>Va</i>	Scudder,
Campbell,	Jenkins,	Shaw,
J. C. Chamberlin,	Key, <i>Nd</i>	Sheffey, <i>Va</i>
W. Chamberlin,	Knickerbacker,	Smelt,
Champion,	Lewis,	J. Smith, <i>Sc</i>
Chittenden,	Livingston,	Stanford,
Davenport,	Matthews,	Stanley, <i>Nc</i>
Ely,	M'Bryde,	Stephenson,
Emott,	M'Kee, <i>Ky</i>	Sturges,
Findley, <i>Pa</i>	Miller,	Swoope,
Fisk, <i>Ny</i>	Milnor,	Taggart, <i>Mass</i>
Gardenier,	Moseley,	Tallmadge, <i>Conn</i>
Garland, <i>Va</i>	Newbold,	Thompson,
Goldsborough,	Nicholson, <i>Ny</i>	Van Dyke,
Gold, <i>Ny</i>	Pearson,	Van Rensselaer,
Hale,	Pickman, <i>Mass</i>	Wheaton, and
Haven,	Pitkin, <i>Conn</i>	Wilson—64.
Heister,		

[There were absent on this vote eleven members, viz:

Messrs. Burwell,	Messrs. Cobb,	Messrs. Ross,
Crist,	Livermoore,	Tracy, and
Cook,	Lyon,	Whitman.
Clopton,	Root,	

Of whom Messrs. Burwell, Crist, Cook, Livermoore, Lyon, Ross, and Whitman, were absent from the city, and Messrs. Clopton, Cobb, Root, and Tracy, were absent from indisposition and other causes.]

On this day, Messrs. RHEA, of Tennessee, SMILIE, MACON, and EPPES, spoke in favor of the postponement, and Messrs. QUINCY, STANLEY, and MCKEE, against it; whose speeches, so far as they are found reported, follow in the order above named.

Mr. RHEA, (of Tennessee.) If, in the course of this debate, observations had not been made which appear to deprive the constitution of the United States of its innate virtue and honor, to destroy its beauty and simplicity, and to transform it into a deformed and distorted something, the debate on this bill to renew the charter of the Bank of the United States would have progressed to the end, undisturbed by any intervention of mine. If a train of reasoning be adopted, that tends to disturb this constitution, and to give to it a construction and interpretation that it will not bear, it then becomes a duty to state opinions respecting it, and to vindicate the true intent and express understanding thereof.

The constitution was solemnly and deliberately made, by wise men, who composed the convention, in the name of the People of the United States, and it was solemnly and deliberately ratified, by conventions of the States, respectively. It is simple, and easy to be understood, by any one who, knowing the objects and ends for which it was ordained, will candidly examine it. A defence of the constitution, is a defence of the great and good men who made it what it is: for, if the constitution be dark, of obscure intent, and dubious meaning, it is not what it ought to have been. If it be dark, obscure, and dubious, if it be capable of inconsistent or contrary interpretation, the conventions of the ratifying States have not examined it with that careful attention which it required. Vain and empty surmises will evaporate, the characters of the men who made it being considered; the scrutinizing inquiries of the several ratifying conventions being contemplated, and by a candid examination, without prejudice of the constitution itself.

The constitution is a compact between the individual States and the United States. It is the great charter and bill of rights, delegated and given by the several States composing the Union, to the United States; it contains rights, powers, and principles, to be acted on by the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty; and we, "the People of the United States," have ordained and established it the constitution of the United States of America.

The rights, powers, and principles, enumerated in the constitution, are void of elasticity; they are firm, fixed, and unbending; they will not yield to discretion, on various assumed constructions; unchangeable in their nature, intent, and object, they are mutable only by the constitutional authorities.

"The enumeration, in the constitution, of certain rights, shall not be construed to deny, or disparage others, retained by the People."—Article eleventh of the amendments to the constitution. This article manifests, that all the rights delegated to the United States are enumerated in the constitution, and the enumerated rights shall not be construed to deny or disparage, to bring into disrepute, or diminish, other rights, retained by the People; and to that end it is absolutely necessary that the rights delegated be expressly and distinctly enumerated, otherwise it would be impossible to ascertain and distinguish the rights delegated to the United States, and the rights reserved to the People. "The powers not delegated to the United States by the con-



stitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the People."—Article twelfth, amendments to the constitution. By this article, it is manifest that a power, not distinctly and expressly delegated to the United States, by the constitution, nor expressly and distinctly prohibited by it to the States, is reserved to the States, respectively, or to the People. These amendatory articles exclude, and prohibit an assumption of discretionary powers; of constructive powers; and of all powers and rights not expressly and distinctly enumerated in the constitution. By the word "power," or the word "right," is understood a fundamental principle of the constitution; the Congress cannot change, alter, vary, or destroy it; it assumes form when it is clothed with a legislative act of the Congress, and ordered to operate.

It may be proper to notice some observations, made in the course of this debate, which appeared to evidence a disposition to show that the Congress was vested with discretionary, or constructive powers, in matter of principle. It has been intimated that Congress had not power to disband an army, if the power was not assumed. If the constitution had been well considered, this and other similar intimations would have been omitted. An army is raised in consequence of a law, bottomed on the clause in the eighth section of the said article, which empowers Congress to raise and support armies. By the eighth section, the Congress is empowered to "make rules for the government and regulation of the land and naval forces." And the Congress is prohibited to make an appropriation of money to support an army, for a longer term than two years. The Congress, acting on these powers, will disband an army. A law may be made to expire by limitation in itself; if not, the Congress will make a law to repeal it. A law may be enacted to repeal the law whereby an army is raised, and then that army will be disbanded. The writ of habeas corpus is a prerogative writ of the United States, and was in use previous to the existence of the constitution; it is not prohibited by the constitution to the People; it is a duty of the judiciary to issue writs of habeas corpus, proper cause being shewn. The privilege of that writ does not depend on the clause in the ninth section of the first article of the constitution; that clause only contains an express condition or reservation, that the Congress shall not suspend the privilege of the writ of habeas corpus, except when, in cases of rebellion or invasion, the public safety may require it. Writs of habeas corpus being issued by the judiciary, a law suspending the privilege of that writ is a law regulating the proceedings of the judiciary, and is bottomed on the powers vested in the Congress, by force of the third article of the constitution. "No bill of attainder or ex post facto law shall be passed." This is an express prohibition, and requires no illustration. "No title of nobility shall be granted by the United States." This, also, is an express prohibition. The Congress hath power "to provide and maintain a navy," and to make rules for the government and regulation thereof; and, "to define and punish piracies and felonies, committed on the high seas, and offences against the laws of nations;" and consequently, to make rules and regulations for the government of seamen of every description. It has been asked, by what delegated power does Congress make laws to prevent settlers on lands, the Indian title whereof hath not been extinguished? If the gentleman who made the inquiry had considered that land, the Indian title whereof was not extinguished, remained, by treaty, for the use of the Indian tribe, until the extinguishment of title, and that, a treaty being a supreme law of the land, the Congress is empowered to give it complete effect, the inquiry, probably, would not have been made.

It is urged, that a discretionary power is necessary to carry the enumerated powers into effect. If the discretionary power alluded to intends only a power to legislate on the delegated right or power, in a proper time and adequate manner, this is no more than a power to make laws to carry the delegated power into execution; but, if, by "discretionary power," is intended a power to assume, at discretion, a right, or principle, not enumerated in the constitution, under pretence of carrying a delegated power into execution, it

is denied that the Congress hath that power: for, if a delegated power cannot be carried into execution without assuming, at discretion, a right not delegated, it will only prove that the constitution, in this respect, is deficient, and requires amendment, and will not prove that Congress, to effect a measure, may, at discretion, do an unconstitutional act.

It hath been argued, that the convention left Congress to adopt the means, as circumstances might admit, to carry the delegated powers into effect. What is intended by the word means, ought to have been explained in a constitutional, not a discretionary manner. To produce an effect of a general nature, the means ought to be commensurate and co-extensive. Water is a means to allay the thirst of all mankind, and there is no substitute. Ships and sea vessels are a means of carrying on commerce between nations separated by the ocean, and there is no substitute. The constitution vests Congress with power to regulate commerce with foreign nations; but no man will believe that, in virtue of that power alone, the Congress would attempt, by a discretionary, or a constructive power, to adopt another principle; that is, to provide and maintain a navy to protect commerce.

The last clause of the eighth section is in the following words: "And to make all laws (that is, Congress shall have power to make all laws) which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the constitution in the Government of the United States, or in any department or officer thereof."

This is the clause which is called the sweeping clause, pretending to vest all powers and authorities, although not expressly enumerated. It may be proper here to inquire what is intended by the words, "and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof," or what are the powers intended by the words "all other powers," inasmuch as it is probable that an opinion may have obtained, that, by these words are understood some hidden occult powers, not expressly enumerated in the constitution; that these powers are for the peculiar exercise of discretion, and that they are certain discretionary powers, to be discovered and assumed in extraordinary cases. If any such opinions are entertained, a careful examination of the constitution will dissipate them. Powers, other than those enumerated in the eighth section of the first article of the constitution; these powers might all be mentioned, but that is unnecessary; some of them will be noticed. "Congress have power to provide by law for taking a census of all the People of the United States, every ten years." Congress hath power to appoint, by law, a day to convene, other than the first Monday of December. To determine, by law, the time for choosing electors of President and Vice President of the United States.

Section 4th, of first article: "The times, places, and manner, of holding elections for Senators and Representatives, shall be prescribed in each State, by the Legislature thereof; but the Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

"To make laws respecting the District of Columbia." "To declare the punishment of treason." Several of those powers, denominated "other powers," are enumerated in the 9th and 10th sections of the 1st article of the constitution. Congress have power, by law, to establish courts, inferior to the supreme court. Congress have power to make all needful rules and regulations respecting the territory and other property of the United States.

This enumeration may at present be sufficient to show what powers are intended by the words "other powers," and, also, to manifest, incontrovertibly, that the words "and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof," refer only to powers expressly and positively enumerated in the constitution, and by it vested in the Government of the United States; that, by these words are not understood, as some may have fondly imagined, any powers of discretion, fitted, when discovered, to fill chasms in the constitution of the United States; and that, by these words are not to be understood some concealed occult powers, waiting to be revealed by superior wisdom, to meet particular purposes, for instance, the creation of the Bank of the United States,

or to be dragged out, by main force, to support unconstitutional pretensions. In the constitution are clearly expressed and enumerated, all the powers, rights, and principles, which have been vested in the Government of the United States, or in any department or officer thereof, by the individual States ratifying the constitution; nothing is left in obscurity, or difficulty; and this constitution is not elastic—it will not bend to discretionary opinions.

I will now, said Mr. Rhea, with all due respect, approach the main question of inquiry, viz: Is a power or right to create the Bank of the United States, expressly enumerated, to be vested, or intended to be vested in Congress, by the eighth section of the first article of the constitution? It may be previously observed, that if, in the ninth section of the first article, there had been even a negative expression or enumeration of power or right, inserted, empowering Congress to create the Bank of the United States, as if it had been stated in the words following, or words to the same effect: "Congress shall not create the Bank of the United States prior to the year one thousand eight hundred," there might have been some reason to presume upon. But a negative expression of a power or right of that import, is not in the ninth section enumerated, nor in any other section of the constitution. The words in the eighth section of the first article of the constitution, which have caused such amazing solicitude and inquiring anxiety, to discover some obscure occult power or right to create the Bank of the United States, are the following: "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States," "and (as expressed in the last clause of the section) to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, (that is, the powers enumerated in the eighth section) and all other powers (that is, powers enumerated in other sections of the first article, and enumerated in other articles of the constitution) vested by this constitution in the Government of the United States, or in any department or officer thereof." Let these words be carefully and attentively examined, and all obscurity and difficulty will be removed; let them be connected in the manner they were intended to be connected, and there will be no reason to presume some unknown occult power, on which a pretension to create the Bank of the United States can exist. "Congress shall have power to lay and collect taxes." Let the words be connected, so that they shall read, "Congress shall have power to make all laws necessary and proper to lay and collect taxes, duties, imposts, and excises." Here, said Mr. Rhea, a question presents itself, that is to say, for what purpose shall Congress have power to make all laws which shall be necessary and proper to lay and collect taxes, duties, imposts, and excises? The first clause gives the answer: "To pay the debts, and provide for the common defence and general welfare of the United States." The expression of the delegated power or right will then, in plain and intelligible language, be, "Congress shall have power to make all laws which shall be necessary and proper to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States." This reading presents to the mind clear and distinct ideas, removes doubtful interpretation, and establishes the truth contained in this section of the constitution. Let this reading be prefixed to every clause in the eighth section, the propriety thereof will be more apparent: for instance, Congress shall have power to make all laws which shall be necessary and proper to borrow money on the credit of the United States, to pay the debts and provide for the common defence and general welfare of the United States. And here let it be observed, that the words "for the common defence and general welfare of the United States," are words of limitation and restriction, and not of amplification of powers; these words direct to the end for which all taxes, duties, imposts, and excises, shall be laid and collected, and it follows, that taxes, duties, imposts, and excises, shall not be laid and collected for any purpose whatever, other than to pay the debts and provide for the common defence and general welfare of the United States.

The rights, powers, and principles, delegated by the individual States to the United States, and enumerated in the constitution, are substantial, not formal; and, being substance, are unchangeable in their nature, and must continue until altered by the constitutional authorities. An institution or principle, which has power to put bank paper in the place of gold and silver, is substantial, not formal; and never can be fixed as a form, by way of appendage to the business of collecting taxes, duties, imposts, or excises; or by way of appendage to aid commerce, or to borrow money; with as much propriety may it be said to aid in establishing an uniform rule of naturalization, or in making uniform laws on the subject of bankruptcy throughout the United States. A principle, or a right or power to create the Bank of the United States, is not inserted or enumerated among the rights and powers enumerated in the eighth section of the first article, nor in any other section of the constitution. Let it not, then, be presumed, that the convention who made the constitution, or the ratifying States, did, in an occult and obscure manner, vest the Government of the United States with a right or power to create the Bank of the United States, in the manner and form belonging to the bank, the charter of which labors to be renewed. The constitution contains no enumeration of a principle which can give any pretence for such presumption.

In the eighth section of the first article are enumerated rights and powers of minor importance than a right to establish the Bank of the United States. The right to establish uniform laws on the subject of bankruptcies throughout the United States, is of minor importance; that right is enumerated. Certainly, then, if the convention, or the ratifying States, had designed to vest Congress with the right to create the Bank of the United States, that right would have been expressly enumerated in the constitution.

By virtue of the eighth section of the first article of the constitution, "Congress shall have power to make all laws which shall be necessary and proper to promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries." The insertion of that right or power affords sufficient reason to conclude, that, if the convention had intended to delegate to the Congress a power or right to create the Bank of the United States, the right or power to establish it would, certainly, have been expressly enumerated in the constitution. "The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others, retained by the People." Eleventh article of amendments to the constitution. Here, then, it may properly be observed, that the rights enumerated in the constitution are certain, that is, identically and distinctly enumerated rights; and that those rights shall not be, by discretion, construed to deny or disparage other rights reserved to the People. A right or power to establish the Bank of the United States is not enumerated in the constitution; that right or power, therefore, is not denied to the People, and the certain rights enumerated in the constitution shall not be construed to deny that right to the People; that is, to the People in their individual State capacities. "The powers not delegated to the United States, by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the People."—Twelfth article of amendments to the constitution. The eighth section of the first article of the constitution enumerates certain powers or rights delegated to the United States; the tenth section of the first article enumerates certain rights prohibited expressly, or conditionally, to the respective States; but, in the tenth section, or in any other section of the constitution, a right to create bank institutions is not prohibited, absolutely or conditionally, to the respective States or to the People; that right, therefore, is not delegated to the United States, but is reserved to the respective States or to the People. The States, respectively, have legislated on that power and right reserved, and have established bank institutions, and the United States have not interfered to prevent them.

In the eighth section of the first article of the constitution, a right is enumerated: "The Congress shall have power to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may,

by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States." The power delegated to the Congress by virtue and force of this clause, is eminently great, and requires no illustration to prove that Congress hath power to create bank institutions in the District of Columbia.

In favor of a renewal of the charter of the Bank of the United States, it is argued, that the Congress, having power to lay and collect taxes, duties, imposts, and excises, hath also power to establish the Bank of the United States, as a mean to aid in collecting taxes, duties, imposts, and excises. It will not be said that the Bank of the United States is an essential necessary means in collecting taxes, duties, imposts, and excises: for, experience hath proved, that taxes have been collected without the aid of that bank. But, if it be a means essentially necessary to collect taxes, it ought to be as extensive in operation as the law for collecting taxes; the nature of the bank institution proves that it cannot be co-extensive with the law for collecting taxes. Ten dollars being the lowest sum for which a bill of that bank is issued, it is manifest that bills of ten dollars, twenty dollars, fifty dollars and upwards, cannot aid generally in collecting and paying taxes; admitting the circulation of these bills to be co-extensive with the operation of the law. The tenth section of the act, entitled An act to incorporate the subscribers to the Bank of the United States, provides, "that the bills or notes of the said corporation, originally made payable, or which shall have become payable on demand, in gold or silver coin, shall be receivable in all payments to the United States." But, notwithstanding the bills or notes of that corporation shall be receivable in all payments to the United States, as is provided for in that section, the act alluded to doth not provide that the bills or notes of that bank shall be receivable in all payments to citizens of the United States. The Bank of the United States, therefore, cannot be an adequate means to collect taxes from all the citizens of the United States; and, if not from all the citizens of the United States, the operation of the bank will be partial, and, consequently, injurious to the People.

By the tenth section of the law alluded to, the bills and notes of the corporation, established by that law, are made receivable in all payments to the United States. The bonds for payment of duties and imposts on foreign merchandise, imported into the United States, are generally deposited in the bank of that corporation, or in the respective branches thereof; whatever benefit or advantage, if any, arises by collection of those duties and imposts, accrues to that corporation; whatever gold and silver is paid on account of those duties and imposts, it remains at the disposition of the corporation, by reason that the corporation, by the law, are enabled to pay the amount of all the duties and imposts to the United States in bills and notes; these bills and notes afterwards come into the hands of the agents and public functionaries of the United States, and by them are paid to the citizens, and by this operation the bills and notes of the corporation obtain a circulation, to a certain extent, among the People, and, notwithstanding they may not be a legal tender in payment of debts by one citizen to another, they do, nevertheless, acquire a degree of currency, by being, in the first instance, made payable to the United States; by this operation, bottomed on the tenth section of the law, the corporation have the advantage of retaining the precious metals in their vaults until an opportunity offers to dispose of them to the best advantage, or to export them to foreign countries. Other observations might be made respecting the operation of the law incorporating the subscribers to the Bank of the United States; but, what already hath been observed may be sufficient to excite reflection on the machinery and influence of the mighty engine which the stockholders of the Bank of the United States have in their power, at any time, for any purpose, to set in motion. The instrumentality of this engine pervades the United States in all elections; it can raise up and put down; it may say, "I can raise you to a conspicuous and exalted station, if you obey my directions, and if you do not, I can put you down." If an institution of this magnitude is good for the People of the United States, if its influence is for their benefit, let it be demonstrated. Suppose the citizens would refuse

to receive the bills and notes of that corporation in payment of debts, what would be the consequence? Why, let us not say ruin to all would follow; but certainly many would be injured.

It has been said, that the Bank of the United States aids commerce. If it does, it must be in a manner very unimportant to the People of the United States in general. The bank may be a convenience to all who have to pay, in the first instance, duties and imposts on merchandise imported into the United States, and that benefit to them operates to throw on all the other people of the United States a prodigious mass of paper in place of gold and silver; the evident effect of which is to substitute the bills and notes of that bank in place of the precious metals, and to give that bank the power of commanding the medium of trade in the United States.

The action of the bank is within the United States and territories thereof; the bills and notes thereof, as has been observed, are made receivable in all payments to the United States; but the assumed position, "that the bank aids commerce," not satisfied with what has been said, relative to the manner in which it aids commerce, returns, and requires further explanation, and it is proper to give that explanation. The annual reports of the Secretary of the Treasury show the prodigious amount of goods, wares, and merchandise, every year imported into the United States from foreign countries, and particularly from Great Britain, and the dependencies and colonies thereof. Will any of the gentlemen who favor a renewal of the charter of the Bank of the United States, as it is called, inform this House, whether any part, and, if any, what part, or to what amount of the cost of the goods, wares, and merchandise, imported into the United States, is actually paid for, to the merchants in foreign countries, to whom the orders are sent, in bills and notes of that bank, such as are passing among the People of the United States? If such payments are made in such bills and notes, then, indeed, there will be reason to contend, that that bank aids commerce in its operations. If that information is not obtained, it will be taken for granted that no such payments are made in the bills or notes of that bank. The fact, then, appears to be, that the bills and notes of that bank do not pass out of the United States and territories thereof, to any foreign nation, in payment for the merchandise imported from that nation, and that no merchant of any foreign nation will receive bills and notes in payment for the merchandise ordered. The effect of all this is, that gold and silver is exported to foreign countries to pay for the goods, wares, and merchandise, imported, after deducting from the gross amount of the value thereof that part which may have been paid for in produce of the United States. The consequence of which is, that the precious metals are drained from the United States, and the paper of the bank circulates among the People, in the place of gold and silver. If that cause is suffered to continue to operate, a time may not be far distant when the paper of that bank will be the only visible medium of trade among the People; and a piece of gold or silver coin (notwithstanding the mint hath issued great quantities thereof) will be rare to be seen. It is said, that the bank hath been aiding to agriculture. If it be so, it is strange that the agricultural part of the community have sent no petitions or memorials to Congress praying for a renewal of the bank charter. From whom do all the petitions and memorials come? Not from agriculturists; not from all the merchants of the United States; but from persons interested in the continuation of that bank charter, and a portion of the merchants.

It has been urged, that, if the bank charter is not renewed, ruin and destruction almost universally will fall on the People of the United States. These declarations, said Mr. R. affect me not, because I place no confidence in them. An agricultural people cannot be ruined, until it shall please the Almighty to prohibit the return of the seasons in their regular time, until it shall please him to dry up the fountains of rain, and say that there shall be no more seed time nor harvest. But, if this bank is of such mighty force, that its fall will produce these direful effects, it is more prudent to meet them now, than to delay them to a future period. This nation is as well prepared to meet them now, as it will be hereafter.



It hath been said, and insisted on, that the bank hath aided the Government in its fiscal operations, and that the Government cannot well do, or do well, without it. Let it rather be said, that the Government hath aided the bank, raised it into existence, and afforded it every support, by placing in its hands the collection and deposition of the revenues of the Government for twenty years; by receiving from the bank its paper, in place of gold and silver, and thereby leaving gold and silver to be used to the benefit of the bank corporation. The bank may have been, to a certain extent, convenient in carrying on the fiscal operations of the Government, but it will not be said to be an institution profitable to the great mass of the People of the United States, neither will it be believed to be an institution aiding, in its action and influence, the republican institutions of the People of the United States.

The law creating the Bank of the United States, or, in other words, the bank called the Bank of the United States, is not bottomed on the constitution; it is inconsistent with, and repugnant to, the constitution. A constitutional Government requires no aid; can have no aid from an unconstitutional principle. The great men who made the constitution, and the ratifying States, have declared, that, as it is, they made and ratified it, and the People of the United States adopted it for the purposes therein enumerated and delegated; and if the Government cannot exist in virtue and by force of the powers, rights, and principles, expressly enumerated and delegated in the constitution, without the aid of a principle violating the constitution, it is true that there should be another grand convention, with powers to make another constitution. But, in my opinion, said Mr. R, the rights, powers, and principles, expressly enumerated and delegated in the constitution, are completely adequate, to all intents and purposes, for the existence of the Government, without the aid of any principle, inconsistent with, and repugnant to, the constitution.

Mr. EPPES said that he apprehended the few remarks he had to offer to the House, would not be considered as well timed, after the funeral oration had been pronounced over the expiring charter of the United States' Bank. He would trespass but a short time on the patience of the House, and confine his remarks to the policy of renewing the charter, viewed only as a national measure. He considered it unnecessary to say any thing on the constitutional question. If ever the theory of persons who believe that political principles may be demonstrated with mathematical certainty, shall be realised, and a political Euclid be published, I would put, for the first proposition, these principles:

1. That all power not delegated, is reserved to the States, or to the People.
2. That the power to incorporate a bank is neither delegated, or essentially necessary for carrying into effect any delegated power. For the demonstration, I would insert the speech of a gentleman from New York, (Mr. PORTER) who has combined in a masterly manner on this subject, the purest principles, and most luminous elucidation. Passing over, therefore, this part of the question, I shall confine myself to such observations as will tend to show that the renewal of the charter is not necessary for the prosperity of agriculture and commerce, as has been stated; that the union of a moneyed institution with a Government, possessing the powers of war and peace, is dangerous to republican institutions; that the dissolution of the charter will produce no injury to the public, or to individuals; that the same principles which induced the republican party, in the year 1790, to oppose the incorporation of this bank, ought to prevent a renewal of the charter at the present time. In examining the first of these questions, viz. the operation of the dissolution of the charter on agriculture and commerce, I will not trouble the House with any general observations on the subject of banks. Their tendency to facilitate commerce, so long as their circulation of paper rests on specie, or floating capital, cannot, perhaps, be denied, inasmuch as it is easier to circulate paper, which represents specie, or floating capital, than the specie or capital itself. Every paper circulation, however, not founded on specie or circulating capital, is

dangerous to the community. A particular specified object, say agriculture or commerce, can only employ a certain capital. An increase of circulating medium, above the sum necessary for a particular object, must produce one of two effects—either to depreciate the medium, be it specie or paper, or to drive it into new channels. These are plain, obvious principles, which no gentleman will, I presume, deny. Let me ask, then, 1st. What amount of paper medium can with safety be employed in the commerce of the United States? 2. What amount can be put into circulation by the present existing banks, independent of the United States' Bank? The real basis of a safe paper circulation, so far as it respects commerce, is the productive labor of a community above its consumption. What a nation does not consume, it exports. No paper circulation, therefore, can with safety be extended beyond the amount of the exports of a nation. Indeed, it ought not to exceed in amount the domestic exports which constitute the only certain part of the productive labor of the community, so far as respects commerce. The export of foreign articles depends so much on circumstances over which we have no control, that a paper currency which rested for redemption on that, would be liable, whenever commerce was interrupted, to produce general ruin and bankruptcy. The domestic exports of the United States may be considered in value as equal to \$40,000,000. The export of foreign articles, in the year 1807, was near \$60,000,000. This great export of foreign articles was produced by particular circumstances, which no longer exist. During favorable years, viz. 1803, 1804, 1805, the export of foreign and domestic articles averaged \$76,000,000; so that it would appear, taking the domestic and foreign exports as the real amount of capital which can be employed in commerce, an ability to circulate \$76,000,000 of paper, is sufficient for all commercial purposes.

The Bank of the United States, with a capital of \$10,000,000, has put into circulation, in credit and notes, \$19,000,000; 14,000,000 in accommodation credit, exclusive of mortgages and bonds, and constituting active circulating medium, and five millions in notes. As a moneyed institution, it is admitted that their affairs have been well managed. Other banks, therefore, may circulate to the same amount, in proportion to their capital.

The bank capital of the United States, exclusive of the United States' Bank, is \$50,000,000—five times the capital of the United States' Bank; of course, supposing them to manage their affairs as well, they can put into circulation, in credit and notes, five times the amount put into circulation by the United States' Bank; five times 19,000,000 is \$95,000,000. This sum, sir, is fifty-five millions above our domestic exports; forty-five millions above our consumption; nineteen millions above our whole export, domestic and foreign, in favorable years; twenty-six millions above the present export of domestic and foreign articles.

Can any gentleman, on this statement, believe we want ability to circulate paper medium for commercial purposes? Our export of foreign articles, from the peculiar situation of the world, has almost disappeared. Our merchants are more in want of a field to exercise their capital than of capital itself. It is a fact, which cannot be denied, that we have at present a surplus capital which cannot be employed in commerce, and that the paper circulation is increasing in a ratio neither proportioned to our population, consumption, or wealth. I have confined my observations entirely to the view of a capital, such as is necessary for commerce. No gentleman has advocated the renewal of the charter for the purpose of creating a capital for internal improvement. This appears by general consent to have been considered as more properly within the sphere of the several State Legislatures. At the time this charter was originally granted, the situation of the United States was very different from what it now is; but three banks existed, with a capital of less than three millions of dollars; our exports amounted to less than 19,000,000. Our commerce languished for want of circulating medium; we are now in danger of suffering from a paper currency, resting on no solid basis, and liable, with a reverse of fortune, to recoil on ourselves. I cannot, therefore, consider the

renewal of the charter, viewed only as a measure of general policy, necessary for the creating capital, for purposes of commerce.

But, sir, said Mr. E., I object to the union of a moneyed institution with a government, as dangerous to republican principles. Next to frequent elections, the great security in every country, against arbitrary power, is the dependence of the Government on the great body of the People for supplies. Hence, the objections to a revenue dependent on loans, indirect taxes, &c. Money has been aptly termed the sinews of war. It may, with equal propriety, be termed the sinews of oppression and usurpation. The facility of commanding large sums by means of a moneyed capital, dependent on the Government, is calculated to destroy the dependence of the Government on the People. If we look at the history of England, we shall find that their short period of liberty was while the king was dependent on the commons for supplies. The creation of a great moneyed capital in that country, under the control of the Government, has totally destroyed that valuable feature in the English constitution. It has created a body of men who contribute to the prodigality of the Government; who furnish the means and share in the spoils of the nation. The history of the Bank of England and of its paper system is one which ought to warn the friends of freedom against the danger of a union between a Government and paper capitalists. This species of capital, which scarcely knows a limit, is dangerous to the freedom of a country, without being nourished by the fostering hand of Government. Unite the two, give to a Government, by means of a paper system, a power to supply its wants without a recurrence to the People, and you unite the most formidable engines of oppression, power and means. It is this system which has caused the British Government, after mortgaging from year to year its revenues to the bank, to accumulate a national debt to the enormous amount of six hundred and seventy millions of pounds sterling. The average quarterly advances of the Bank of England to the Government, in the year 1797, was four times the whole amount discounted for individuals. From these extraordinary advances, produced by the union of the Government and the bank, it must have failed in the year 1797, but for the interposition of Parliament. On the 26th day of February, 1797, the cash and bullion in the bank amounted to £1,272,000; average notes in circulation, to £8,640,250; bills discounted, to £2,905,000; advances to Government, to £10,672,490. From the report of the committee appointed by Parliament in February, 1797, to examine into the state of the bank, it appeared that the debts of the bank amounted to £13,770,390; that its assets, exclusive of the permanent debt from the Government (and what these assets were does not appear) amounted to £17,597,298; leaving in favor of the bank £3,826,903. This sum of £17,597,298, consisting of debts and assets, was not sufficient to meet their cash debts, amounting to £13,770,390. At this time the permanent debt due from the Government to the bank amounted to £11,686,800—almost four times the whole sum left in the bank after payment of its debts. The funds of the bank being in the hands of the Government, the Government, unable to pay, kindly interposed to save the bank from ruin, and made their paper a tender. This, sir, was one of the blessings produced by a union between the Government and the bank.

But, sir, many gentlemen have exercised their ingenuity in portraying the ruin which must fall on individuals, and the injury which must be sustained by the public, from a dissolution of the charter. From the statement just laid on our table from the Treasury Department, it appears that the stockholders of the bank are in more danger than the community.

From that statement we find that the debts due by the bank, and payable on demand, amount to	-	-	-	\$13,673,369
To meet this debt, the bank has on hand, in cash,	-	-	-	5,009,567
Notes and debts due from other banks,	-	-	-	1,313,350
Making, in all, their cash funds amount to	-	-	-	<u>\$6,332,512</u>

Deducting this sum of \$6,332,512, which may be considered their cash fund, from the \$13,673,369, the amount of their debts, and it will be \$7,350,512, for the payment of which they must depend on their debtors, and make this payment out of the \$14,609,537, due from individuals. So far, therefore, from pressing the community, it appears they must collect \$7,350,512, and apply, in addition to it, their whole cash funds, or fail in their engagements. But, sir, I will state it in another way. According to the principles of banking, the profit is annually or quarterly divided; of course the company, on winding up its affairs, can only withdraw its capital, viz: \$10,000,000.

Of this capital, they have in hand, in cash,	-	-	\$5,009,567
In notes and debts due by other banks,	-	-	1,313,857
In a debt from the United States,	-	-	2,750,000
In houses,	-	-	500,000
In debts in suit,	-	-	154,164
In bonds and mortgages,	-	-	221,000
In stock of the United States,	-	-	20,000
Total,	-	-	<u>\$9,968,588</u>

This, sir, amounts very nearly to their stock, and if they reserve their cash on hand as part of that stock, and meet the payment of their debts with the debts due to them, they have nothing to draw from the community, which can produce the slightest pressure. They may find difficulty in collecting a sufficient sum to meet their own engagements, as, from the moment of the dissolution of their charter, their debts will stand on the same footing with the debts of any other company winding up its affairs, and must be collected in the same manner.

Much stress, sir, has also been laid on the necessity of the bank for the management of the finances of the United States. We are told that a complete control is given, by the constitution, over the finances, and that a bank is necessary for their management. The term finance is not to be found in the constitution. The bank is not necessary for the collection of taxes, or imposts, or for paying the debts, to use the language of the constitution. It has never been used for the collection of taxes. For the collection of duties, it is used only in a limited way. We have upwards of eighty-five places for the collecting duties, and only nine branch banks. It is used for the payment of the interest of the debt only, in consequence of a treasury regulation. Commissioners of loans, within the several States, are even at this time established by law for paying the interest on the debt. The bank, therefore, is not essential for this object. The great payments for the army and navy are not at present made at bank; paymasters and pursers discharge this duty. All payments on account of the civil list are made at bank, but the greater portion of these are at the seat of Government. A bank is, therefore, not essential for making these payments. Until new arrangements are made, temporary inconvenience may be sustained by the Government. The mere change of agents generally in extensive moneyed transactions, must produce inconvenience. The inconvenience, however, will be temporary, and does not deserve consideration in a case involving the constitution.

I will close my remarks with a few observations tending to show that the same principles which induced the republican party, in 1790, to oppose the incorporation of the bank, ought to prevent a renewal of the charter. In a free country there is nothing more important than a frequent recurrence to those fundamental principles which unite in one common bond, those who grant power, and those who exercise it. The peculiar organization of the Government of the United States combines, in a single charter, powers administered by men deriving their authority from two separate and distinct sources, the People and the States. The weakness of the old confederation, which, although armed with general powers, was found unequal to giving a practical operation to those powers, produced the federal constitution. This charter, the offspring of compromise, was considered in the convention, by one party,

as too weak to accomplish its objects; by the other, as sufficiently strong to endanger the liberty of the citizen. These two principles were soon manifested in the administration of the present federal constitution. Those who thought it too strong gave to the constitution a rigid construction, and opposed constructive powers. These were termed anti-federalists. Those who thought it too weak, were disposed to engraft vigor on it by construction, and contended for constructive powers. These were termed federalists. The eclat which attended the adoption of the constitution, threw the Government exclusively, for years, into the hands of the federalists. The great popularity of General Washington, on whose brow grew, in full vigor, the laurels of the Revolution, balanced for a time these two contending parties. With the same manly firmness, as, during the Revolution, he stemmed the torrent, and attaching himself exclusively to what he deemed the interests of his country, he administered the constitution according to its true principles. He commenced his career as President, on the 30th of August, 1789. In 1791, the charter of the bank was granted. On this great measure, the two great parties were for the first time arrayed against each other. It was at that time considered a party question, inasmuch as it involved the very principles on which the parties divided, viz: "delegated" powers and "constructive" powers. Unfortunately for his country, General Washington, on this occasion, took side with the federalists. The creation of a moneyed interest, connected with the Government, was a favorite measure of those who were willing to engraft energy on the constitution, and was warmly opposed by the party, unwilling to add, by construction, the extraneous weight of a moneyed capital to a charter considered, on a fair construction, sufficiently energetic. The defeat of General St. Clair took place in the November following the establishment of the bank, and the subsequent disasters of the Indian war, by increasing the wants of the Government, drew more closely the ties of connexion between the federal party and the bank. Through all the periods of the federal administration, this moneyed capital was their shield and their sword. It extended their influence and secured the approbation of most of the large commercial cities in the Union. When this bank was established, but three banks existed in the United States, with a capital of \$2,100,000 dollars. The creation of a bank with a capital of \$10,000,000, almost five times the capital of all the existing banks of the Union, under the patronage of the General Government, was calculated to produce and did produce a subserviency on the part of the stockholders, to the views of their party. The influence of this powerful moneyed capital was long felt. Nothing but the multiplication of State banks, and the increase of capital from the peculiar and fortunate circumstances under which the United States were placed, could have emancipated us from the shackles imposed on us by a moneyed interest wielded by foreigners. I rejoice that the period has arrived, when this privileged class must surrender its charter; when the moneyed capital of our country shall no longer be wielded as an engine of party; when the republican party shall have an opportunity of testing the truth of the principles for which they contended in the year 1790, and of giving, on the present, as on the former occasion, their support to the principle—"That power not delegated is reserved to the States or to the People."

Mr. STANLEY.—Mr. Speaker: After the able discussion which this subject has already undergone, I should not have asked your attention, but for the observations of the gentleman from Virginia, (Mr. EPPES) who has last addressed you. That gentleman, with a view to justify such decision of the question as he desires, has advanced propositions which are in themselves so incorrect, and supported them by arguments so palpably unreasonable, that I shall trouble the House a short time in reply.

The gentleman tells us it is as true as any mathematical axiom, that a power not expressly granted by the constitution to the federal Government, cannot be exercised by that Government; that, whenever a political Euclid shall be composed, this principle should be placed as first, in clearness and importance, and

the speech of the gentleman from New York, (Mr. PORTER) on the bill before us, should be added as an appendix or commentary, proving its truth. In terms, sir, the gentleman's proposition is true, but the gentleman has not avoided the error of those who have preceded him on that side of the question; he confounds the powers of the federal Government with the *means of executing* such powers; he does not distinguish between the *objects* of the federal compact and the *means of effecting* these objects. And upon this hinge of error did the argument of the gentleman from New York turn. This confusion of terms, this indistinctness of perception, as I shall endeavor to show, has led gentlemen astray on this question. If, sir, the political errors of the statesmen of this day shall ever be collected into a volume, as the first, the most glaringly wrong, and flagrantly unjust, should be placed the *axiom* of the gentleman from Virginia, which cannot in substance be other than this: "that no *means* of executing a power granted to the federal Government, can be employed by that Government, unless such means be found expressly pointed out in the constitution. And, sir, to shew how truth may be obscured, and error supported, by ingenuity—my respect for the gentleman from New York forbids my saying by *sophistry*—I will append as a commentary the speech of that gentleman on this question.

With respect to the constitutional right of Congress to incorporate a bank for the prosperous administration of its finances, the very able arguments already made, and, in my apprehension, very imperfectly met, require little to be said in its support. My view of this part of the subject shall therefore be brief, and I may be pardoned for offering it. To incorporate a company, in other words to grant to certain persons a legal or artificial capacity, distinct from their natural, is an act of sovereignty; a delegation of which, it is true, can only emanate from the sovereign power. If the Federal Government be not sovereign as to any of its objects, they cannot incorporate a company for the attainment of any of its objects. But, if, on the other hand, the Government is sovereign as to any object, the power to incorporate companies, the fit and necessary means for the attainment of that object, must regularly result from, and be appurtenant to, this sovereignty. This power is not left to inference; the constitution expressly declares that Congress shall have power to make all laws necessary and proper to carry into effect the powers delegated, and that such laws shall be the supreme law of the land.

The constitution, it is true, does not, in terms, give the power to incorporate a bank; that instrument details only the objects of the Government, and delegates certain general authorities to effectuate the ends for which it was formed. In every case it is silent as to the particular means to be employed, or the mode to be observed in the attainment of the object or end. Instead of attempting to specify, in any case, the means of executing a power, it is silent in that particular in every case, granting to Congress the general power I have just stated, to make all laws necessary and proper to carry into effect the delegated powers. Among the general powers expressly granted, is this: "To lay and collect taxes, to borrow money, to pay the debts, and provide for the general welfare of the Union." What wisdom first suggested, the experience of twenty years has confirmed, that a bank is not only a fit, but the most useful means of collecting the revenue of the United States. It has been found the readiest and most certain resource from which to obtain, and on which to rely for loans to Government; and, through its aid, moneys for the public necessities have been safely, speedily, and without charge, placed at the command of Government in every part of the Union. The agency of this institution, thus continually employed, places its utility and expediency beyond question. I consider it, therefore, as "proper," because it is well adapted to its object; as "necessary," because, if not the only, it is certainly the best means that can be devised to obtain its ends. And, being both "necessary and proper" to carry into effect the power expressly granted to Congress, "to collect taxes, to borrow money, and pay the debts," it must be constitutional.

But, sir, the gentleman from New York says, the United States are not sovereign, and cannot exercise a right of sovereignty, because they depend



on the will of the States for existence: for, said he, should the States neglect or refuse to elect Senators, or to make the laws necessary for electing representatives, the Federal Government would die of its own imbecility. This may be true; the Government may cease to exist; yet, while it does exist, there are powers which it alone can exercise without the control or interference of any other authority. To these purposes, assuredly, then, it must be supreme, or sovereign. For example: the Federal Government has power to lay and collect taxes, and to regulate commerce. Is there any power in this country (I speak of moral not physical power) which can prevent them laying such taxes, and making such regulations of commerce, as they think fit? The constitution of the United States is the act of "We, the People of the United States;" so are the State constitutions; both are derived from the same source; each is independent of the other, and only dependent on the sovereign will of the People, constitutionally expressed. The States have certain powers exclusively confided to them; they may prescribe the descents of estates, and regulate distribution of property and other objects of internal police; they are sovereign as to these objects; the Federal Government is as much so, as to the objects within the sphere of its jurisdiction. Yet, Mr. Speaker, obvious, indeed indispensable, as is the inference and deduction of the right to incorporate a bank for the management of the financial concerns of the United States, from these premises, gentlemen say it is only an *implied power*; that no power can be used unless expressly granted in the constitution; and the exercise of implied powers is deprecated as unknown to the constitution, and abhorrent to republicanism, and dangerous to our liberties. Let me ask gentlemen, and I pray they will inform me, whether they do not daily act upon implied powers? If not, let them speak, in what part of the constitution do they find power to build light houses? Where is the power which their President, doubtless with the feelings of a man, and the firmness of a magistrate, so freely exercises, of removing, at pleasure, from office, men who were appointed with the consent of the Senate? You have committees now sitting, who, under your authority, but without law, compel citizens to attend at their summons, without consulting their will or convenience; you have conferred on certain individuals, the sole privilege of trading with the Indian tribes. By what authority are all these, and many other acts, which have been mentioned in this debate, exercised? If I am answered at all, truth will dictate this reply: the power to do these acts is no where expressly granted in the constitution; the authority results from the powers granted, and are necessarily *implied* as the fit and necessary means of executing the powers which are expressly granted. Yes, sir, whether I am answered or not, the fact is manifest, that the implied powers of the Government are not only fairly deducible from the spirit and letter of the constitution, but are essential to the most familiar operations of Congress. And, sir, it is in proof, that gentlemen are in the daily habit of exercising, without scruple or reserve, those implied powers, which, when urged in support of the bank, they turn from with affected abhorrence, as if a single glance, like a look at Medusa's head, would turn them into stone! They have repeatedly acted under them, still grasp them with the love of power and the ardor of ambition, and will only quit their hold to that force which shall deprive them of the reins of empire.

The gentleman from Virginia deprecates a bank which shall be connected with the Government; he calls this a dangerous union of the sword and the purse; reminds us of the abuse, by the British Government, of the Bank of England in obtaining loans, and of the public debt of that kingdom. None of those objections apply to the Bank of the United States. The charter of the present bank places the institution beyond the control of the Government. It is bound to accommodate the Government with loans to a limited amount, when required; but this obligation on the bank, although its performance may, at times, chance to be unfavorable to the institution, is yet connected with no danger to the country, since the one can not *lend*, until we, the Representatives of the People, have authorized the other to *borrow*. The Executive of the

United States is said to bear the sword, but, sir, Congress holds the purse, and it has not been explained to us how the existence of a bank is to render one subservient to the other, or to convey the sword and purse into the same hand. I can, however, conceive a plan of a bank which would sharpen the sword of the Executive, and give a power to his arm that might be used to the ruin or degradation of our citizens. Adopt the plan which has been recommended, and which is to rise upon the ruins of the present institution; erect one great bank, whose branches shall embrace all the States, and whose capital shall swallow all the State banks; give to the administration the enormous patronage of the appointment of directors to this institution, and place the credit and business of every man connected, of necessity, with banks, at the mercy or pleasure of an Executive, or his minions; the commercial and the enterprising must decide either to become flatterers and be favored, or to retain their independence and be ruined. It is this system which would give a dangerous—a detestable power. Your administration, styling themselves republican, have professed to desire no patronage: I will take them at their word. My vote shall never increase their patronage, to multiply their dependents. The crown which they profess to put away, I will not force upon their brow.

As to the Bank of England and the British debt, I perceive not the bearing their connexion can have on the question before us. That the British Government have made too free use of the ability of the bank to lend, cannot expose us to like mischiefs, because our bank cannot lend, nor our administration borrow, but by the express authority of Congress. Of the British debt, I know its amount is enormous. Yet, sir, how, and for what purpose, has that debt been thus swollen? Perhaps the People of Great Britain owe to that debt the preservation and enjoyment of rights dearer to freemen than their purse. It is, sir, at the cost of that debt that Great Britain maintains her existence and independence as a nation. She might have submitted without an effort, without expense; and, free from debt, have sunk under the chains which the tyrant of France, the enemy of the human race, has fastened upon all the kingdoms of continental Europe. Rather than see my country bow in subjection to that direst of despotisms against which Great Britain has struggled, I would, in the spirit of an American, cheerfully bear my share of a debt as large as that which has been the subject of remark.

The gentleman tells us, that we have sufficient banking capital without that of the Bank of the United States; that the capital of the State banks are equal to the wants of the United States; and that, if this institution is continued, there will be danger of an excess of paper and the consequent mischiefs to the country. Sir, gentlemen need not feel alarm on this point: there is no more danger of a surplus capital being employed in banks, than of such surplus being employed in any other business—the thing regulates itself. Bank notes may be emitted beyond the uses of the country, but you can no more force them into circulation beyond this necessity, than you can force purchases and sales of tobacco and flour beyond the consumption of a country. The commerce of every country requires a certain sum of circulating medium; the amount must be ascertained by experience, which alone can show how much it will absorb and employ. If you emit paper beyond this amount, it will of necessity return upon the banks. This discovery is not modern; it is as old as the science of banking; and of the errors of a bank no one is more unfavorable to them than the issues of paper beyond the necessity of the country: for, so long as they keep within proper limits, it is found that they may emit one and two-thirds or two dollars of paper for each dollar of specie in their vaults; but when their issues of paper exceed these limits, the excess continually returns, and instead of one dollar in specie meeting two of paper, a dollar in specie is required to redeem each dollar of the surplus emission of notes. With this restraint upon their issues, banks are kept in due check; and, sir, when the prudent and safe issues, viz. to the amount required by the country, do not yield employment for the capital, the business ceases to be profitable, the capital is directed to other objects, and the banking fund is kept at its just level. This, sir, is the necessary and just result of fair bank-

ing; such has been the operations of the Bank of the United States, of whose capital, debts, and issues, the Government have been weekly informed. It is from the State banks that danger is to be apprehended; of their capital, (I mean not their nominal but their specie capital) of their debts, and their resources, we are, and must remain, entirely ignorant; and we have seen that some of these institutions dishonestly emitting paper beyond the sum authorized by their capital, and beyond the necessities of the country, their notes have returned upon them, they have been unprepared to pay, their paper has depreciated, and individuals have been defrauded to a vast amount. And such again may be the case, if we remove the check, the restraining influence, which the large and solid capital of the Bank of the United States, and its prudent direction, has enabled it to exercise over the State banks—these “mushrooms,” as the gentleman has called them, which, like Jonah’s gourd, have sprung up in one night and withered in the next.

The gentleman informs us that our exports of domestic products amount only to forty-five millions of dollars; that the capital of the different banks in the United States, at the rate of issues of the United States’ Bank, may emit ninety millions of dollars; and he infers that a paper medium beyond the amount of domestic exports cannot be necessary. This opinion, sir, needs an elucidation which the gentleman did not give it. Why the amount of produce purchased for exportation should form the measure of circulating medium, is, to say the least, not self evident. Nor can I conceive why, in calculating the medium necessary or useful for the concerns of the country, we should exclude from view the purchases for internal use as well as for external sale, or lose sight of the repeated use made of the same note or piece of metal, in its continued circulation. The circulating medium of a country, whether paper or specie, *represents*, because it commands, the articles we need and get in exchange for it. What the sum should be, my political arithmetic does not teach me, nor does the rule of the gentleman from Virginia. In my opinion, experience alone can shew it, as I have before said, viz. that amount which the commercial, agricultural, and manufacturing concerns of the country will require and can employ, to be ascertained from the amount of silver and gold in circulation, bank credit, and bank notes issued, and not returning upon the banks. It is, I admit, a fact, a proud fact, that the exports of our country have increased from eighteen to forty-five millions. New fields have been opened, produce increased, means of conveyance multiplied, and new markets sought and resorted to. Agriculture, commerce, and manufactures, have advanced, as they necessarily must, hand in hand; and to the beneficial influence of banks, increasing the capital, encouraging enterprise, stimulating and rewarding the industry of the country, are indebted for much of this increase.

The testimony which the gentleman has borne to the correct management of the Bank of the United States, was to have been expected from his information and liberality. The fact previously stated and repeated by him, as a defect in arrangement, that the notes of the bank, and its branches, are not paid but at the office from which they issue, and at which they are made payable, is not ground of complaint. The bank and its branches have each but a portion of the capital. Of the branches, the largest portion (at New York) only \$1,800,000; and it is absurd to expect that either the branch with this capital, or the others, with less, should redeem at all times the notes emitted upon a capital of ten millions; the thing is impossible.

From the opinion advanced by the gentleman, that the state of the bank should rather excite the fears of the institution for its own safety or solvency, than awaken the apprehensions of the community for the effects of its dissolution upon them, I beg leave to dissent. We have had in debate various statements of the affairs of the bank, drawn either from former reports or conjecture. The report of the Secretary of the Treasury, this day laid on our tables, shows the present state of the bank; to this I shall refer for facts.

There is due to the bank from individuals, upon notes dis- counted, - - - - -	\$14,578,294 25
Other banks owe them for notes and in account, - - - - -	1,287,485 92
The Government owe, including the late loan, funded debt, and treasury drafts, - - - - -	2,807,046 49
	<hr/>
They have, in gold and silver, - - - - -	18,672,826 66
And in real estate, - - - - -	5,009,567 10
	500,652 77
	<hr/>
Making a property to face the demands on them of - - - - -	\$24,183,046 53
	<hr/>
On the other hand, what do they owe?	
To the holders of their notes in circulation, - - - - -	\$5,037, 25 22
To the Government, for deposits, - - - - -	1,929,999 66
To other banks, due in account, - - - - -	634,348 01
To individuals, for deposits, - - - - -	5,900,422 83
	<hr/>
	8,464,770 44
To balances on outstanding drafts, - - - - -	171,473 17
	<hr/>
Making the total amount of their debts, - - - - -	\$13,673,368 83

Thus, sir, with a property of twenty-four millions of dollars, they owe less than fourteen millions, leaving the stockholders the original stock of ten millions and a surplus of more than half a million to meet bad debts. But, were it otherwise—were it possible, that, of the debts due them, ten millions should never be collected, the loss would affect the stockholders, whose original advance would be lost, but the interest of the community would not even then be affected; at least, not as creditors of the institution; because, even if ten millions, the capital stock, were by any means sunk, the bank would still be solvent; it would even then pay its debts, and, consequently, must be perfectly safe as regards the community.

Such, sir, is the state of the account on the side of the bank.

How stands the account with the debtors of the bank, or rather with the public?

The bank can demand the debts due it, - - - - -	\$18,672,826 66
Admit the demands upon it are applied as sets off to their full amount, - - - - -	13,673,368 83
	<hr/>
The balance still to be raised by the country is - - - - -	\$4,999,457 83

Whence is this sum to come? Not from the vaults of the other banks; they do not possess it. It is stated, in the able speech of the representative of the city of Philadelphia, in the Legislature of Pennsylvania, upon the resolution respecting the bank, that the report of the state of all the banks of that State, recently made to the Legislature, shows that all the banks in Philadelphia, (excepting that of the United States) have, *together, but a little more than one million of dollars in specie*: those who have the best means of information, declare the specie in the banks of New York is not greater, and in those of other cities unquestionably less. The State banks then have not the money, and cannot produce it. Will the notes of these banks pay the debt? No, sir, because their notes will be returned upon them for payments which they cannot make. These banks know their own strength or weakness, and, that they dread this crisis, is manifest from the course they have already adopted; they have curtailed discounts, and commenced calling in their debts. The consequences you learn from the moans of your correspondents, and from the petitions which daily press your table; the want of money has produced a want of punctuality; confidence is destroyed; the life, the animating spark of business is, at it were, suspended, and deep distress is fast spreading over the commercial world. Sir, my deductions are supported by facts. They prove

the solvency, indeed the strength, of the Bank of the United States is such as to merit the confidence of the People, which it enjoys, while the situation of the State banks, and the deficiency of the precious metals, gives a fatal assurance of the inability of the country to submit without great distress to the operation of having extracted from it the large debt due the bank.

The gentleman from Virginia says it is no argument in favor of a continuance of the bank that it is necessary for the management of the financial concerns of the United States; for that the word "finance" is not to be found in the constitution. Sir, were I called upon by one of the yeomanry of this country: one whose days had been spent at the plough, remote from courts, and without concern in affairs of state, to define to him what were the financial concerns of the United States, I should, as an explanation adapted to the simplest understanding, inform him, that the laying and collecting taxes, borrowing money, and paying the debts of the Union, were its financial concerns. And, as these powers are expressly granted to Congress, although the word "finances" may not be found in the constitution, Congress are thus required of necessity to provide for the management of the "financial concerns" of the United States.

Permit me now, sir, to notice objections urged against the bank from other quarters, and of a different nature—objections not calculated, probably not intended, to influence this House, but which may have an influence abroad. Gentlemen have objected to what they term the foreign influence in our affairs, from the portion of this bank held by foreigners; and the gentleman from Maryland [Mr. WRIGHT] has alledged that aliens, traitors, and old tories, are entrusted with its direction; others, with him, have said that the bank and the funding system are twins of the same progenitor, Alexander Hamilton, and that the question of creating this bank was the ground on which the parties of the United States first divided.

The charter of the bank did not exclude foreigners from purchasing shares; because, at the period of its establishment, our country was without capital, and it was an object rather to invite foreign capital to the United States, than to repel it; their large funds and low rates of interest have enabled them to give more in the market than our citizens could afford to pay, and they have consequently purchased. But, if it be a sin to have sold stock to foreigners, lay it at the right door; and, when you revile the measure, do not forget it was one of Mr. Jefferson's administration, who sold to English merchants, in the year 1801, all the stock in the bank which the United States owned.

This charter denies to any stockholder, not a resident of the United States, the right either of a vote in the choice of directors, or a seat at the board of directors. And, thus divested of any power to interfere in the concerns of the bank, it requires more than human penetration to discover, or more than ordinary jealousy to suspect, how foreigners can influence even the affairs of the bank, much less, through its agency, the concerns of the country.

This cry of foreign influence from the use of foreign capital is a modern bugbear. During our Revolutionary struggle, our soldiers were clothed and armed with funds borrowed in Europe: our nerves were hardened, our sinews stiffened, and our independence achieved, with the assistance of foreign capital. Yet the heroes and sages of that day suspected not any improper foreign influence; they were brave and wise, but not as cunning as our present statesmen who have made the discovery.

As to the aliens, traitors, and old tories, who are concerned in the direction of the bank, the gentleman is too general in his charge. So far as he will be particular, he can be met. He named but two persons as meriting his denunciation—Evan Jones and Daniel Clark, both of New Orleans. I, sir, know not personally either of these gentlemen. Mr. Jones I understand to be a native of Pennsylvania, who, at the peace of 1763, when Great Britain acquired Florida, settled in that country, and has resided there and at New Orleans ever since; he is declared to be a man of high character for integrity and honor. Mr. Clark has had a seat as a delegate on this floor; though not a native of the United States, he is as much a citizen as any of the inhabitants

of Louisiana, made so by treaty, and as much so as will be the representatives of the State of Orleans "that is to be," in the next Congress. Against his character nothing has been alleged, other than that imputation which the People of the United States have fixed upon the character of every man who has been the friend or associate of Wilkinson and Burr. Let me not be understood as committing myself to the opinion of the guilt of these gentlemen. I was not of Burr's jury—he may be guilty; nor am I of Wilkinson's committee—he may be innocent; yet suspicion deeply stains his character; it will take much labor of the file to rub it off.

But, sir, let it be supposed that an individual who was unfriendly to our Revolution should have been chosen by those who are proprietors of the bank to a seat in its direction. Would the choice be either new or criminal? Sir, a person whose name is recorded in the proscription statute of a State, as an "old tory," was appointed, by Mr. Jefferson, a district judge of the United States. In other States, but particularly in New York and Pennsylvania, persons who bore arms against us, and adhered to our enemy in the Revolutionary war, have also been appointed, by a republican President, to offices of high trust. Why were these "old tories" thus honored and trusted? Because they possessed integrity and ability to qualify them for their stations. And, why might not a tory be chosen a director of a bank, if his virtues and talents had gained him the confidence of the stockholders? The choice seems to me to be as pardonable in a stockholder as in a President; or, is it, sir, that the republican President has been converted into a political Pope, and has, alone, the power to pardon and absolve from political sins?

Of the origin of the Bank of the United States, the honor is certainly due to the first Secretary of the Treasury. In justice to his memory, the fact ought frequently to be mentioned, and never to be forgotten. But, sir, the merit of obtaining the adoption of the plan is not entirely his. The original bill, in every stage, received the support of gentlemen of the republican party; among those who were its earliest supporters, one most distinguished for ability, the present Secretary of the Treasury, continues its advocate to the present hour.

In support of the claim of the bank for a renewal of its charter, and to the credit of Mr. Gallatin, I will here read extracts from his report to the Senate, March, 1809.

"The advantages derived by Government from the bank, are nearly of the same nature with those obtained by individuals who transact business with similar institutions, and may be reduced to the following heads:

1. "*Safe keeping of public moneys.* This applies not only to money in the Treasury, but that in the hands of collectors, and affords one of the best securities against delinquencies.

2. "*Transmission of public moneys,* from one quarter of the Union to another. This is done by the bank, at its own risk and expense.

3. "*Collection of the revenue.* The punctuality of payments introduced by the banking system, and the facilities offered by the bank, to importers indebted for revenue bonds, are amongst the causes which have enabled the United States to collect, with so great facility and with so few losses, the large revenue derived from impost.

4. "*Loans.* The bank has been eminently useful in making the advances, which, under different circumstances, were necessary. At one time, Government owed it \$6,200,000, exclusively of six per cent. stock, original subscription; and a similar disposition to accommodate has been repeatedly evinced, whenever the aspect of public affairs has rendered it proper to ascertain whether new loans might, if wanted, be obtained."

The report then states, that, although the banks established under the authority of the States, might afford considerable assistance to the Government in its fiscal operations, there is none which can transmit moneys with the same facility or to the same extent; none which can afford so great security against any possible losses, or greater resources in relation to loans. "Nor is it eligible that the General Government should, in respect to its own operations, be



entirely dependent on institutions over which it has no control whatever." He also notices the objection of foreigners holding stock; but this, he declares, "does not, at all events, appear sufficient to outweigh *the manifest public advantages derived from a renewal of the charter.*"

Mr. Speaker, gentlemen may disregard, but they cannot despise, nor can they destroy, this high testimony, which, while it establishes the utility of the bank, bears honorable testimony to the upright and patriotic spirit in which its operations have been conducted. This testimonial outweighs all that the bickerings of interest, the suggestions of jealousy, or the apprehensions of the uninformed can assert against the institution. For myself, sir, had I no other knowledge of the subject, I should feel no hesitation, upon the question of constitutionality and necessity of a bank, which Hamilton recommended, Washington approved, and Gallatin, after twenty years' experience, continues to advocate. The shade which has been attempted to be cast upon the fame of Hamilton, as the "progenitor of the bank," must, when examined, like every other attack upon it, but add to its lustre. Sir, I shall not attempt to eulogise the name of that great man; were my feeble powers equal to the task, I should deem it unnecessary. Party rancor, which impotently followed him to the grave, cannot now obscure one ray of that sun of glory which shines upon the tomb of the illustrious dead.

As if satisfied, or fearful, that no argument against the bill could be urged which would plausibly destroy its claims to support, the question has been called a party question. To rally a party round its standard, to excite the pertinacity and awaken the severity of party feeling, it has been declared, that, upon the question of incorporating this bank, in 1791, originated the division of parties, which have since existed in this nation. Until this time, sir, this discovery has not been made. I had understood a very different history of the origin of party. I have heard, I have read—for my youth did not permit me to witness—that, at the formation of our present constitution, many persons, with different views, were opposed to its formation and adoption, preferring that shadow of Union, in which the States, as with a rope of sand, were attempted to be bound under the confederation, to the strength, firmness, and unity, in which we are knit by the Federal Constitution. The good sense and good fortune of our country prevailed; the constitution was adopted, and those who, as *anti-federalists*, had opposed the adoption of the constitution, were organized, with very few exceptions, under the name of republicans, in opposition and decided uniform hostility to the measures of the Federal Government.

The charter to the bank, thus, indeed, became, with some of its opponents, a question of party, although it received the support of others who were anti-federal. In this party opposition, it only met the fate of every other measure, however wise and salutary, originated and perfected at that period.

Let us hope, sir, that the blindness and injustice of such rule of action, is not again to be revived.

Let me now, sir, rapidly glance at the consequences which are to attend the rejection of this bill. The intercourse between the States, and the dealings of the citizens of a State with those of different parts of the same State, require a circulating medium, far above the quantity of gold and silver which exists among us. No man contends that the demands of commerce, or even the ordinary transactions of individuals, can, in the present scarcity of gold and silver, be carried on without the intervention of bank notes. Hitherto, sir, the notes issued in each State have answered some of the domestic uses; but, for the purpose of remitting to, or receiving payment from, other States, no reliance has ever been placed upon the notes of State banks. It has frequently happened, that notes have got into circulation, purporting to be issued by a bank which, in fact, never existed; and others, issued by banks which had failed. The difficulty of knowing the real from the spurious, and the solvent from the insolvent, has so far restrained the circulation of the notes of State banks within the limits of their own State, as to have prevented any late frauds and losses, except among the very uninformed part of the community. In

these circumstances, the known ability of the Bank of the United States, the receipt of its paper in payment of debts to the United States, has given it a currency and credit equal to gold and silver, in every purpose of domestic or foreign use; and its frequency among us has so far familiarized all men of business with the notes, as, if not entirely to prevent frauds from counterfeits, at least, greatly to diminish the injury. In destroying this bank, you are about, sir, to strike all this most valued paper medium out of existence; to dissolve an artificial capital of the Bank of the United States, of ten millions of dollars; and not merely this capital of the Bank of the United States, but, by withdrawing from the other banks the very large portion, if not the whole of their specie capital, with which they must part, to pay the Bank of the United States the debts daily increasing against them, by the receipt of their notes in discharge of individual debts to the Bank of the United States, you inevitably render the State banks less able to accommodate, and diminish, greatly, that portion of the circulating medium emitted by these banks.

Of the distress which this measure will occasion, I need say nothing; the evidence of its existence and magnitude surround you, and have been already repeatedly pressed upon your attention. You are, in fact, to destroy all confidence in bank paper. Can my constituents know whether the bank note of New Hampshire or Georgia, which is offered them, is genuine or spurious? Can they know whether a bank is in credit or insolvent, of which they have never before heard? Yet, sir, as gold and silver is not to be had, and the United States' Bank notes will no longer exist, you reduce the People to this dilemma: either they must receive the notes of State banks, ignorant, as they must be, of their genuineness or credit, encounter the daily risk of being defrauded, or keep on hand their produce. In this state of uncertainty, bank notes must lose their credit; will cease to circulate; must soon depreciate; and a scene of speculation and embarrassment will ensue, not unlike those which have heretofore nearly ruined our country.

Mr. Speaker, the present is not a time for dangerous experiments upon the prosperity of our country. With foreign nations, our relations are more, than at any other period, perplexed. In my apprehension, the nations of Europe, with more than one of whom we have advanced in a warlike attitude, will have more forbearance and less temper than is usual with them, if they do not meet us with decided, not secret hostility. And in this time of danger from abroad, while, with a non-intercourse law in one hand, you fetter all external commerce, sink your revenue, and reduce the value of property; with the other, destroying the bank, deranging the finances of the Government, overturning private credit, destroying commercial confidence, you press, with the deadly weight of an incubus, upon the exertions of domestic industry and enterprise. The inevitable effect of these measures must be, to turn lose a torrent of overwhelming calamity, the extent of which you cannot estimate, and the force of which you cannot stay. The consequences are awful; the responsibility serious. Let gentlemen look to it.

Mr. M'KEE.—Mr. Speaker: Having once troubled the House on this subject, it is not without much regret that I ask the attention of gentlemen to a few more remarks, before the question is taken.

The opposers of this bill have uniformly contended against the exercise of a power under the constitution, which is not expressly delegated to Congress by the letter of the constitution. This position cannot be maintained by the experience of what is past; nor can it be adhered to in future, in the management of the affairs of this Government. And I conjure gentlemen to pause, before they give a construction to the constitution which they themselves have, on other occasions, violated; and which they will be compelled again to violate, or desert the best and dearest interests of their country.

Sir, the territory of Louisiana has been purchased since the commencement of the republican administration; and this act constitutes one of their strongest titles to the fair fame with which they are surrounded. And yet I ask, where (according to the construction contended for) is the power, under

the constitution, which could authorize the mode of this acquisition? Will any gentleman point it out to me? For I confess I cannot perceive it. I know Congress are expressly empowered by the constitution to declare war; and the power to declare war includes the power to acquire territory by the successful result of that war. And hence it would seem to follow that the Government may, with propriety, attain the same end by treaty or purchase, which they could effect by force. But this power is certainly a constructive one, to be collected from the reason and not the letter of the constitution. And therefore, according to the doctrine inculcated, it cannot be used.

Congress have also laid a general embargo; and whence, I ask, is the power authorizing this act, derived? It certainly cannot be justified under the general power, delegated by the constitution to Congress, to regulate commerce: because a general embargo, during its continuance, puts an end to all commerce. And it is perfectly absurd to say that a general delegation of power to regulate commerce includes the power to suspend it altogether. But the constitution has delegated to Congress the power to provide for the general welfare and common defence; and a withdrawal of the property as well as the persons of our citizens from the ocean, in times of difficulty and danger, by means of a general embargo, thereby reserving to the country the resources as well as physical force of the People, unimpaired, is, in fact, providing for the general welfare and common defence. And hence results the power exercised by Congress of laying an embargo. But, sir, this is also a constructive power, not expressly delegated to Congress by the constitution; and therefore, by the doctrine contended for by the opposers of this bill, cannot be exercised.

Congress have built a house for the President of the United States, that would, in point of size and magnificence, beggar any thing to be found at St. James's or elsewhere. They have established post offices in all the States of the Union, and by law exempted the post masters from serving on juries as well as performing military duty: by this mean creating an influence in the interior of the States, without any express delegation of power authorizing the act; and therefore (according to the construction contended for on this occasion) unauthorized and unconstitutional.

I might proceed to enumerate a long catalogue of cases, in which Congress have exercised powers under the constitution which were not expressly delegated, but drawn entirely from the reason, spirit, and essence of the instrument; and justified alone, in their fitness and efficacy to carry into effect some of the great class of powers delegated to Congress by the constitution. The People of the United States have experienced the most happy consequences, arising solely from the exercise of those constructive powers, against which some gentlemen now declaim with so much apparent zeal; and which are certainly less tortured and far-fetched, than the construction for which those gentlemen so pertinaciously contend.

When we view the past, we find that all parties have uniformly given the same practical construction to the constitution.

Washington, the great father of his country, Mr. Jefferson, Mr. Gallatin, and all the magistracy of the United States, including both Houses of Congress, have given, directly or indirectly, the same construction to the constitution; and with these illustrious examples and precedents before me, I cannot arrogate to myself the self-sufficiency to disregard or distrust them, and make out some new *Utopian* untried theory, sanctioned neither by reason, experience, nor policy; believing it to be more safe to pursue the old and beaten track, than to adopt untried expedients; particularly in a case of a doubtful nature. I admit that Congress ought not to look for the constitution in your statute book, or in the fugitive pages of your journal, but to the instrument itself. But, sir, where a construction has been given to this instrument by its great father, and where that construction has been ratified by the sovereign voice of the People, it should remain unchanged.

The gentleman from Pennsylvania, (Mr. SMILIE) has endeavored to assimilate the power now attempted to be exercised to that exercised in the adoption of the odious alien and sedition laws, (as they have generally been called.)

And if, sir, the gentleman had forgotten (as he seems to have done) the first article in the amendments to the constitution of the United States, then, indeed, his parable would have been an appropriate one, differing from the construction now contended for only in the signal circumstance, that the alien and sedition laws, in their practical operation, tended to abridge the liberty of the citizen, whilst the bank is a matter of policy alone.

But these alien and sedition laws were in direct hostility to the first article in the amendment to the constitution, which is in the following words: "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press." This prohibitory article shows the real difference between the two cases.

Much sensibility has been manifested in relation to State rights, which, it is apprehended, will be prostrated by the resuscitation of this charter. Sir, I am a friend to State rights; in the safe and inviolable preservation of which we have the surest guarantee for the perpetuity of this Government. But, sir, I ask if there are not extremes on this subject? And whilst we are guarding against *Scylla*, with care and solicitude, is there no danger of falling on *Charybdis*? Are not the power and influence of some of the States now almost paramount to the power and influence of the General Government? By your refusal to renew the charter of the United States' Bank, you considerably enhance this power in the hands of the great States. Your revenue is then to be collected and deposited in State banks. About one-third of it will be collected by the State of Pennsylvania, and will be deposited in her banks. And those banks are, as they relate to you, entirely foreign banks. You have no control whatsoever over them or any of them. But the State of Pennsylvania has a control over them; and consequently, Pennsylvania (if you destroy the charter) has in her fangs the purse of the nation! which, as the gentleman from Virginia, (Mr. EPPES) says, constitutes the sinews of war. Pennsylvania possesses within herself the physical force; a force that would be formidable to the whole United States, were it arrayed against them. And is it entirely without precedent, for the destinies of one State to be wielded by a single individual? If it is not, then the destinies of Pennsylvania, holding as she will, both the purse and the sword, might be wielded by some ambitious and assuming man. And if such an event should happen, which God forbid! where then are your political liberties? Precisely as safe and secure as if they were lodged in the hands of Napoleon the Great!

What constitutes the power and influence of a State? Certainly, money and physical force are the principal and most requisite ingredients; and by refusing to renew the charter, you throw into the hands of the great States, all the additional influence, arising from the resources of the nation being confided to their hands. And at the same time, you reduce to the condition of mere cyphers the States of North Carolina, Tennessee, Ohio, Kentucky, and all the New England States, except Massachusetts, by withdrawing entirely from their control and management, the public purse of the nation.

I do not wish, Mr. Speaker, to be understood to entertain or insinuate any distrust whatsoever of the integrity or loyalty of the great and respectable State of Pennsylvania.

If, sir, the destinies of this nation are to become dependent on any one State in the Union, I have no predilection for any State: I have no unwillingness that Pennsylvania should be that State. But, sir, I protest, solemnly, against holding, by so feeble and precarious a tenure, the great and inestimable privileges of self government.

But, it is said we may console ourselves with the improbability of the great States making any improper use of the powers vested in their hands, by a refusal to renew this charter. Sir, when at peace with foreign nations: whilst harmony prevails at home, no immediate danger is to be apprehended; but when your political horizon is black with internal tumult, when you are menaced with external danger, and treason stalks abroad with gigantic strides, it is then that the colossal power of the great States becomes most eminently dangerous; it is then that it may be exercised to the utter humiliation of the

little States, and the subversion of your federal government, by withholding from your hands the fiscal resources of the nation. To guard, when it may be practicable, against possible events so disastrous, becomes the imperious duty of every sound and honest politician.

There is a view of this question, which strikes me with great force, and to mention which was my principal motive in rising at *this time*. It has been repeatedly stated by the opposers of this bill, that the revenue could, with equal facility, be collected, through the agency of the *State banks*. Is it, then, their object to deposite the public money in State banks? *I pause for a reply*. The silence which pervades this hall, solemnly answers this question in the affirmative. It is, then, intended to deposite the revenue and resources of the *United States of America*, in the coffers of State banks! I say this is dangerous, unjust, and manifestly partial.

The president, directors, and company, of the United States' Bank, offer you \$1,500,000 to renew their charter: and in the bill, now before you, a privilege is reserved to the United States, of increasing this stock, by a contribution of \$5,000,000 on the part, and for the benefit of the United States. The profit arising from the sale of this stock, if you are disposed to sell it, would be more than \$1,000,000. Suppose, then, that the United States' Bank would be willing to give \$1,000,000 for the banking privilege alone, (which seems to me a very large allowance) the remaining one million two hundred and fifty thousand dollars are given to the United States, for the benefit arising to the bank, from the deposits of the public money.

This sum will be increased to at least \$2,000,000, or perhaps \$3,000,000, or \$4,000,000, by that part of the bill before you, requiring the Bank of the United States to pay interest, at the rate of three per centum, on all sums which may remain in the hands of the bank longer than one year. This increased sum, arising out of the use of public money, is as much the *bona fide* property of the People of the United States, as any other portion of their revenue. The proportion of this sum, to which my constituents (the people of Kentucky) are entitled, is about \$1,000,000. And it is now gravely proposed to wrest this sum from their hands, not for the public service, or public good, but for the express purpose of putting it into the pockets of the wealthy capitalists of Pennsylvania! the State bank stockholders of Massachusetts, Maryland, and Virginia! Will the People cheerfully acquiesce in this unjust prostitution of their honest earnings? If they do, I have mistaken their character.

When these are some of the consequences which are seen to result from a refusal to renew the charter of the United States' Bank, no man can be much at a loss to account for the instructions given by Virginia, Massachusetts, and Pennsylvania, to their Senators and Representatives in Congress.

My friend (Mr. JOHNSON) has informed you, that a renewal of this charter would be granting an exclusive privilege to a few stockholders, and exclusive privileges are odious. If my worthy friend would only examine the bill now before you, he would find that it is not an exclusive privilege: for Congress have therein reserved to themselves the power to establish a new bank, whenever policy or prudence shall dictate its necessity or expediency; and this power, reserved by Congress, of establishing a new bank, will ensure to the United States a prudent and faithful management of the money, which it is proposed to confide to the direction of the president, directors, and company, of the United States' Bank; which it is acknowledged by the gentleman from Virginia, (Mr. EPPES) has hitherto been managed with great propriety.

The gentleman from Virginia, (Mr. EPPES) stated that this question was originally decided as a party question. In this the gentleman is certainly mistaken. It was not originally considered a party question. In order to satisfy my own mind on this subject, I have examined the journal of Congress, for the year 1791; which has been explained to me by the gentleman from North Carolina, (Mr. MACON) the oldest member in this House. And I find there were thirty-nine votes in favor of the bank originally; of which eleven were republican; and of the nineteen who voted against it, six were federal. This fact proves, without doubt, that this question was not decided

by party principles. But why, I ask, are such unceasing efforts made to prove this a party question? Is the gentleman from Virginia, (Mr. EPPES) whose argument on this subject was directed principally to this point, fearful of a diminution of his customary weight in the scale of discussion, or of the insufficiency of his reasoning and argumentative powers, to draw his friends with him on this question? And is he, therefore, compelled to resort to this argument, as a mean of whipping into the track those who are disposed to obey the honest convictions of their own judgments? If such be his object, I can only say for myself, that I am drawn along with that gentleman by the cords of reason, policy, and common sense, alone. And where these are too weak, I cannot be seduced from my own opinion, by the fascinating eloquence of any man, or any system of proscription or denunciation, however formidable it may be, either in plan or operation.

It has been fashionable for gentlemen on this floor, when speaking of party, to declare they were not party men. But, sir, I acknowledge I am a party man. And I have no hesitation in declaring, that I belong to the People's party. It is for the promotion of the happiness and prosperity of the People of Kentucky, in particular, and of the whole United States in general, that my services are rendered in this House. And if, on this, or any other occasion, the true interests of the People of Kentucky have been misunderstood by me, they will, as I know they can, select, from among themselves, some individual, possessing more wisdom to perceive, and an inclination to pursue, the means best calculated to promote the interest, happiness, and increasing prosperity of my country. And should they adopt such a measure as salutary or expedient, their decision would receive my most sincere respect and acquiescence.

It is for the protection and promotion of the best interests of my country and of my constituents that I have again presented myself before this House, to give a last, and perhaps a feeble view, of the impolicy and the deleterious consequences of the act, which I fear is now about to be done.

Before I sit down, permit me to advise my political friends, who vote with me on this occasion, (for I have no right to administer advice to others) to suffer the decisive vote now to be taken on this great and much agitated question. We have given this bill all the support constitutionally within our power; let the majority, if against us, now decide, and take on themselves that awful weight of responsibility which awaits their decision. And if the affections of the People should, on account of the frequent appeals made to their passions and prejudices, recede for a moment from us, it cannot but be, to us, a consolatory reflection, that we have discharged, with honesty and fidelity, our duty to our country. And that, when reason and reflection may have resumed, once more, their empire, we will again be surrounded with the confidence and gratitude of the People.

JANUARY 26, 1811.

Mr. BASSETT presented a resolution of the Legislature of Virginia, instructing their Senators and Representatives in Congress of the United States "to use their best efforts in opposing, by every means in their power, the renewal of the charter of the Bank of the United States;" which was read, and ordered to lie on the table.



## IN SENATE.

11TH CONGRESS, }  
3d Session. }

DECEMBER 18, 1810.

Mr. LEIB presented the petition of the Bank of the United States, praying a renewal of their charter, which was referred to a select committee, consisting of Messrs. Crawford, Leib, Lloyd, Pope, and Anderson.

FEBRUARY 5, 1811.

Mr. CRAWFORD reported a bill to amend, and continue in force, an act, entitled "An act to incorporate the subscribers to the Bank of the United States," which was read the first time; and also communicated a letter from the chairman of the committee to the Secretary of the Treasury, together with the answer of the Secretary thereto. Mr. Crawford's note to the Secretary of the Treasury, and his answer thereto, are as follows:

SENATE CHAMBER, *January 29, 1811.*

SIR:

The Committee of the Senate, to whom has been referred the memorial of the President and Directors of the Bank of the United States, praying for a renewal of their charter, have directed me to request you to state to the committee, whether, in your opinion, the renewal of the said charter will not greatly facilitate the collection of the revenue, and promote the public welfare. In complying with this request, it is expected that you will furnish the committee with the facts and reasoning upon which your opinion has been formed, together with such other information upon the subject, as may be in your possession.

I am, sir, respectfully, your obedient and very humble servant,

WM. H. CRAWFORD.

The Hon. ALBERT GALLATIN.

TREASURY DEPARTMENT, *January 30, 1811.*

SIR:

Having already, in a report to the Senate, of 2d March, 1809, expressed my opinion in favor of a renewal of the charter of the Bank of the United States, an opinion which remains unchanged, I can only add a few explanatory remarks in answer to the inquiries of the committee, as stated in your letter of yesterday.

The banking system is now firmly established; and, in its ramifications, extends to every part of the United States. Under that system, the assistance of banks appears to me necessary for the punctual collection of the revenue, and for the safe keeping and transmission of public moneys. That the punctuality of payments is principally due to banks, is a fact generally acknowledged. It is, to a certain degree, enforced by the refusal of credit at the custom house, so long as a former revenue bond, actually due, remains unpaid. But I think, nevertheless, that, in order to ensure that precision in the collection, on which depends a corresponding discharge of the public engagements, it would, if no use was made of banks, be found necessary to abolish, altogether, the credit now given on the payment of duties—a measure which would affect the commercial capital, and fall heavily on the consumers. That the public moneys are safer, by being weekly deposited in banks, instead of accumulating in the hands of collectors, is self-evident. And their transmission, whenever this may be wanted, for the purpose of making payments in other places than those of collection, cannot, with any convenience, be

effected, on a large scale, in an extensive country, except through the medium of banks, or of persons acting as bankers.

The question, therefore, is, whether a bank, incorporated by the United States, or a number of banks, incorporated by the several States, be most convenient for those purposes.

State banks may be used, and must, in case of a non-renewal of the charter, be used by the treasury. Preparatory arrangements have already been made to that effect; and it is believed that the ordinary business will be transacted, through their medium, with less convenience, and, in some respects, perhaps with less safety, than at present, but without any insuperable difficulty. The difference, with respect to safety, results from the organization of the Bank of the United States, by which it is responsible for the money deposited in any of its branches, whilst each of the State banks, which may be employed, will be responsible only for the sums in its own hands. Thus, the Bank of the United States is now answerable for the moneys collected at New Orleans, and deposited there, in its branches—a security which will be lost under a different arrangement. Nor will the United States have any other control over the manner in which the business of the banks may be conducted, than what may result from the power of withdrawing the public deposits, and they will lose that which a charter, or a dependence on the General Government for a charter, now gives over the Bank of the United States. The facility of obtaining such accommodations as may, at times, be wanted, will, for the same reason, be lessened, and the national power will, to that extent, be impaired. It may be added, that, even for the ordinary business of receiving and transmitting public moneys, the use of a State bank may be forbidden by the State; and that loans to the United States are, by many of the charters, forbidden, without a special permission from the State.

As it is not perceived, on the other hand, that a single advantage will accrue to the public from the change, no reason presents itself, on the ground of expediency, why an untried system should be substituted to one under which the treasury business has so long been conducted with perfect security to the United States, and great convenience, not only to the officers, but also to all those who have had payments of a public nature to make or to receive.

It does not seem necessary to advert to the particular objections made against the present charter, as these may be easily obviated by proper alterations. What has been called a National Bank, or, in other words, a new Bank of the United States, instead of the existing one, may be obtained by such alterations. The capital may be extended, and more equally distributed; new stockholders may be substituted to the foreigners, as had been suggested in the report of 2d March, 1809; and any other modifications which may be thought expedient, may be introduced, without interrupting the operations of the institution now in force, and without disturbing all the commercial concerns of the country.

If, indeed, the Bank of the United States could be removed without affecting either its numerous debtors, the other moneyed institutions, or the circulation of the country, the ordinary fiscal operations of Government would not be materially deranged, and might be carried on by means of another general bank, or of State banks. But the transition will be attended with much individual, and probably with no inconsiderable public injury. It is impossible that an institution, which circulates thirteen millions of dollars, and to whom the merchants owe fourteen, should terminate its operations, particularly in the present unfavorable state of the American commerce, and after the great losses lately experienced abroad, without giving a serious shock to commercial, banking, and national credit. It is not intended to overrate the extent of an evil which there are no certain data to appreciate. And, without expatiating on the fatal and unavoidable effects on individuals; without dwelling on the inconvenience of repaying, at this time, to Europe, a capital of seven millions; and, without adverting to other possible dangers, of a more general nature, it appears sufficient to state, that the same body of men who owe fourteen millions of dollars to the bank, owe, also, ten or twelve to the United States, on

which the receipts into the treasury, for this year, altogether depend; and that, exclusively of absolute failures, it is improbable that both debts can be punctually paid at the same time. Nor must it be forgotten that the approaching non-importation will considerably lessen the efficiency of the provision, by which subsequent credits are refused to importers who have not discharged former revenue bonds. Upon the whole, a perfect conviction is felt that, in the critical situation of the country, new evils ought not to be superadded, and a perilous experiment be attempted, unless required by an imperious necessity.

In these hasty remarks, I have not adverted to the question of constitutionality, which is not a subject of discussion for the Secretary of the Treasury. Permit me, however, for my own sake, simply to state, that the bank charter having, for a number of years, been acted upon, or acquiesced in, as if constitutional, by all the constituted authorities of the nation, and thinking, myself, the use of the banks to be at present necessary for the exercise of the legitimate powers of the General Government; the continuation of a bank of the United States has not, in the view which I have been able to take of the subject, appeared to me to be unconstitutional.

I have the honor to be, respectfully, sir, your obedient servant,

ALBERT GALLATIN.

HON. WM. H. CRAWFORD, *Chairman in Senate.*

FEBRUARY 11, 1811.

The Senate proceeded to consider the bill reported on the 5th instant, and having amended the same, a motion was made by Mr. ANDERSON to strike out the first section of the bill.

On motion of Mr. CLAY, the *Yeas* and *Nays* were ordered.

On motion of Mr. BRENT, the further consideration of the bill was postponed till to-morrow.

Mr. ANDERSON said, that, having been a member of the committee who reported the bill before the Senate, and not feeling himself at liberty to oppose the introduction of the report, yet, thinking it might be advisable to try the principle before they proceeded to discuss the details, he should move to strike out the first section of the bill. He would barely observe, that, was this not a question which was generally understood, on which not only every member of this House, but every citizen of the United States, had made up his mind, he should feel himself bound to offer reasons in support of the motion; but, inasmuch as it was a question which every gentleman had doubtless decided in his own mind, he felt unwilling to take up any more of the attention of the Senate, especially so late in the session, when there was so much business of importance before them, which required to be acted on.

Mr. CRAWFORD said, this was a way of disposing of business which struck him as somewhat astonishing. A bill was proposed to the Senate to continue in operation an institution of twenty years' standing, the good effects of which had been universally experienced, whose influence on the public prosperity was admitted by all; and, without assigning any reason why it should not be continued, they were told that the public sentiment had decided the question, and every gentleman must have made up his mind. He appealed to the gentleman who made the motion, whether this was a fair and magnanimous mode of procedure. How was it possible for the friends of this bill to meet objections never made? To foresee the grounds on which gentlemen would have made up their minds? Surely, when a question of magnitude was to be decided, it ought to be expected that some reasons should be offered why the bill

should be rejected. Mr. C. said he hoped, if the honorable gentleman from Tennessee chose to veil himself and argument from discussion, on the ground that he had made up his mind, that some gentleman would condescend to give reasons in favor of the motion.

Mr. SMITH (Md.) said, there was certainly nothing novel in the course taken by the gentleman from Tennessee. The gentleman from Georgia could not be ignorant that some of the State Legislatures had taken the subject up. It therefore became the duty, with all respect to his friend from Georgia, of the introducer of the bill, to give some reason to induce the Senate to give their votes for a renewal of the charter.

Mr. ANDERSON said, that he deemed it strictly proper and parliamentary to make the motion which he had offered to the House. He deemed it incumbent on those who meant to support this bill, to assign the reasons why the section should not be struck out. To his mind, Mr. A. said, this system was infinitely more injurious than beneficial; it created a kind of fictitious wealth in the community; destroyed, in a degree, the firm principles of our political institutions; and, if we went on with it for twenty years more, we should be at least fifty years older, he would not say in corruption, but in the want of the strict political virtue, which, if the bank had never existed, we might have maintained. This opinion was a sufficient objection, without saying any thing of the unconstitutionality of the thing, which, to him, had always been a paramount objection.

Mr. CRAWFORD said, that the gentlemen from Tennessee and Maryland had misconceived what he had said. He had not complained that the motion was made; nothing like it. He knew that such a course was sometimes pursued. But, it was the first time he ever knew such a motion to be made, without a discussion of the details, without a detailed statement of the reasons for opposing such and such provisions. He must be permitted to state, that such a course was not usual in this, or any other body, as that a chairman should be called upon to state reasons which induced a committee to report any provision, when a motion was made which went to put an end to any discussion of the detail. Gentlemen assumed the affirmative side of the question; they were about to defeat the bill; ought they not to assign their reasons? What a situation am I placed in, said Mr. C. How is it possible I can foresee all the objections to the bill? And, if, perchance I should foresee them, and defeat them, will not gentlemen say these are not the reasons which influenced their votes? It is like pursuing a *will o' the wisp*; you can never arrive at the true object of pursuit. I should humbly hope, sir, that some gentleman, who wishes to put an end to this bill, would assign the reasons on which he determined to give his vote.

Mr. SMITH (of Md.) said, he had always thought it was the duty of a committee to inform the Senate of the reasons which induced them to report a bill. I was not on the committee, said he. There were but five on it; and, consequently, there are twenty-nine of us who cannot tell what induced that gentleman to report the bill which has produced this agitation among us, and which some of the States have declared hostile to the constitution. I was so certain that the gentleman would give his views of the subject, that I did not come prepared to enter into the question. I did expect to hear something from that gentleman, which I, or some other gentleman, would have thought it our duty to give an answer to.

Mr. CRAWFORD said that he should proceed, though reluctantly, to explain the reasons of the committee for reporting the bill which is now under consideration. After the most minute examination of the constitution, the majority of that committee were decidedly of opinion, that the Congress of the United States were clearly invested with power to pass such a bill. The ob-

ject of the constitution was two-fold: 1st, the delegation of certain general powers of a national nature, to the Government of the United States; and 2d, the limitation or restriction of the State sovereignties. Upon the most thorough examination of this instrument, I am induced to believe that many of the various constructions given to it are the result of a belief that it is absolutely perfect. It has become so extremely fashionable to eulogise this constitution, whether the object of the eulogist is the extension or contraction of the powers of the Government, that, whenever its eulogium is pronounced, I feel an involuntary apprehension of mischief. Upon the faith of this imputed perfection, it has been declared to be inconsistent with the entire spirit and character of this instrument, to suppose that, after it has given a general power, it should afterwards delegate a specific power fairly comprehended within the general power. A rational analysis of the constitution will refute, in the most demonstrative manner, this idea of its perfection. This analysis may excite unpleasant sensations; it may assail honest prejudices: for there can be no doubt that honest prejudices frequently exist, and are many times perfectly innocent. But, when these prejudices tend to destroy even the object of their affection, it is essentially necessary that they should be eradicated. In the present case, if there be any who, under the conviction that the constitution is perfect, are disposed to give it a construction that will render it wholly imbecile, the public welfare requires that the veil should be rent, and that its imperfection should be disclosed to public view. By this disclosure, it will cease to be the object of adoration, but it will, nevertheless, be entitled to our warmest attachment.

The eighth section of the first article of the constitution contains among others the following grant of powers, viz. to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures; to raise and support armies; to provide and maintain a navy; to regulate commerce with foreign nations, and among the several States, and with the Indian tribes; to establish post offices and post roads. This selection contains five grants of general power. Under the power to coin money it is conceived that Congress would have a right to provide for the punishment of counterfeiting the money after it was coined, and that this power is fairly incidental to, and comprehended in, the general power. The power to raise armies and provide and maintain a navy comprehends, beyond the possibility of doubt, the right to make rules for the government and regulation of the land and naval forces; and yet, in these three cases, the constitution, after making the grant of general power, delegates specifically the powers which are fairly comprehended within the general power. If this however should be denied, the construction which has been uniformly given to the remaining powers which have been selected, will establish the fact beyond the power of contradiction. Under the power to regulate commerce, Congress has exercised the power of erecting light houses, as incidental to that power, and fairly comprehended within it. Under the power to establish post offices and post roads, Congress has provided for the punishment of offences against the post office department. If the Congress can exercise an incidental power not granted in one case, it can in all cases of a similar kind. But it is said, that the enumeration of certain powers excludes all other powers not enumerated. This is true so far as original substantive grants of power are concerned, but it is not true when applied to express grants of power which are strictly incidental to some original and substantive grant of power. If it were true in relation to them, Congress could not pass a law to punish offences against the post office establishment, because the constitution has expressly given the power to punish offences against the current coin; and as it has given the power to punish offences committed against that grant of general power, and has withheld it in relation to the power to establish post offices and post roads, Congress cannot, according to this rule of construction, so warmly contended for, pass any law to provide for the punishment of such offences. The power to make rules for the regulation and government of the land and naval forces, I have shown to be strictly incidental to the power to raise armies, and provide and maintain navies; but, accord-

ing to this rule of construction, all incidental powers are excluded except the few which are enumerated, which would exclude from all claim to constitutionality nearly one half of your laws, and, what is still more to be deprecated, would render your constitution equally imbecile with the old articles of confederation. When we come to examine the fourth article, the absurdity of this rule of construction, and also of the idea of perfection which has been attributed to the constitution, will be equally manifest. This article appears to be of a miscellaneous character, and very similar to the codicil of a will.

The first article provides for the organization of Congress; defines its powers; prescribes limitations upon the powers previously granted; and sets metes and bounds to the authority of the State Governments. The second article provides for the organization of the Executive Department, and defines its power and duty. The third article defines the tenure by which the persons in whom the judicial power may be vested shall hold their offices, and prescribes the extent of their power and jurisdiction. These three articles provide for the three great Departments of Government, called into existence by the constitution, but some other provisions just then occur, which ought to have been included in one or the other of the preceding articles, and these provisions are incorporated and compose the fourth article. The first section of it declares, that "full faith and credit shall be given, in each State, to the public acts, records, and judicial proceedings, of every other State; and the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings, shall be proved, and the effect thereof." In the second section it declares that a person charged, in any State, with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime. A similar provision is contained in the same section, relative to fugitives who are bound to labor, by the laws of any State. In the first case which has been selected, express authority has been given to Congress, to prescribe the manner in which the records, &c. should be proved, and also the effect thereof; but, in the other two, no authority is given to Congress; and yet, the bare inspection of the three cases, will prove that the interference of Congress is less necessary in the first than in the two remaining cases. A record must always be proved by itself, because it is the highest evidence of which the case admits. The effect of a record ought to depend upon the laws of the State of which it is a record, and therefore the power to prescribe the effect of a record was wholly unnecessary, and has been so held by Congress—no law having been passed to prescribe the effect of a record. In the second case, there seems to be some apparent reason for passing a law to ascertain the officer upon whom the demand is to be made; what evidence of the identity of the person demanded, and of the guilt of the party charged, must be produced, before the obligation to deliver shall be complete. The same apparent reason exists for the passage of a law relative to fugitives from labor. According, however, to the rule of construction contended for, Congress cannot pass any law to carry the constitution into effect, in the two last cases selected, because express power has been given in the first, and is withheld in the two last. But Congress has nevertheless passed laws to carry those provisions into effect, and this exercise of power has never been complained of by the People or the States.

Mr. President, it is contended by those who are opposed to the passage of this bill, that Congress can exercise no power by implication, and yet it is admitted, nay, even asserted, that Congress would have power to pass all laws necessary to carry the constitution into effect, whether it had given or withheld the power which is contained in the following paragraph of the eighth section of the first article: "To make all laws 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 or officer thereof." If this part of the constitution really confers no power, it, at least, according to this opinion, strips it of that attribute of perfection which has by these gentlemen been ascribed to it. But, sir, this is not the



fact. It does confer power, of the most substantial and salutary nature. Let us, sir, take a view of the constitution upon the supposition that no power is vested in the Government by this clause, and see how the exclusion of power by implication can be reconciled to the most important acts of the Government. The constitution has expressly given Congress power "to constitute tribunals inferior to the supreme court," but it has no where expressly given the power to constitute a supreme court. In the third article it is said, "the judicial power of the United States shall be vested in *one supreme court*, and in such inferior courts as the Congress may from time to time ordain and establish." The discretion, which is here given to Congress, is confined to the inferior courts, which it may from time to time ordain and establish, and not to the supreme court. In the discussion which took place upon the bill to repeal the judicial system of the United States, in the year 1802, this distinction is strongly insisted upon by the advocates for the repeal. The supreme court was said to be the creature of the constitution, and therefore intangible, but that Congress, possessing a discretionary power to create or not to create inferior tribunals, had the same discretionary power to abolish them whenever it was expedient. But, if even the discretionary power here vested does extend to the supreme court, yet the power of Congress to establish that court must rest upon implication, and upon implication alone. Under the authority to establish tribunals inferior to the supreme court, the power to establish a supreme court would, according to my ideas, be vested in Congress by implication. And, sir, it is only vested by implication, even if the declaration, that Congress shall have power to pass all laws necessary and proper to carry into effect the power vested in any department or officer of the Government, should be held to be an operative grant. Under this grant, Congress can pass laws to carry into effect the powers vested in the judicial department. What are the powers vested in this department? That it shall exercise jurisdiction in all cases in law and equity arising under this constitution, &c. in all cases affecting ambassadors, &c. but the power to create the department, and to carry into effect the powers given to, or vested in, that department, are very different things.

The power to create the supreme court cannot be expressly granted in the power to pass all laws necessary and proper to carry into effect the powers vested in that court, but must, as I have endeavored to prove, be derived from implication. Let me explain my understanding of a power which exists by implication, by an example which will be comprehended by all who hear me. In a devise, an estate is granted to A, after the death of B, and no express disposition is made of the estate during the life of A; in that case, A is said to have an estate for life, by implication, in the property so devised. So, when the constitution gives the right to create tribunals inferior to the supreme court, the right to create the supreme, is vested in Congress by implication. Shall we, after this, be told that Congress cannot constitutionally exercise any right by implication? By the exercise of a right, derived only from implication, Congress has organized a supreme court, and then, as incidental to this power, existing only by implication, it has passed laws to punish offences against the law by which the court has been created and organized. Sir, the right of the Government to accept of the District of Columbia exists only by implication. The right of the Government to purchase or accept of places for the erection of forts, magazines, arsenals, and dock-yards, exists only by implication; and yet no man in the nation, so far as my knowledge extends, has complained of the exercise of these implied powers, as an unconstitutional usurpation of power. The right to purchase or accept of places for the erection of light houses, as well as the right to erect and support light houses, must be derived by implication alone, if any such right exists. The clause in the constitution which gives Congress the power "to exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places purchased by the consent of the Legis-

ture of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings," certainly gives no express power to accept or purchase any of the places, destined for the uses therein specified. The only power expressly given in this clause is that of exercising exclusive legislation in such places; the right to accept or purchase must be derived by implication from this clause, or it must be shown to be comprehended in, or incidental to, some other power, expressly delegated by the constitution. I shall now attempt to show, that, according to the construction which has been given to other parts of this constitution, Congress has the right to incorporate a bank, to enable it to manage the fiscal concerns of the nation. If this can be done, and if it can also be shown that the correctness of such construction has never excited murmur or complaint—that it has not even been questioned—I shall have accomplished every thing which it will be incumbent on me to prove, to justify the passage of the bill upon your table. The power to lay and collect taxes, duties, imposts, and excises, together with the power to pass all laws which may be necessary and proper for carrying into effect the foregoing powers, when tested by the same rule of construction which has been applied to other parts of the constitution, fairly invests Congress with the power to create a bank. Under the power to regulate commerce, Congress exercises the right of building and supporting light-houses. What do we understand by regulating commerce? Where do you expect to find regulations of commerce? Will any man look for them any where else than in your treaties with foreign nations, and in your statutes regulating your custom houses and custom house officers? What are the reasons for vesting Congress with the right to regulate commerce with foreign nations, and among the several States? The commerce of a nation is a matter of the greatest importance in all civilized countries. It depends upon compacts with other nations; and whether they are beneficial or prejudicial, depends not so much on the reciprocal interest of nations as upon their capacity to defend their rights and redress their wrongs. It was, therefore, highly important that the right to regulate commerce with foreign nations should be vested in the national Government. If the regulation of commerce among the several States had been left with the States, a multiplicity of conflicting regulations would have been the consequence. Endless collisions would have been created, and that harmony and good neighborhood, so essential between the members of a federal republic, would have been wholly unattainable. The best interest of the community therefore imperiously required, that this power should be delegated to Congress. Not so of light houses. The interest of the States would have induced them to erect light houses, where they were necessary, and when erected they would have been equally beneficial to their own vessels, the vessels of their sister States, and of foreign nations. The performance of this duty could have been most safely confided to the States. They were better informed of the situations in which they ought to be erected, than Congress could possibly be, and could enforce the execution of such regulations as might be necessary to make them useful. How then has it happened that Congress has taken upon itself the right to erect light houses, under their general power to regulate commerce? I have heard and seen, in the public prints, a great deal of unintelligible jargon about the incidentality of a law to the power delegated and intended to be executed by it, and of its relation to the end which is to be accomplished by its exercise, which I acknowledge I do not clearly and distinctly comprehend, and must, therefore, be excused from answering. I speak now of the public newspapers to which I am compelled to resort to ascertain the objections which are made to this measure, as gentlemen have persevered in refusing to assign the reasons which have induced them to oppose the passage of the bill. But, sir, I can clearly comprehend that the right to erect light houses is not incidental to the power of regulating commerce, unless every thing is incidental to that power which tends to facilitate and promote the prosperity of commerce. It is contended that, under the power to lay and collect taxes, imposts, and duties, you can pass all laws necessary for that purpose; but they must be laws to lay and

collect taxes, imposts, and duties, and not laws which tend to promote the collection of taxes. A law to erect light houses is no more a law to regulate commerce, than a law creating a bank is a law to collect taxes, imposts, and duties. But the erection of light houses tends to facilitate and promote the security and prosperity of commerce, and, in an equal degree, the erection of a bank tends to facilitate and ensure the collection, safe-keeping, and transmission, of your revenue. If, by this rule of construction, which is applied to light houses, but denied to the bank, Congress can, as incidental to the power to regulate commerce, erect light houses, it will be easy to show that the same right may be exercised, as incidental to the power of laying and collecting duties and imposts. Duties cannot be collected, unless vessels importing dutiable merchandise arrive in port; whatever, therefore, tends to secure their safe arrival, may be exercised under that general power; the erection of light houses does facilitate the safe arrival of vessels in port; and Congress, therefore, can exercise this right as incidental to the power to lay imposts and duties.

But it is said the advocates of the bank differ among themselves in fixing upon the general power to which the right to create a bank is incidental, and that this difference proves that there is no incidentalness, to use a favorite expression, between that and any one of the enumerated general powers. The same reason can be urged with equal force against the constitutionality of every law for the erection of light houses. Let the advocates for this doctrine lay their finger upon the power to which the right of erecting light houses is incidental. It can be derived, with as much apparent plausibility and reason, from the right to lay duties, as from the right to regulate commerce. Who is there now in this body who has not voted for the erection of a light house? And no man who reads one of these, will believe it to be a regulation of commerce. And no man in the nation, so far as my knowledge extends, has ever complained of the exercise of this power. The right to erect light houses is exercised, because the commerce of the nation, or the collection of duties, is greatly facilitated by that means; and, sir, the right to create a bank is exercised, because the collection of your revenue, and the safe keeping and easy and speedy transmission of your public money, is not *simply facilitated*, but because *these important objects are more perfectly secured by the erection of a bank than they can be by any other means in the power of human imagination to devise*. We say, therefore, in the words of the constitution, that a bank is necessary and proper to enable the Government to carry into complete effect the right to lay and collect taxes, imposts, duties, and excises. We do not say, that the existence of the Government absolutely depends upon the operations of a bank, but that a National Bank enables the Government to manage its fiscal concerns more advantageously than it could do by any other means. The terms necessary and proper, according to the construction given to every part of the constitution, impose no limitation upon the powers previously delegated. If these words had been omitted in the clause giving authority to pass laws to carry into execution the powers vested by the constitution in the National Government, still Congress would have been bound to pass laws which were necessary and proper, and not such as were unnecessary and improper. Every Legislative body, every person invested with power of any kind, is morally bound to use only those means which are necessary and proper for the correct execution of the powers delegated to them. But, it is contended, that, if a bank is necessary and proper for the management of the fiscal concerns of the nation, yet Congress has no power to incorporate one, because there are State banks which may be resorted to. No person who has undertaken to discuss this question, has, as far as my knowledge extends, ventured to declare, that a bank is not necessary. Every man admits, directly or indirectly, the necessity of resorting to banks of some kind. This admission is at least an apparent abandonment of the constitutional objection: for, if a bank is necessary and proper, then have Congress the constitutional right to erect a bank. But this is denied. It is contended that this idea rests alone upon the presumption that the Govern-

ment of the United States is wholly independent of the State Governments; which is not the fact. That this very law is dependent upon the State courts for its execution. This is certainly not the fact. The courts of the United States have decided, in the most solemn manner, that they have cognizance of all cases affecting the Bank of the United States. Sir, it is true that the Government of the United States is dependent upon the State Governments for its organization. Members of both Houses of Congress, and the President of the United States, are chosen by the State Governments, or under the authority of their laws. But it is equally true, that, wherever the constitution confides to the State Governments the right to perform any act in relation to the Federal Government, it imposes the most solemn obligation upon them to perform the act. The constitution of the United States, as to these particular acts, is the constitution of the several States, and their functionaries are accordingly sworn to support it. Can it then be seriously contended that, because the constitution has, in some cases, made the Government of the United States dependent upon the State Governments, in all which cases it has imposed the most solemn obligations upon them to act, that it will be necessary and proper for Congress to make itself dependent upon them, in cases where no such obligation is imposed? The constitution has defined all the cases where this Government ought to be dependent upon that of the States, and it would be unwise and improvident for us to multiply these cases by legislative acts, especially where we have no power to compel them to perform the act for which we have made ourselves their dependents. In forming a permanent system of revenue, it would be unwise in Congress to rely, or its collection and transmission from one extreme of this extensive empire to the other, upon any accidental circumstance, wholly beyond their power or control. There are State banks in almost every State in the Union, but their existence is wholly independent of this Government, and their dissolution is equally so. The Secretary of the Treasury has informed you that he conceives a bank is necessary to the legitimate exercise of the powers vested by the constitution in the Government; I know, sir, that the testimony of this officer will not be very highly estimated by several honorable members of this body. I am aware that this opinion has subjected him, and the committee also, to the most invidious aspersions; but, sir, the situation of that officer, independent of his immense talents, enables him to form a more correct opinion than any other man in the nation, of the degree of necessity which exists at the present time for a National Bank, to enable the Government to manage its fiscal operations. He has been ten years at the head of your treasury; he is thoroughly acquainted with the influence of the bank upon your revenue system; and he has, when called upon, declared that a bank is necessary to the proper exercise of the legitimate powers of the Government. His testimony is entitled to great weight in the decision of this question, at least with those gentlemen who have no knowledge of the practical effects of the operations of the bank in the collection, safe keeping, and transmission of your revenue. In the selection of means to carry any of your constitutional powers into effect, you must exercise a sound discretion; acting under its influence, you will discover that what is proper at one time, may be extremely unfit and improper at another. The original powers granted to the Government by the constitution, can never change with the varying circumstances of the country; but the means by which those powers are to be carried into effect, must necessarily vary with the varying state and circumstances of the nation. We are, when acting to-day, not to inquire what means were necessary and proper twenty years ago; not what were necessary and proper at the organization of the Government; but our inquiry must be, what means are necessary and proper this day. The constitution, in relation to the means by which its powers are to be executed, is one eternal now. The state of things now, the precise point of time when we are called upon to act, must determine our choice in the selection of means to execute the delegated powers.

It is said, that the States have reserved to themselves the exclusive right of erecting banks. That the States have exercised the right of establishing

banks, is a fact not to be denied; but that they have this right under the constitution, is extremely questionable. Had these *great States*, who have undertaken, by their instructions, to influence the decision of this question by Congress, contented themselves with the exercise of this right to establish banks, I should not, upon this occasion, enter into an investigation of that right. But these *great States*, not content with the exercise of an usurped authority, are, by usurpation, attempting to legislate for Congress.

And, sir, what is the inducement with these *great States*, to put down the Bank of the United States? Their avarice, combined with the love of domination. They have erected banks, in many of which they hold stock to a considerable amount, and they wish to compel the United States to use their banks as places of deposit for their public moneys, by which they expect to increase their dividends. And in the banks in which they hold no stock, many of the individual members of their Legislatures are stockholders, and no doubt were influenced to give instructions by motives of sheer avarice. The love of power, no doubt, has had some influence in producing these instructions. Every person who is not wholly ignorant of the history of this Government, knows something of the influence of these *great States* upon the councils of the nation.

Have we not heard it said, that, after three of the *great States* had instructed their members to vote against the bank, it was a matter of too great delicacy for Congress to think of acting upon the subject? I had thought that the rights of the States were equal; that, if the rights of three of the *little States* were violated or affected, in any manner, that it was the subject of as much delicacy, as if the rights of three *great States* had been affected. Sir, if this doctrine becomes fashionable, if two or three *great States* can, upon all occasions, through the agency of their Legislatures, control the deliberations of Congress, you will compel the smaller States, by the most direful necessity, to adopt the principle of one consolidated Government. Which of the States are to be principally benefitted by the dissolution of the bank? Those States in which the principal part of your revenue is to be collected. The great commercial States are to monopolize the benefits which are to arise from the deposits of your public money. The suppression of this bank will benefit none of the interior, or smaller States, in which there is little or no revenue collected. As the whole benefit is to be engrossed by three or four of the great Atlantic States, so the whole of the power, which the dissolution of this bank will take from the National Government, will be exclusively monopolized by the same States. Is it desirable to increase the influence of these *great States*, which is already too great, at the expense of the United States? Does not the history of these *great States* admonish us, in the most impressive terms, to beware of placing this Government in a state of dependence upon them? Sir, the time has been, and it will certainly arrive again, when some one or more of these *great States* will be found in a state of hostility to the National Government; and, with this knowledge, you are about to place the management of your public money in the hands of the State banks, who are dependent, for their legal existence, upon the State Governments. But, sir, permit me to examine this exclusive right of the State Governments to create banks. In the tenth section of the first article of the constitution of the United States, it is declared, among other things, that no State shall coin money; emit bills of credit; make any thing, but gold or silver, a tender in the payment of debts. What, sir, is a bill of credit? Will it be contended that a bank bill is not a bill of credit? They are emphatically bills of credit. But it may be said, that the States do not, by the creation of banks, with authority to emit these bills of credit, infringe upon the constitution, because they do not emit the bills themselves. If they have not the power to emit bills of credit, *a fortiori*, they cannot delegate to others a right which they themselves cannot exercise. But, sir, according to the maxims of law and sound reason, what they do by another they do themselves. If, then, the State Governments are restrained from exercising this right to incorporate a bank, it would appear *ex necessitate rei* that this right is vested in the Government of the United States. The entire sover-

eignty of this nation is vested in the State Governments, and in the Federal Government, except that part of it which is retained by the People, which is solely the right of electing their public functionaries. The right to create a corporation, is a right inherent in every sovereignty; the People of the United States cannot exercise this right. If, then, the States are restrained from creating a bank, with authority to emit bills of credit, it appears to be established that the Federal Government does possess this right. If, however, it is still believed that the law, by which this bank has been created, was the result of a forced construction of the constitution, yet I must contend, that that construction is entitled to some weight in the decision of this question. The time and state of the public mind, when this construction was given, gives it a strong claim to consideration upon this occasion. This construction was given shortly after the Government was organized, when first impressions had not been effaced by lapse of time, or distorted by party feelings, or individual animosity. This law did not pass in the hard unconstitutional times which produced the sedition law. No, sir, this law passed in the best days of this republic. At that time the idea of party, as now understood, was wholly unknown. The parties which then existed were literally federal and anti-federal. Those who were friendly to the federal constitution, and those who were inimical to it, formed the only party then known in this nation. What, sir, is the situation in which we are now placed? What are the circumstances under which we are called upon to reject this bill? The great influential States, induced by motives of avarice and ambition, interpose the weight of their authority; attempt to put a veto upon your right to pass such laws as are necessary and proper for the general welfare, through the instrumentality of instructions, by depriving not only their Senators and Representatives of the exercise of a sound and honest discretion, but, also, by intimidating others by the weight of their influence and authority. The democratic presses in these *great States* have, for more than twelve months past, teemed with the most scurrilous abuse against every member of Congress who has dared to utter a syllable in favor of the renewal of the bank charter. The member who dares to give his opinion in favor of the renewal of the charter, is instantly charged with being bribed by the agents of the bank—with being corrupt—with having trampled upon the rights and liberties of the People—with having sold the sovereignty of the United States to foreign capitalists—with being guilty of perjury, by having violated the constitution. Yes, sir, these are the circumstances under which we are called upon to reject the bill. When we compare the circumstances under which we are now acting, with those which existed at the time when the law was passed to incorporate the bank, we may well distrust our own judgments. Sir, I had always thought that a corporation was an artificial body, existing only in contemplation of law; but, if we can believe the rantings of our democratic editors in these great States, and the denunciations of our public declaimers, it exists under the form of every foul and hateful beast, and bird, and creeping thing. It is an *Hydra*; it is a *Cerberus*; it is a *Gorgon*; it is a *Vulture*; it is a *Tiper*. Yes, sir, in their imaginations it not only assumes every hideous and frightful form, but it possesses every poisonous, deleterious, and destructive quality. Shall we, sir, suffer our imaginations to be alarmed, and our judgments to be influenced, by such miserable stuff? Shall we tamely act under the lash of this tyranny of the press? No man complains of the discussion in the newspapers, of any subject which comes before the Legislature of the Union; but I most solemnly protest against the course which has been pursued by these editors, in relation to this question. Instead of reasoning, to prove the unconstitutionality of the law, they charge members of Congress with being bribed or corrupted; and this is what they call the liberty of the press. To tyranny, under whatever form it may be exercised, I declare open and interminable war. To me it is perfectly indifferent whether the tyrant is an irresponsible editor, or a despotic monarch.

Mr. President, if the construction which has been given to the constitution is entitled to no weight with the members who now compose the Senate, will



it be contended that the different acts of successive democratic Congresses, by which they have sanctioned the validity of the construction under which this bank was created, are entitled to no weight or consideration? Perhaps it would be unfair to lay any stress upon the simple acquiescence of our democratic predecessors in this measure; I shall, therefore, show, that the acts to which I allude were positive affirmative acts, and not simply, or in any degree, acts of acquiescence. By the charter, the corporation was authorized to establish offices of discount and deposit wheresoever it should think fit, within the United States. In the year 1803, the United States obtained Louisiana by purchase. Under the authority given in the charter, the corporation could not extend its branches into Louisiana. In the year 1804, a democratic Congress passed a law to authorize this *devouring monster* to lay its *destructive fangs* upon the *unfortunate people* of these newly acquired territories. It has been said that the State Governments were competent to resist the execution of this law. How ungenerous, then, was it, in our democratic predecessors, to authorize this institution, with its *pestilential fangs*, to seize upon these *helpless and unfortunate people*, who had no *State Governments competent to resist the execution of this law*, and shield them from the *deadly poison of this venomous viper*? It was unkind; it was cruel. Permit me, sir, to make one or two observations upon this competency of the State Governments to resist the authority or the execution of a law of Congress. What kind of resistance can they make, which is constitutional? I know of but one kind; and that is by elections. The People, and the States, have a right to change the members of the National Legislature, and, in that way, and in that alone, can they effect a change of the measures of this Government.

It is true, there is another kind of resistance which may be made, but it is unknown to the constitution. This resistance depends upon physical force; it is an appeal to the sword; and by the sword must that appeal be decided, and not by the provisions of the constitution.

We are informed, however, that the States thought it most prudent to acquiesce in this law, and waive the right of resisting it, to which they were so entirely competent.

Does the positive sanction of this measure, by our democratic Congresses, rest alone upon this act of 1804? No, sir. The act by which the bank was incorporated, made no provision for the punishment of those who might counterfeit its bills and checks. In the year 1798, a law for the punishment of such offences was passed. In the year 1807, a democratic Congress, composed of many of the same members who are now called upon to act again upon the subject of the bank, passed a law also for the punishment of the same offences against the bank. This is not all, sir; so great was the unanimity of both Houses upon this question, that the bill passed through both Houses without producing a call for the yeas and nays upon its final passage, or in any of its intermediate stages. The constitution says, Congress shall make laws "to provide for the punishment of counterfeiting the securities and current coin of the United States." I have shown that the power to punish counterfeiting the current coin was fairly incidental to the power of coining money. But the power to punish counterfeiting the securities is an original grant of power, and not incidental to any one of the delegated powers. As the constitution has given the power to punish counterfeiting the securities and the current coin, expressly, according to the doctrine contended for by the enemies of the bank, the power to punish any other species of forgery is withheld. But let us pursue this idea a little further. The law incorporating the bank is denounced as unconstitutional; it therefore is not binding upon the People of the United States as a law; and yet the very men who denounce it, who declare it to be unconstitutional, have passed a law to condemn those who violate its provisions to ten years' imprisonment, and to enormous fines. With what propriety can we say that our republican predecessors have simply acquiesced in this measure? With what consistency can we now refuse to renew the charter, on account of the want of constitutional power? But it is contended that we have done nothing more than simply acquiesced in this measure, and that our acquiescence was wholly the result of a conviction that the act incorpo-

rating a bank was a contract. What, sir, is the essence of a contract? That there shall be parties able to contract; that they do contract; that there shall be a consideration; a *quid pro quo*; that the conditions shall be reciprocal. What is the fact in relation to the bank bill? Does the bank make any stipulations in favor of the Government? No, none. Does the charter stipulate that the Government shall provide for the punishment of those who counterfeit bank bills? No. And yet a republican Congress, under the idea, I suppose, of its being a contract, has passed a law for that purpose. The law does not contain one essential feature of a contract; it is therefore no contract.

If I have succeeded in establishing the constitutional right of this House to pass a bill to incorporate a bank, the remaining part of the task which I have undertaken to perform will be easily despatched. What are the circumstances under which we are called upon to vote against the renewal of the charter of the Bank of the United States? Europe is still convulsed to its centre by wars, which, in their progress, have overthrowed the ancient bounds and limits of the independent nations among whom it has been immemorially parcelled out. The established usage and law of nations have been trampled under foot, both by land and sea. Such is the prospect abroad. What is our own internal situation? The confiscation of American property in the ports of France, Spain, Italy, and Holland; the depredations committed upon our commerce on the high seas, by British cruisers; and the embarrassments to which it has been subjected in the northern ports of Europe, have already produced numerous bankruptcies in most of our commercial cities. In addition to the embarrassments produced by these causes, we have superadded those which must necessarily result from a non-intercourse with England, the country with which we have hitherto had the most extensive commercial intercourse. From these additional embarrassments we may be saved by the want of good faith in the French Government. Should that be the case, we shall most inevitably be excluded from all commercial intercourse with the European continent, which may be as embarrassing as the non-intercourse with Great Britain. In that event, our European commerce will be confined solely to Great Britain and her dependencies. Such, sir, are the circumstances under which we are called upon to dissolve suddenly an institution which circulates thirteen millions of dollars, and to which the commercial class of this nation are indebted fourteen millions of dollars. It must also be remembered, that the same class of your citizens are indebted to the Government nearly twelve millions of dollars, upon which your payments into the treasury for the discharge of the current expenses of the year are solely dependent. Sir, I have never believed that the mantle of Elijah has descended upon my shoulders, and yet I can very easily foresee that individual and national distress must be produced by the sudden dissolution of the bank. The poorer part of your manufacturers and mechanics will be the first to feel the distress. The deputation of mechanics and manufacturers from the city of Philadelphia stated to the committee, that, upon the rejection of the bill for the renewal of the charter, in the other House, the bank began to contract its discounts, and that the whole city was filled with alarm and dismay; that the credit even of bank paper was shaken, and individual confidence had received a severe shock; that, in consequence of this alarm and distress, the bank had determined to return to its former extent of discounts, and to continue it to the last moment; that the contraction of discounts, by the Bank of the United States, had produced a contraction of discounts in the State banks, so that those who had their accounts with the latter banks were in no better situation than the debtors of the former. Whenever a man testifies against his apparent interest, he ought to be believed. It is apparently the interest of the State banks that the Bank of the United States should be put down. It is their interest to discount good paper as largely as possible. The Bank of the United States discounts to the amount of about fifteen millions of dollars. The dissolution of this bank will bring into the market, which will then be solely occupied by the State banks, an excess of fifteen millions of good paper to be discounted. The demand for discounts, when compared with the discounting capital, will be greatly increased, and

the benefit of that increase will be exclusively enjoyed by the State banks; it is therefore apparently their interest, that the Bank of the United States should be dissolved. But they have petitioned for the renewal of the charter.

It is said, however, that if so much distress is to flow from the dissolution of the bank, it proves that the banking system is deleterious in its consequences. I will not now enter into the discussion of that question, because it is not the question before the Senate. The system has long been practised upon; is increasing from day to day, and is wholly beyond the control of Congress. But, sir, an inspection of the journals of the Senate, of the present session, affords abundant evidence that this House, at least, believe that the banking system is a beneficial one. We have not incorporated more, I believe, than five banks within the District of Columbia, during the present session. The renewal, or the refusal to renew this charter, does not then decide the question whether the banking system shall be abolished in the United States or not. Gentlemen cannot but be sensible of this. The old Congress incorporated the Bank of North America in the year 1781. New York and Massachusetts had followed the example before the Bank of the United States was incorporated, and every State in the Union has since incorporated banks. The banking system has been too long and too deeply rooted, to be frowned out of existence by Congress. If, however, gentlemen are convinced that the system of banking known and established among us is injurious in its effects, these injurious effects will be diminished by renewing the charter of the Bank of the United States. The State banks, whose credibility, in this case, is unquestionable, have told you that the influence of the Bank of the United States upon them is a beneficial one; that it prevents excessive discounts and emissions of paper, which, but for this check, would inevitably take place in the State banks. Every one of the State banks of Philadelphia, except one, has petitioned for the renewal of the Bank of the United States, and one of the deputation of merchants, who was a director of one of those banks, stated the reason why that bank had declined. That an association in some of the interior towns had been formed, without the authority of law, and that the bank was suspected, by the State Legislature, of having favored it; that a motion had been made in the State Legislature to inquire into the fact, and that, in consequence of this circumstance, that bank had been prevented from petitioning. The check which one bank has upon another is, in fact, the only substantial check which can be devised against excessive discounts and emissions by State banks. You may limit and restrain them by subjecting the directors, individually, to any loss which may be incurred by a violation of the restrictions imposed by the charter. Suppose they discount to twice the amount permitted, and the stockholders, who, alone, have the means of discovery, ascertain the fact; they will not disclose it, because disclosure would destroy the credit of the bank. But it is objected to the renewal of the charter, that it has been a political machine in the hands of our political opponents, and that it has been partial in its operations. That it may have been so used is very possible; but that it has, within the last twelve years, been so used, is not believed. Some of the delegation of the mechanics, all of whom, I believe, were democrats, had been dealers with that bank for twelve years, and they all united in contradicting all idea of its being partial, or influenced, in the slightest degree, by the political character of its customers, during that time. And one of them said, explicitly, that opposition to the renewal in Philadelphia was confined principally to the newspapers. When there were but few banks, and the competition for discounts was great, I can readily believe that it might have had some influence upon political questions, and that it was guilty of partiality; and so would any other institution be, placed in the same situation. The multiplication of banks, in the United States, has given us the most ample security against the repetition of either of these offences. The most formidable objection against the expediency of the renewal, in the estimation of those who are opposed to it, is, that a large portion of the stock is held by foreigners; and apprehensions are entertained that these foreigners have had, and will again have, some influence

upon our public councils; that, but for the influence thus acquired, we should have taken stronger measures in vindication of our rights. If this influence really exists, some degree of influence must also exist and operate upon those foreigners in our favor. If the most profitable part of their capital is that which is invested in our bank stock, which the Government has sold to them, will they not exert their influence upon their own councils, upon any apprehension of war between the two countries? Surely the country in which their capital is employed, and who can, at any moment, lay their hands upon it, must have more influence upon the conduct of the capitalists, than they can possibly have upon it. How long shall we frighten ourselves with empty phantoms and imaginary evils? How long shall we indulge ourselves in the pursuit of some imaginary theoretical good, which, like the will o' the wisp, continually eludes our grasp? Sir, we have the experience of twenty years for our guide. During that lapse of years your finances have been, through the agency of this bank, skilfully and successfully managed. During this period, the improvement of the country, and the prosperity of the nation, have been rapidly progressing. Why, then, should we, at this perilous and momentous crisis, abandon a well tried system; faulty, perhaps, in the detail, but sound in its fundamental principles? Does the pride of opinion revolt at the idea of acquiescing in the system of your political opponents? Come! and with me sacrifice your pride and political resentments at the shrine of political good. Let them be made a propitiatory sacrifice for the promotion of the public welfare, the savor of which will ascend to Heaven, and be there recorded as a lasting, an everlasting evidence, of your devotion to the happiness of your country.

FEBRUARY 12, 1811.

Motion to strike out the first section of the bill.

Mr. LEIB spoke in favor of the motion, and Mr. LLOYD against it.

Mr. LEIB said that it was not his intention to have broken silence on this subject; he meant to content himself with a silent vote, as he considered the merits of the bill to be well understood, and every member's mind made up on them. The subject had become so trite, and was so hackneyed, as to have become threadbare, and he united in opinion with his friend from Tennessee, that it was not only a waste of time, but a work of supererogation to discuss it. He should not have risen but for some remarks which had yesterday fallen from the gentleman from Georgia. Some intimation had been given by him about instructions from the great States, and while it seemed to be matter of complaint that such instructions had been given, it appeared, also, that the complaint extended to the non-production of them to the Senate. He had received instructions from a great State, as the gentleman from Georgia had termed it—for he did not recollect that the gentleman from Maryland, to whom the phrase was attributed, had used it—the great State of Pennsylvania; and those instructions he would have offered to the Senate before, had not some informality in their shape precluded him. The instructions having been mentioned, he deemed it a duty to read them to the Senate.

*In the General Assembly of the Commonwealth of Pennsylvania.*

The People of the United States, by the adoption of the federal constitution, established a General Government for special purposes, reserving to themselves, respectively, the rights and authorities not delegated in that instrument. To the compact, thereby created, each State acceded, in its charter, as a State, and is a party; the United States forming, as to it, the other party—the act of union, thus entered into, being, to all intents and purposes, a treaty between sovereign States. The General Government, by this treaty, was not constituted the exclusive or final judge of the powers it was to exercise: for, if it were so to judge, then its judgment, and not the constitution, would be the measure of its authority.

Should the General Government, in any of its departments, violate the provisions of the constitution, it rests with the States and with the People, to apply suitable remedies.

With these impressions, the Legislature of Pennsylvania, ever solicitous to secure an administration of the Federal and State Governments, conformably to the true spirit of their respective constitutions, feel it their duty to express their sentiments upon an important subject now before Congress, viz. the continuance or establishment of a bank. From a careful review of the powers vested in the General Government, they have the most positive conviction that the authority to grant charters of incorporation, within the jurisdiction of any State, without the consent thereof, is not recognized in that instrument, either expressly, or by any warrantable implication: Therefore,

*Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met,* That the Senators of this State in the Senate of the United States be, and they are hereby, instructed, and the Representatives of this State in the House of Representatives of the United States be, and they hereby are, requested, to use every exertion in their power to prevent the charter of the Bank of the United States from being renewed, or any other bank from being chartered by Congress, designed to have operation within the jurisdiction of any State, without first having obtained the consent of the Legislature of such State.

*Resolved,* That the Governor be, and he hereby is, requested to forward a copy of the above preamble and resolution to each of the Senators and Representatives of this State in the Congress of the United States.

JOHN WEBER,  
*Speaker of the House of Representatives.*  
P. C. LANE,  
*Speaker of the Senate.*

IN THE HOUSE OF REPRESENTATIVES, JANUARY 11th, 1811.

Read and adopted.

Attest,

GEO: HECKERT,  
*Clerk of the House of Representatives.*

IN SENATE, JANUARY 11th, 1811.

Read and adopted.

Attest,

JOSEPH A. M'JIMSEY,  
*Clerk of the Senate.*

Wherefore, he would ask, was this made a cause of complaint? The instructions were given by the Legislature of Pennsylvania to their Representatives. Was the right of the constituent denied to instruct his Representative? For the instructions extended not beyond the representation. It was an affair between Representatives and constituents, and as it did not proceed beyond them, as none else were comprehended, surely no cause could have been given for complaint. For his part he assented to the right of constituents to instruct, and was ready to yield it obedience—it was in accordance with his political maxims; and he should ever consider himself bound to obey instructions as long as they did not require the performance of an act, which would violate that oath which he had taken. On this occasion he yielded obedience with pride and pleasure, as the instructions corresponded with his own impressions of solemn obligation. He considered himself as the Representative of the State of Pennsylvania; to represent, in his mind, was to appear for, or stand in the place of, the body represented, and, in this view, he considered it his duty to speak the sense of his constituents; to do as they would do, were they present; otherwise he should misrepresent them. Did this look like dictation? Did it appear as if the great States desired to give law to the smaller ones, when they only gave their instructions to their own Representatives, and none else were asked to render them obedience? He could not suppose it.

Allusion had been made to Pennsylvania on account of resistance to the laws of the United States. He felt the reproach, and had often experienced mortification from it. He had never countenanced unlawful opposition, nor had the *People* of Pennsylvania: for, when it had existed, it had been local, and had never embraced the State; and, therefore, the *People* of Pennsylvania

were not comprehended in the reproach. The gentleman from Georgia had cited authority for renewing the charter of the Bank of the United States, and had at the same time disclaimed authority; in imitation of his example he would do so too, and he might say, that, for the excitement to insurrection in a part of Pennsylvania, he might refer to a source of authority as high as the gentleman from Georgia had referred for the establishment of the bank charter.

Some reasons had been assigned for the refusal of the Farmers and Mechanics' Bank of Philadelphia to unite with the other banks, in petitioning for a charter, which did not appear to him to be correct. The gentleman who gave the information to the committee was director of the Bank of Philadelphia, and his information must have been derived from out of doors rumor. The Farmers and Mechanics' Bank, Mr. Leib apprehended, refused to petition for the renewal of the charter of the Bank of the United States, for other reasons. He knew a gentleman who managed the affairs of that bank, of superior intelligence and information, and second to none in point of knowledge of banking, who was as much opposed to a renewal as he was, and for a reason not unlike that hinted at by the gentleman from Georgia, that the Bank of the United States was a check upon the other banks, but a check like that of a shark upon the little fish around him. It was in the power of the Bank of the United States, by means of its great capital and the Governmental patronage, to prey upon the other banks whenever it pleased, and this was sufficient reason for the Farmers and Mechanics' Bank to refuse its aid towards a renewal of the charter. These remarks he thought it his duty to submit to the Senate, and, in conformity with his first determination, he avoided any remarks upon the merits of the bill, which he conceived every member was already prepared to decide upon.

MR. LLOYD.—Mr. President: This is, indeed, sir, an up-hill, wind-mill sort of warfare—a novel mode of Legislative proceeding. That a bill should be brought in, on a very important subject, which has been long under consideration, and that a gentleman should move to strike out the first section of the bill, which comprises all its vitality, (for it is the first section which provides for the continuance of the bank) and should be supported in it, without deigning to assign any other reasons than may be derived from newspaper publications, which are so crude and voluminous that not one man out of ten will so far misspend his time as to take the trouble to read them, is indeed extraordinary. Still, if gentlemen choose to adopt this dumb sort of legislation, and are determined to take the question without offering any arguments in support of their opinions, I certainly should not have interfered with their wishes, had I not been a member of the committee who had reported the bill, who had heard the testimony offered by two very respectable delegations from Philadelphia—one from the master manufacturers and mechanics of the city, and the other from the merchants; and had I not taken minutes of this testimony, which I find it is expected from me that I should relate to the Senate.

Sir, I consider the motion to strike out, now under consideration, as going to the entire destruction of the bill, without any reference to its details or modifications; it, therefore, appears to me in order, to take into consideration only the material principle of the bill: that is, whether it be proper that the charter of the bank should be renewed on any terms whatever, let those terms be what they may.

[General SMITH of Maryland stated, that the gentleman was mistaken; he was at liberty to go into consideration of the details, and might discuss them if he pleased.]

I had thought, Mr. President, that when a section of a bill was moved to be struck out, that the subject matter of the part so moved to be stricken out was only in order to be considered; but, however this may be, I take it to be strictly in order to show, that this bank has been ably and fairly conducted; that it has been beneficial to the country, and extremely useful to the Government;



because, if this be shown, it will be the best argument that can be adduced for the rejection of the present motion, and the continuance of the bank.

Sir, it is admitted by the Secretary of the Treasury, in his communications to Congress, that the concerns of this bank have been "skilfully and wisely managed;" that the bank has made a very limited and moderate use of the public moneys deposited with it; and that it has greatly facilitated the operations of Government by the safe keeping and transmission of the public moneys. It has at all times met the wishes of the Government in making loans. It has done this even at six per cent. while the Government have been obliged, in one instance, for a considerable amount, to pay 8 per cent. to other persons for the loans obtained from them. It is admitted, sir, that the bank, at the request of the Treasury Department, has established branches for the purpose of facilitating the operations of the Government at places where such establishments could not but be inconvenient to them in point of management, and disadvantageous in point of profit. I allude more particularly, sir, to the branches of the bank which have been established at New Orleans and at Washington. We have been told this session, sir, by a gentleman from Maryland, (Mr. SMITH) that the territory of Orleans is a very wealthy one; that it probably contains a greater number of rich inhabitants, for its population, than any other district in the Union. Sir, if this be the fact, of whom does this wealthy population consist? Not of the inhabitants, but of the planters; men who are not borrowers of the bank; who, when they realise the sales of their produce, invest the surplus proceeds of it, beyond their expenditure, in the funds, or in the acquisition of new lands, or in the purchase of an additional number of negroes. Sir, it is notorious, that, from the recent possession by the United States of Louisiana, and the certainty that New Orleans must soon be the emporium of an immense western commerce, that city has become more the resort of the young, the adventurous, the enterprising, and the rash, among the mercantile men of our country, than any other city in the Union; and it is obvious, sir, in proportion as the borrowers from a bank consist of persons of this description, in the same proportion must the circumstances of such bank be unsound: and, without possessing any particular knowledge whatever on the state of this bank, if the collections of its debts are speedily made, I would not make the purchase at a discount of twenty-five per cent. from the nominal amount of them.

Sir, we can judge with more accuracy when we come nearer home. What is the state of the bank in this city? What the ability of its debtors to meet their engagements? It is stated the branch has a loan out here of four hundred thousand dollars. Where is the navigation? Where the wealthy merchant? Where are the opulent tradesmen? The extensive manufacturers—to refund this money when they are called on to do it? Sir, they are not to be found; they do not exist here; there are but very few opulent men in the city, and those are either not borrowers of the bank, or not borrowers to an amount of any importance. Where, then, is the money to be found, or what has been done with it? It has probably been taken out of the Bank of the United States to build up the five or six District banks which you have chartered the present session; to furnish the means of erecting the fifty or sixty brick houses which we are told have made their appearance during the last summer; to encourage speculations in city lots, and to enable the proprietors to progress with the half-finished canal which nearly adjoins us. Well, sir, if the bank promptly calls in its loan of four hundred thousand dollars, will the debtors be enabled to meet their payments? Can they sell these city lots, these brick houses, these canal shares? No, sir, in such a state of things they could find no purchasers; they could nearly as well create a world as to furnish the money; and if the bank is to stop, and the payment of this debt be speedily coerced, I would not give two hundred thousand dollars for the whole of it.

In addition to this, I shall show presently, from testimony which cannot be controverted, that the conduct of the Bank of the United States, or its directors, or rather the stockholders, whose agents they are, in addition to being wise, and skilful, and moderate, as the Secretary of the Treasury states them

to have been, that they have also been honorable, and liberal, and impartial; and if, in addition to this, it be proved that the bank has, in every instance where it had the ability to do it, met the wishes of the Government, and, to facilitate its views in the security and collection of the revenue, it has also established branches where it must have been obviously and palpably to the disadvantage of the bank to do it; if it has furnished capitals for the extension of our commerce, if it has provided means for the establishment of important manufactories, if it has had a tendency to raise the price of our domestic produce, and has thus encouraged industry, and improved and embellished the interior of the country; it would seem pretty strongly to follow, that, if it be expedient to preserve the existence of an institution similar to this, then these gentlemen, on the score of merit, added to the experience of twenty years' successful operation, have a fair claim on the Government for a preference in favor of that which is already in operation.

I am aware, sir, that it may be stated, (in opposition to this claim, that these stockholders have enjoyed a boon for twenty years, from which others of their fellow-citizens have been deprived, except on such terms as the sellers of shares chose to prescribe; that the charter expires by its own limitation, and that, beyond this period, they have no right to expect any thing which may not arise from the interest and convenience of the Government. I admit, sir, there is considerable strength in these objections. The exclusive right contained in the charter ever appeared to me as furnishing the most solid constitutional objection against the bank. The creation of monopolies, the granting of exclusive privileges, except so far as to secure to the authors of useful inventions the benefit of their discoveries; the tying up of the hands of the Legislature, and depriving itself of the power of according to a set of citizens, who may come into legal existence to-morrow, or ten years hence, what it had given to another; ever appeared to me hostile to the genius and spirit of the People of the United States, and of all their institutions. Highly, then, sir, as I am induced to think of the conduct of this bank, from the best evidence I can obtain, still, from the considerations I have just mentioned, did the question now before us simply affect the stockholders, I should certainly not trouble the Senate with any remarks in reference to it, and should sit down in entire acquiescence, whether the prayer of their petition for the renewal of the charter of the bank were granted or rejected.

Sir, before quitting this idea of constitutional objection, permit me to make one or two brief remarks in regard to it. It is impossible for the ingenuity of man to devise any written system of government, which, after the lapse of time, extension of empire, or change of circumstances, shall be able to carry its own provisions into operation; hence, sir, the indispensable necessity of implied or resulting powers, and hence the provision in the constitution that the Government should exercise such additional powers as were necessary to carry those that had been delegated into effect. Sir, if this country goes on increasing and extending, in the ratio it has done, it is not impossible that hereafter, to provide for all the new cases that may arise under this new state of things, the defined powers may prove only a text, and the implied or resulting powers may furnish the sermon to it.

Permit me, sir, to put one question on this head, in addition to those so ably, and, to my view, unanswerably put yesterday, by the honorable gentleman from Georgia (Mr. CRAWFORD.) Whence, sir, do you get the right, whence do you derive the power to erect custom houses in the maritime districts of the United States? To attach to them ten, fifteen, or twenty custom house officers, and clothe these men with authority to invade the domicile, to break into the dwelling-house of perhaps an innocent citizen? Whence do you get it, sir, except as an implied power, resulting from the authority given in the constitution, "to lay and collect taxes, duties, imposts, and excises?" If, under this authority, you can erect these custom houses, and create this municipal, fiscal, inquisitorial *gens d'armes*, with liberty to violate the rights of the citizen, to break into his castle at midnight, without even a form of a warrant, on a plausible appearance of probability, or probable cause of suspicion of his se-

creting smuggled goods, which the event may prove to be unfounded—and it will be recollected that a majority of Congress voted for the grant of this power in its most offensive form, when, two years since, they voted for the act enforcing the embargo—I say, sir, if, under this general power to collect duties, you can erect the establishment and give the offensive power just mentioned, can you not, with the concurrence even of the citizens, adopt another more mild and useful mode, and create an establishment for the collection and safe-keeping of the revenue, and place it under the direction of ten or twelve directors, and christen it an office of Discount and Deposit, or of Collection and Payment, as you like best? And can you not, when you have thus created it, give to the directors a power, which, perhaps, they would have without your grant, to receive and keep the cash of those who choose to place it with them, and to loan them money at the legal rate of interest, and, in some places, as at New York, at nearly fifteen per cent. below the legal rate of interest? If you can do this, then you have your bank established, sir,—and most assuredly, if you can do one of these things, you can do the other.

Sir, the constitutional objection to this bank, on the ground that Congress had not the power to grant an act of incorporation, has ever appeared to me most unsound and untenable. Still, gentlemen of intelligence and of integrity, who have thought long and deeply on the subject, think differently from me; and I feel bound to respect their opinions, however opposed they may be to my own. Yet, sir, I will venture to predict, without feeling any anxiety for the fate of the prophecy, that, should this bank be suffered to run down, such will be the state of things, before this time twelve months, that there are other gentlemen, who at present have constitutional objections, but who have not thought so long and deeply upon them, will, before that time, receive such a flood of intelligence, as, on this head, perfectly to dispel their doubts, and quiet their consciences.

Sir, I shall now proceed, as briefly as may be in my power, to state the situation of this bank on the expiration of its charter, and the effects on the community consequent on it. There is now due to the bank, from individuals, fifteen millions of dollars. These fifteen millions of dollars must be collected; the power of the bank to grant discounts will have ceased, and the duty of the directors must require them to make the collection. Sir, how is this to be done? Whence can the money be obtained? I shall demonstrate to you, presently, that already, from an apprehension of a non-renewal of the charter of the bank, business is nearly at a stand; that navigation, real estate, and merchandise, are unsaleable; and that a man worth one hundred thousand dollars, at the recently rated value of property, and owing 10,000 dollars, must still be utterly unable to meet his engagements. Suppose, sir, this property consists in houses or shipping; suppose his warehouse is full of goods, and he has a large sum placed at his credit in England: If, sir, he can neither sell his ships, nor his goods; if he cannot sell his real estate, nor scarcely give away his exchange, which, hitherto, to men who had money in England, has been a never failing source of supply in case of need; I say, under these circumstances, sir, whatever may be his property, he cannot meet his engagements. Sir, can men, thus situated, solvent as they ought to be ten times over, find relief from the State banks? Certainly not, sir. These banks have already gone to the extreme length of their ability; they have always discounted to an amount in proportion to their capital, exceeding that of the Bank of the United States, which is incontrovertibly proved by the dividends they have declared, which have at most universally equalled and frequently exceeded those of the Bank of the United States, notwithstanding the advantage enjoyed by the latter from the deposit of public moneys. Sir, so far from having it in their power, in the case of the dissolution of the Bank of the United States, to assist the debtors to that bank in meeting their engagements to it, I affirm the fact, on which I have myself a perfect reliance, that, take the State banks, from Boston to Washington, and after paying their debts to the Bank of the United States, they have not, nor do I believe they have had, for six months back, specie enough to pay the debts due to their depositors, and the amount of their

bills in circulation. And here I beg it to be observed, that bank bills, and bank deposits, or credits, are precisely the same thing—with this difference, that the latter, from the residence in the neighborhood of the banks, and the vigilance of the proprietors, would be the first called for. How idle is it then to expect to obtain relief from banks which have already extended themselves beyond the bounds of prudence, and have not even at present the ability to meet their existing engagements? It might nearly as well be expected that a man who was already a bankrupt should prop and support his failing neighbor.

Sir, much has been recently said of the amount of specie in the United States. Theoretical men have made many and vague conjectures about it, for, after all, it must rest upon conjecture. Some have estimated it at ten millions of dollars, some twelve, some twenty, and some newspaper scribblers at forty millions of dollars. Sir, I do not believe that, for the last ten years, the United States have at any time been more bare of specie than at the present moment. A few years since, specie flowed in upon us in abundance. This resulted principally from an operation of a very singular and peculiar nature. The Spanish Government, as it was then understood, agreed to pay to France a very large sum of money—many millions of dollars, the precise number I am unable to state—from her possessions in South America. France contracted with a celebrated English banking house, as was said at the time, with either the concurrence or connivance of the English Government, that this money should be obtained through the United States. These bankers, by their agent, contracted with certain American houses, principally I believe in Baltimore, for the importation of this specie from La Vera Cruz into the United States, from whence it was not transmitted in coin to Europe, but invested in adventures in the shipments of produce, the proceeds of which ultimately go into the hands of these bankers in London, or of their friends on the continent, from whom it was finally realized by the French Government, either by drafts from Paris or remittances to that city. This operation had a trebly favorable effect on the United States—it made fortunes for some of the merchants, it furnished the means of shipments to Europe, and it also provided the funds for adventures to the East Indies and to China. But this contract has now been finished some years; and since that time there has been a constant drain of specie from the country. Where it is in future to be procured from, I know not. Not from South America—specie is, I believe, protected from exportation there, except to Spain. From Spain we cannot get it—to a great part of what was Spain we have now scarcely any trade. From France it cannot be obtained: for, if we can get there even by licence, we are obliged to bring back her produce or manufactures. From England it cannot be imported—it is now made highly penal to attempt to send it out of the kingdom. With South America we have but little trade; hitherto we furnished them with smuggled or licensed European and India goods, but now the markets are flooded with these goods, by importations direct from England, and which have been attended with great loss to the shippers. For these reasons, it is difficult to find a vessel sailing from the United States to the Spanish ports in South America. These are among the reasons why the amount of specie now in the country is small, and has for some time past been gradually lessening. Sir, without indulging in vague conjectures, what are the best data from which we have to form an estimate of the amount of specie in the country? The Bank of the United States has five millions of dollars in its vaults. In Boston there are three State banks; in New York I believe four; Philadelphia four; and Baltimore eight; call these nineteen, twenty, and allow on an average one hundred and fifty thousand dollars specie, which probably is as much as they generally possess, and this will make three millions of dollars; this amount, united to the sum in the vaults of the Bank of the United States, gives eight millions of dollars, to which, if you allow two millions of dollars for a loose circulation of specie, you get an aggregate of ten millions of dollars. We are sometimes told of the large sums of money hoarded in our country by individuals; probably there may be some among the German

farmers in Pennsylvania—perhaps more in that State than in any other, or all the others in the Union, but still of no great amount—the reputation of a little money possessed in this way easily swells into a large sum. At any rate, let the amount be what it may, in time of distress and mistrust, it would afford no addition to your circulating medium: for it is precisely in times like these, that men who hoard money will lock it up most securely.

Sir, the circulation of our country is at present emphatically a paper circulation; very little specie passes in exchange between individuals; it is a circulation bottomed on bank paper and bank credits, amounting perhaps to fifty millions of dollars. And on what, sir, does this circulation rest? It rests upon the ten millions of dollars, if that be the amount of specie in the country, and upon public confidence.

The Bank of the United States has fifteen millions of dollars to collect; call it ten, sir—nobody will dispute this—no one will pretend that this bank is not solvent—the remnant of its surplus dividends, and the interest it will have earned, will be sufficient to cover its losses at New Orleans, at Washington, and perhaps elsewhere. In what are these ten millions of dollars to be collected? In bank bills, the credit of which is at least doubtful? No, Sir, in specie; and when this is entirely withdrawn from the State banks, and the banks are unable to pay the money for their bills, who does not see that this confidence is instantly destroyed—that the bubble bursts—that floods of paper bills will be poured in upon them, which they will be unable to meet, and which will for a time be as worthless as oak leaves; that the banks themselves must at least temporarily become bankrupts; and that a prostration of credit, and of all those habits of punctuality which, for twenty years, we have been striving so successfully to establish, will inevitably ensue, and, with them also, there must be suspended the commerce, the industry and manufactures of the country; and a scene of embarrassment and derangement be produced, which has been unexampled in our history.

I will now make a very few remarks on the effects which the dissolution of the bank will have on the revenue and fiscal concerns of the country. Can it be supposed, sir, that the source to which will be imputed the distress that will have flowed from this event, will be the first to be thought of, to be guarded against a participation of the evils that will result from it, in preference to the claims of the most intimate friends and connexions? No, sir, the bonds due to the United States will be collected only at the tail of an execution. But I mean not to press this consideration. Admit, for a moment, that they will all be equally well collected; that they will be paid as usual, although it is palpable, that, for a considerable time, the merchants will be unable to find the means to pay them; yet, admit, sir, that the money is collected in the State banks, how is it to be transmitted? It must come to the centre of the Seat of Government; very little of the public money is expended in the Northern section of the Union. Will it come from the Eastward, in bills of the State banks? Penobscot bank bills sometimes will not pass in Boston; Boston bills pass with difficulty in New York or Philadelphia; and bills of New York State banks probably would not be readily current in Washington. You must, then, sir, if Boston gives you a revenue of two millions of dollars, transmit the greater part of it to the seat of Government, or wherever else it may be wanted, in specie. Can this be done? We have not two millions of dollars of specie in our town, and, I may almost venture to say, never had. Suppose you make this transmission once, can you do it the second time? No, sir, the thing is utterly impracticable. You must adopt some other mode. Exchange between the different cities will not reach the case; frequently it cannot be purchased even for an insignificant amount.

Sir, will your money, when collected, be safe in the State banks? Of this I am extremely doubtful. Solicitations will undoubtedly be made for it from all quarters. They have already been made. In one instance, I am told, sir, the agent of a bank, even during the few past weeks, has been here for the purpose; that suddenly the agent was gone, and in a few days it was discovered that, owing to the failure of one of the debtors to the bank which he repre-

sented, (a great broker) the stock had fallen in one day near twenty per cent. What was this the evidence of, but that those who were most interested in this bank, the stockholders who were on the spot, and best acquainted with its solidity, were willing to wash their hands of their concern in it, at almost any rate of sacrifice? Sir, I only state this, as it was here reported. I have no personal knowledge on the subject. But will you trust your funds with an institution thus precarious, and whose solidity is distrusted even by its best friends?

By an account of the receipts and expenditures for the year 1810, laid on our tables, I find there has been passed to the credit of the United States \$390 received from the Lincoln and Kennebeck bank, in Massachusetts, as an interest on the public money while deposited in that bank. The history of this credit of interest, is, I presume, the following: The money was deposited at the bank for account of the United States; the bank used the money for its own accommodation, and when called on for the amount could not refund it. This allowance of interest is, therefore, for the time during which the bank could not pay the money. The amount, in this instance, is small, sir, and the United States have received a compensation for the use of the money. It proves, however, what has been done, and will be done again. Suppose it should be done on a large scale, and when the Government wants its funds, it cannot command them; an interest on the amount will not pay the salaries of the officers of the nation; it will not feed your armies, nor support your navy; it must derange the whole system of the Government, and, perhaps, bring it to a stand still. I have no hesitation, sir, in declaring, that, in my opinion, if the collection and transmission of the public moneys be entrusted exclusively to the State banks, that, at least, great trouble, perplexity, and occasional defalcation will ensue.

I shall now present, sir, to the Senate, the testimony which was offered to the committee by the two delegations from Philadelphia, the one selected from the master manufacturers and mechanics, and the other from the merchants of that city. It will go conclusively to show the effects which it is apprehended will ensue from the cessation of the Bank of the United States in a city, the first, perhaps, in population and wealth in the Union, and the one least engaged, of any of the great seaports, in proportion to its wealth, in foreign commerce.

The agents from the manufacturers and mechanics told their story in a plain, straight forward manner, each one narrating facts which affected himself, and came within the scope of his personal observations. The representatives of the merchants took a wider scope, and entered into general reasonings, which would present themselves generally to the minds of others, and to the members of the Senate; this explanation is here made to account for the cause why the former testimony, which was very impressively given to the committee, will be stated in detail, and the latter be presented in a much more comprised and concise form.

Mr. Leiper, a respectable, wealthy, and extensive tobacconist, and a proprietor also of some stone quarries, which furnish considerable building stone to the masons in Philadelphia, informed the committee, that he had been long and extensively engaged in a tobacco manufactory. He employs upwards of a hundred workmen, and the expenses of his business amount to about one hundred and sixty dollars a day; he believes that the dissolution of the Bank of the United States would produce a scene of distress in the seaports unprecedented in our country; that it would stop one-half of the master manufacturers and mechanics of the city; that, already, confidence was nearly destroyed; the debts due to manufacturers and mechanics were on open accounts, on which it was impossible to make collections to any amount of consequence; that the manufacturers and mechanics must, unless the state of things be altered, in a great measure stop their business, and dismiss their workmen, and very many of them sacrifice their property, or lose their reputation, and stop payment. Money, he said, could not be commanded, a short time since, however good the security offered; he generally met his engagements easily; he had, however, shortly before leaving home, occasion to remit to his correspon-



dent at Richmond, where he was in the habit of having considerable quantities of tobacco purchased, fourteen hundred dollars; he had on hand towards this sum eight hundred dollars, and found considerable difficulty in procuring the remainder; it had, however, been done since he left home, and remitted, with directions, however, to the agent, to make no more purchases, nor to enter into any new contracts for his account.

Mr. Leiper further stated, that the pressure for money, which recently existed in Philadelphia, has, for the moment, been relieved, although scarcely any sales or purchases are making, except at greatly reduced and destructive rates to the seller. This relief had been obtained, by the Bank of the United States agreeing to continue its full discounts to the 4th of March next; and from the State banks, calculating on the forbearance of the Bank of the United States, having liberally issued new paper. The Bank of Pennsylvania, of which Mr. Leiper has been many years a director, recently let out, in one week, eighty thousand dollars of new money; but if the Bank of the United States is not continued, this momentary relief would only extend the evil, as it would enlarge the liabilities, and still further increase the pressure and distress, and want of money which must then arise.

About seventeen years since, Mr. Leiper felt hurt at the conduct of the Bank of the United States in rejecting his paper; he left the bank, and did his business elsewhere: since that time he had heard no complaints; he believed the concerns of the bank had been conducted fairly and liberally, and that discounts had been afforded to democrats as well as to federalists, to manufacturers and mechanics, as well as the merchants.

Mr. Leiper, sir, has been a zealous and unwavering partizan of the persons now in power, since the adoption of the federal constitution, and his testimony will not probably be thought entitled to less weight on that account.

Mr. Grice, a respectable master ship carpenter, in large business, informed the committee that there are now building, in Philadelphia, 9,145 tons of shipping, a list of which he exhibited to the committee; a larger amount of tonnage than was ever before on the stocks in that city, and which, when finished, would cost about a million of dollars; that the whole of this shipping had been contracted for, except about 1000 tons; that the work was to be done and delivered in the course of the ensuing spring; that there were employed in the city, in connexion with this business, about 2,000 persons; that, owing to the apprehensions excited by the expected non-renewal of the charter of the Bank of the United States, great inconvenience had been already experienced by all classes of men in that city; that confidence was nearly destroyed; he could neither obtain money to pay his workmen or to carry on his business; that the former, unless a change took place, he must dismiss; that such had been the rapid growth of the navigation of the United States, it was difficult to procure good workmen, was highly important to keep them in the country, and would be extremely disadvantageous to have them drawn out of it; that already, owing to the great increase of ship building in Canada, agents were endeavoring to induce them to leave the United States for that country, where they could earn more money than at home. That, if the bank was obliged to stop, the master ship carpenters could neither borrow money nor collect their debts, and must of necessity dismiss their workmen, in which case very many of them would leave the United States, and probably never return. That he did not believe that more than two or three of the persons who had contracted for vessels, in the event of the dissolution of the bank, would be able to fulfil their contracts; that, in consequence, the vessels would be left on the hands of the builders, who, on their part, would be unable to meet their engagements; and that the vessels must finally be sold for the most they would fetch, probably at half their value, to the great loss, and perhaps ruin of the builders.

He had been himself largely in business, and had dealt for many years with the Bank of the United States; he had ever been treated liberally and kindly by it; he viewed himself indebted, in a considerable degree, for his present standing in society, to the accommodations he had received at that bank; still,

in the course of his business, he occasionally took notes, at three, four, or six months, which, having a longer time to run than that at which the bank discounted, of sixty days, he found it convenient to convert into money; this, hitherto, he could always readily do, by carrying the notes to a wealthy merchant, for whom he sometimes did business, and who, hitherto, had always been willing to discount them for him, at bank interest; that, being cut off from his usual discounts at the bank, he recently endeavored to avail himself of this resource, but found it wholly shut against him; that the gentleman whose funds had, hitherto, appeared inexhaustible, would now afford no relief; confidence was destroyed; he knew not who was safe, he would make no new discounts, were the answers he obtained instead of money.

Mr. Grice stated that this out-of-door discounting had been of great service to the manufacturers and mechanics, as they could frequently get money from it, when they could not obtain discounts at the banks; he had reason to believe that the amount of money thus employed in the city, at the legal and advanced rates of interest, was not less than seven millions of dollars; that this resource was now wholly cut off; they who had money would not loan it at any rate, and kept it on hand, either to secure it, or to derive an exorbitant advantage from the necessities and sacrifices of others. Mr. Grice believed that, with very few exceptions, all classes in Philadelphia were in favor of the renewal of the charter of the bank; without it, he believed great numbers of persons would be rendered bankrupts, and general distress, at least among the manufacturers and traders, would ensue.

Mr. Vogdes, a master house carpenter, in extensive business, informed the committee there were, at this time building, about five hundred brick houses, in Philadelphia, two thirds of which belonged to the mechanics of the city, who are in the habit of purchasing lots of land on credit, and who, with their own capitals, which, in many instances, are small, and by borrowing of the banks, or of individuals, and buying materials on credit, are enabled to erect buildings, on the sale of which they depend for the means of meeting their engagements; that he himself at present owns buildings of this description, on the sale of which he had calculated, to the amount of \$130,000. He employs 100 workmen.

Mr. Vogdes stated he had been in the habit of receiving a moderate accommodation at the bank; he had ever been well treated by the bank; the directors had recently reduced his notes, but not in so great a degree as the State banks had done: that the expected termination of the charter of the Bank of the United States had greatly incommoded him, and others probably more; it had nearly suspended all business among the manufacturers and mechanics; it had stopped all sales of real estate, which he does not believe could now be effected at so high a rate, within 30 per cent. as the sales could have been made at some time since; he had himself engaged to sell two houses, one for \$10,000, the contractors for which had fallen from their engagements under one small pretence or another, but, really, as he believes, from the change of times, and the difficulty there existed in procuring money to meet the engagements even of the most wealthy persons; he himself had a note of one of the most respectable and undoubted men in the city; he offered it at three banks, but could not obtain a discount on it, and was finally obliged, in order to meet his engagements and pay his workmen, to sell it at one and a half per cent. per month discount; he knew a broker who had notes to the amount of half a million of dollars laying by him for sale, which were considered good, but which he could not dispose of at any rate; he had a mortgage which he was constrained to sell at 18 per cent. for twelve months; and his son, to pay his workmen, was obliged to have his note discounted on the best terms at which it could be done, which were at 2 per cent. per month.

Mr. Vogdes is concerned in some rolling and slitting mills, which work about 500 tons of iron annually. The proprietors have now on hand about 100 tons of manufactured iron; commonly it is very saleable, at present, owing to the causes that have been mentioned, there is no demand for it. It is usual for manufacturers of iron to lay in their stock when the importa-

tions are largest, generally late in the autumn; this, several of them have done. The price is usually from \$108 to \$120 per ton; it has, however, fallen, from the pressure of the times, to \$85 per ton. This difference the manufacturers must suffer, which, in addition to the want of sale for their manufactures, and the other disadvantages under which they labor, if relief be not speedily obtained, must ruin most of those who have not large capitals to enable them to sustain the shock.

He does not believe that political considerations enter at all into the direction of this bank. He has no knowledge of a well founded complaint of any mechanic, democrat or federalist, not receiving a discount, if entitled to it, and the circumstances of the bank would admit of it. He stated that this was no party question; that, with a very few exceptions, all classes in Philadelphia are in favor of the renewal of the charter of the bank. He is authorized to say, that the person who now has, and for the last twelve months has had, the largest accommodation at the bank, is one of the best known, and most leading democrats in the city. If the charter be not renewed, it is his opinion the most serious and general distress will be the consequence.

Mr. Ord, a respectable rope manufacturer, stated to the committee, that he worked up annually, in his manufactory, about one hundred tons of hemp; that he seldom wanted discounts; when he did, he obtained them with facility from the Bank of the United States, where he had been always well treated, and the business of which, he believed, had been conducted fairly and liberally, without reference to any party or political views whatever. He had hitherto been able to carry on his business with ease. He had large debts out, but now all confidence was destroyed; he could collect nothing, nor could he, without receiving his debts or borrowing money to meet his engagements; and if times did not change, he must stop his business and dismiss his workmen, as must most of the other manufacturers of cordage in the city; that at present all business was at a stand; no sales could be effected. Hemp, which shortly since was at \$350 per ton, had fallen to \$250, without finding a market. He had recently bought some at \$200 per ton, which had sustained so small a degree of damage as to make it scarcely worth naming. Kentucky yarns were also unsaleable, although there were never so many ships on the stocks in Philadelphia, and the cordage for which must be principally manufactured from these yarns, which, but for the present state of things, would have risen rather than declined in price, as the vessels building would have been rigged in the ensuing spring; that the cordage for them would have been wanted nearly at the same time, and could be made much sooner from yarns than from hemp, which would have given them the preference.

Mr. Ord fully concurs with the other gentlemen in the distress which would be produced in consequence of a dissolution of the charter of the bank.

Mr. Fœring, an intelligent and respectable carrier of leather, informed the committee that he was in the habit of purchasing domestic and foreign hides to a large amount, which, after manufacturing, he sold to his customers in the interior, and to the boot and shoe makers in the city, generally on a credit of six months; which, however, frequently extended to twelve months before he received his money; he also ships considerable quantities of leather to other parts of the United States. There are about forty carriers in Philadelphia; and from two to three thousand persons, including those who work the leather, are dependent on this manufactory in the city; a considerable number of whom, he believes, (unless some relief is obtained) from the present scarcity of money, will be greatly distressed, and be dismissed from employment. He has kept his account principally with the Bank of the United States; has always been well treated, and has derived a great facility in his business, both to the north and south, by the bank collecting his debts for him, and passing the amount to his credit in Philadelphia, free of commission and the risk of remitting money. This, he believes, is generally done by the bank for the merchants, manufacturers, and mechanics, who may request it, and cannot be done by the State banks, because they have not branches in the different seaports of the United States, even if they had the disposition to do it. He

has hitherto been able to command, with ease, as large an amount of money as his business required; at present, he cannot collect his debts nor sell his stock, nor get discounts at the banks. Having failed to do it at the Bank of the United States, he applied to a State bank, where he had made some deposits, but without success.

Mr. Fœring states, that confidence is beginning to be impaired even in bank paper. He shortly since bought some hides of an opulent farmer, with whom he had dealt before, and who had always, without objection, received his payments in checks or bank bills; in the recent sale he, however, declined at first to receive them; after some persuasion, he did take them, but immediately went to the bank and demanded the money and took it home with him. Very many of the manufacturers and mechanics have accounts open with the Bank of the United States. He has found discounts more readily obtained there than at the State banks. When he left Philadelphia he had no personal knowledge of any one director of the banks. He has heard no complaints for many years, of the conduct of the bank; the affairs of which he believes to be liberally and honorably conducted. He believes the only consideration with them in discounting, is, whether the paper which is offered be good or bad, without reference to political principles or conduct of the party offering it.

Mr. Fœring asserts, that, in Philadelphia, this is no party question; nearly all classes wish for a continuance of the bank. He does not believe there are a hundred master manufacturers and workmen in the city, who would not readily have signed the memorial, had there been time for it. The subscription was very hastily filled up, or, although it contains the names of between five and six hundred master manufacturers and mechanics, and not one name of any other description, it would have included a large number of others. He carried round one of the memorials, and met with scarcely any one who refused to sign it. He does not believe one out of a hundred would object to it; it was not true that it was a party question; he was a democrat—the whole delegation were democrats; some of them were from the very focus of democracy, the Northern Liberties; and yet they were anxious the charter of the bank should be renewed; indeed, if it were not, or some other relief obtained, a great many of the mechanics and manufacturers must stop their business, dismiss their workmen, and some of them be ruined, as they could now, neither by loans nor by collections, get money enough to meet their engagements and pay their expenses. The journeymen and laborers have not yet felt the pressure; because they have been kept in employ from the hope that business and confidence would be renewed, and money again become as plenty as it had been. Should this not be the case, the clamor and distress will then be heard and felt more universally and extensively.

This, sir, was the narration which was most impressively delivered to the committee. In the sentiments of the delegation there was no variance; all the members of it stated the anxiety and wish for the renewal of the charter which pervaded nearly all ranks in the city of Philadelphia. They united in the opinion that party considerations did not mingle with the question; that, if the bank were permitted to run down, they would, individually, be great sufferers; that a scene of embarrassment and distress would overwhelm great numbers of the citizens; that the State banks could afford no relief, having already extended their discounts to the utmost limits of prudence, calculating on the renewal of the charter, or the forbearance of the Bank of the United States; if this were not obtained, the mischief they have described must be experienced, and the manufacturers and mechanics would fall the first sacrifices; for the merchants were in the habit, either by auction or otherwise, of selling their property for endorsed paper or collateral security, while the manufacturers and mechanics were left exposed on a single name, as it never was their usage to demand security, nor could they do it; were they to attempt it, they would give offence to their employers, and lose not only their present, but all future business from them; and, of consequence, severely as the merchants would suffer by this unexampled stoppage of business, the manufac-

turers and mechanics would feel it still more seriously, and numbers of them undoubtedly be ruined.

A delegation from the merchants of the city of Philadelphia, composed of very respectable men, and equally divided as regards an attachment to the two great political divisions in our country, were heard before the committee. They confirmed the representations that had been made as to the conduct of the bank; the absence of party influence from its management; the interest which was excited for its continuance; the stagnation of business and the prostration of credit and all habits of punctuality, which they believed would ensue from its dissolution. They also stated the serious loss it would occasion to the Government from the inability of the importers to pay their bonds, and their disbelief in the ability of the State banks to afford any permanent relief. These gentlemen gave it as their opinion that the more liberal these banks were now, the worse would be their situation when the Bank of the United States ceased its discounts; that if the affairs of that bank were speedily wound up, the State banks could not meet their engagements and pay for the notes they had in circulation, and that they must, of course, stop payment as well as the merchants; that, in such a state of things, the depositors would withdraw their deposits instantly, and the bank notes which were in circulation would immediately return upon the banks, when they would be unable to pay them; that, already a considerable degree of suspicion was beginning to prevail of the security of bank paper; that there had been recently brought to the Bank of North America notes which had been issued twenty years before, and were supposed to have been lost, but which distrust had again brought to light; that neither navigation, nor merchandise, nor exchange, however unexceptionable, could now be disposed of, except at great sacrifices; that flour had fallen in price from eleven to seven and three quarters of a dollar, or eight dollars per barrel; that the house to which one of the gentlemen belonged, one of the first in point of standing in the United States, had recently received orders for the shipment of 30,000 barrels of flour, which, from the uncertainty of finding funds or procuring purchasers for bills of exchange, as heretofore, lucrative as was the commission, they had declined to execute. That it was the belief of these gentlemen, that the dissolution of the bank, and the collection of its capital at so unfortunate a period as the present, when so much property was otherwise absorbed and sequestered abroad, would be attended with extremely injurious consequences to the commercial, agricultural, and manufacturing interests, and to the revenue and prosperity of the country.

Sir, I shall neither trespass further upon your time, nor weaken this testimony by any comments of mine. I have now only to ask the indulgence of the Senate while I trouble them with a few additional observations, and those chiefly of a personal nature. Most certainly, sir, I am not acting under the bias of any sinister influence or partiality in advocating the renewal of the charter of this bank. I do not own a share of the stock, nor have I owned one for a considerable time past, nor do I owe to the institution a dollar. A few years since, I was in the direction of one of its branches—the bank in Boston—and I was left out of it with very little ceremony; not because I had abused the confidence reposed in me, for at the time I was left out of the direction I did not owe to the bank a single cent, either on my own account, or as surety for another, and my accommodation at the bank had never been large. I was then young, and possessed of but little property, and to enable me to exercise an independence of action, which I hope ever to preserve, I thought it proper to abstain in a considerable degree from accommodations to myself, in order that I might be enabled, if necessary, more freely to check undue accommodations to others. Still, sir, this was a conduct towards me not calculated to produce any peculiar partiality for the institution. It is true I was subsequently offered, from a source which I respected, a seat again at the Board of Directors, with the understanding that I should retain it as long as I pleased.

This I declined, and should ever have declined it. Although from these circumstances it cannot be expected that I should feel any particular regard

for the bank, yet still I am bound to say I feel no hostility towards it. I believe it has been an extremely useful institution; and, from a personal knowledge of the management of the affairs of the branch bank at Boston, I freely declare, that, in my opinion, it is impossible for the concerns of any moneyed institution to be conducted with more correctness, integrity, and impartiality; with more discretion towards the public, or greater safety towards the corporation which created it. I know the directors. They are honorable and estimable men; and at the head of the bank is a gentleman, an Essex junto man, perhaps, he may be called, who would grace any station in any country.

Sir, I have received from the most numerous branch of the Legislature of Massachusetts, a request that I would oppose the renewal of the charter of this bank. I receive the request, sir, with all the deference and respect which is due from me to an expression of the opinion of that honorable body. It has induced me to examine my sentiments, to reweigh, and deliberately reflect upon them. Having done this, and having come into office without an intimation of a wish on my part for public life, without a single stipulation as to my political opinions, or an indication of the course I should pursue, I can only say, I should not act, on a question in which I considered the public interests as implicated, in opposition to the convictions of my own mind, deliberately formed, in consequence of the request, or, if you please, instruction, of the entire Legislature of the State which I have in part the honor to represent, much as I am bound, both by duty and inclination, to respect it, nor in consequence of the request or instruction of all the congregated legislatures on earth. I believe the renewal of the charter of the bank will avert many evils, and I shall vote for it.

It will probably be said, sir, that the distresses which will be incident on the dissolution of the bank, have been greatly exaggerated; that a city in this vicinity is ready to meet the consequences, and to set them at defiance. Let it be recollected, that, in the five New England States, a country for which it is both my pride and pleasure to avow a marked partiality, we have but one branch of the Bank of the United States, and that with a capital of only 700,000 dollars. Surely, then, if a single city, with a population of thirty or forty thousand persons, can meet these consequences, we can sustain them; but we shall undoubtedly suffer much inconvenience, not, however, so great a degree of it as any other district on the seaboard of the United States.

It is possible, sir, that apprehension may have magnified the evils which are to flow from the dissolution of the bank; it is possible, in this untried state of things, there may be found a power of expansion in the moneyed market of the country, which will be equal, or nearly equal, to the unexpected demand that may be made upon it. Should this be the result, I should be extremely gratified to have been mistaken. I should rejoice in my own disappointment.

FEBRUARY 14, 1811.

Same motion.

Mr. GILES spoke at great length in favor of the motion.

Mr. GILES.—Mr. President: It is with great reluctance that I find myself compelled to enter into the discussion of the subject now under the consideration of the Senate; but the observations which fell from the honorable gentleman from Georgia, (Mr. CRAWFORD) were of such a character as to impose on me an irresistible obligation to present that view of the subject which has resulted from the best reflections I have been enabled to bestow on it. This obligation arises from the very high respect I entertain for the Legislature of the State I have the honor to represent—the great respect I feel for the gentleman who made the observations, as well as from the respect which is manifestly due to myself. In executing this unpleasant task, I labor under circumstances of peculiar embarrassment. This embarrassment arises from a conviction, that the views of the subject now proposed to be exhibited will disappoint the



expectations both of the opposers and the favorers of the bill; and that they will not be acceptable to either. I shall not, however, in this instance, depart from my invariable habit, when urged by duty to participate in debate before this honorable body, of disclosing, in the most undisguised manner, my real opinions upon the whole subject, from any consideration of political difficulties or inconveniences which may consequentially affect myself.

In the first place, I find myself called upon to oppose a law on constitutional grounds, which has been in existence for nearly twenty years; and, during that period, I am compelled to admit, has been acquiesced in by the several State Governments, as well as by the General Government, and its republican administrations. It is peculiarly irksome to me to question the constitutionality of a law which has been thus and so long acquiesced in, because it tends to give the character of instability to the laws generally; and in my judgment, tends also, in some degree, to impair the sacred character of the laws, and of course, to lessen their efficacy. In a government like ours, where the laudable boast of every citizen is, that he lives under a government of laws, and not of men, no subject should be touched with more caution and delicacy than one which questions the validity of the laws, lessens the confidence of the citizens in them, or impairs the obligation of obedience to them. Yet, sir, the course of observations I propose to make, may have some of these tendencies, which I should extremely regret, and this apprehension, of course, produces embarrassment. Connected with this idea, is another circumstance of embarrassment. I cannot help observing the inordinate zeal manifested by the opposers of this bill, evidently resulting from a belief that its rejection will lessen the powers of the Federal Government. Although it may be properly directed in the present instance, yet, I think I have seen, and fear I may hereafter see, the same spirit directed against some of the powers and proceedings of the Government, which I have deemed indispensable to its own preservation and its beneficial efficacy toward the People. It may, perhaps, be thought, by some, not becoming in me to say, that I have not been an inattentive observer of the progress of this Government for twenty years; and more particularly, since the republican party came into power. Some of the scenes through which I have passed, have produced an impressive influence on my mind. Such is the nature of the Government, that its administration will vibrate from one principle to another, and it will always require great wisdom to keep its oscillations from wandering too far. Whilst those who preceded us in power, endeavored to legislate into the constitution an unnecessary *constructive* energy, leading to what has been called consolidation, it appears to me that we have taken too much the opposite course, leading to disunion and dissolution, by depriving it *constructively* of its legitimate, necessary, and proper powers. If this course should be unfortunately persevered in, it requires no spirit of prophecy to foresee, that the Government will fall to pieces from the want of due energy in the administration of its legitimate powers; or that some extraordinary means must be resorted to for its resuscitation. When we cast our eyes abroad, and see the aggressions committed on our rights by all the belligerents, &c.; when we reflect that we cannot calculate upon a perpetual exemption from wars and other political calamities, the common lot of all nations; when we look at home, and see the State Governments interfering with and controlling the proceedings of the General Government, even in relation to measures directed towards these aggressing belligerents; when we look around us at home, and see every where the inveterate struggles amongst political partizans for political power; when we recollect the number of choice spirits amongst us, not content with the dull pursuits of civil life; when we look at our extensive defenceless frontier, almost without limits, and see, almost every year, ambitious enterprising individuals, with hostile arms in their hands, raised in defiance of the authority of the United States, &c. &c., it appears to me wonderful that gentlemen should be delighted with curtailing the constitutional powers of the Government, and enfeebling its necessary energies. It is the more wonderful, when we see the same gentlemen, who seem to consider every curtailment of power as an individual triumph to themselves,

the most clamorous against the Government for not taking a manly attitude in repelling foreign aggressions, &c. &c. It appears to me, sir, we often see the same gentlemen, with the best and most patriotic intentions, indulging in these irreconcilable opinions. This is not the first time I have endeavored, in a solemn and impressive manner, to present this subject to the view of the party now in power. Hitherto my efforts have been unavailing.

Let me now indulge a hope, that these reflections will meet with due consideration from those now entrusted, by the People, with the management of their dearest interests. If inducements to these observations were called for, surely sufficient could be found during the republican administrations. I need only call your attention, sir, to the lessons afforded in the inefficacy of our measures to repel foreign aggressions, to assert our rights, and do ourselves justice, &c. and the causes which have led to this inactivity and feebleness of the Government. They will not be found in any defect of powers in the constitution, because, in that respect, they are unlimited; it is because gentlemen, from various weak and groundless alarms and apprehensions, have been unwilling to exert the legitimate energies of the constitution for those great objects. They have theorised and criticized themselves into such fears of the undue exercise of power, that they will not duly exercise it when indispensably necessary to the national character and interests. It is not my wish to extend the powers of the constitution beyond the fair and candid interpretation of its meaning; because, that, in my judgment, it will be sufficient for all salutary purposes. I only regret the unwillingness of gentlemen to act up to that point, and the probable consequences resulting from that indisposition. I have also to unite with the gentleman from Georgia (Mr. CRAWFORD) in expressing my regret, that, in discussing this subject, both within and without the walls of Congress, and particularly in various republican newspapers, an unwise spirit and zeal should have been manifested, which, being more repulsive than persuasive, have, I verily believe, tended to defeat their own object, and to put at hazard the rejection of the bill. Why, on this subject particularly, should we witness such a display of intolerance and denunciation? Why the illiberal ascription of improper motives to the republican members who support the bill? Can any good result to the nation, to the republican party, or to the favored side of the question, by this course of conduct? May it not produce an injurious influence on all? The subject certainly presents fair grounds for a difference of opinion amongst individuals, and even amongst republicans, without searching for the causes of this difference in corrupt motives. Why, then, upon this particular occasion, should the free exercise of opinion be hunted down by a spirit of intolerance or denunciation? It was this spirit which, more than any other cause, blasted the hopes of the republican principle in France, and, if indulged in to excess, will destroy it in any other country upon earth. In the due administration of a republican government, truth and right alone ought to be sought after, and they can only be found by leaving the mind to free investigation; by guarantying to all its faculties, the most perfect exemption from all terror and alarm. I hesitate not to say, that, in my judgment, this spirit, if indulged in, will become more dangerous to the due administration of this Government, more deleterious to its proceedings, than the adoption of any one single measure, however unwise or impolitic—even than the renewal of the charter of the Bank of the United States for twenty years—which now seems to be the cause or the pretext for exciting and stimulating this unfortunate spirit. I am ready to admit, too, that I have never seen this spirit displayed with more positive assertion and bold denunciation upon any question than upon the present. This circumstance induced the gentleman from Georgia (Mr. CRAWFORD) to indulge himself in severe and most sensitive invectives upon this topic; and, in my judgment, not without cause. But it would have afforded me great pleasure, if the gentleman could have prevailed on himself to have viewed these proceedings “in the calm light of mild philosophy,” and not to have presented to the Senate an example in himself, in appearance at least, of the passions and prejudices he so justly reprehended in others. I think I do not

mistake myself, Mr. President, when I profess to enjoy the most entire exemption from this baneful spirit of intolerance; when I profess to feel the greatest respect for the gentlemen who differ from me on this occasion; and for their motives, when I profess to extend all possible indulgence and forbearance towards the opinions of those gentlemen, and feel, at the same time, conscious, that I shall stand in need of the same liberality myself, from both sides of the question. Indeed, sir, I would not deign to accept a victory in argument, founded solely upon the ascription of improper motives to my antagonist. It is my intention to give the arguments of the gentlemen on the other side of the question the most impartial and attentive consideration. I know the gentlemen are personally 'entitled to it, and their observations merit it.

The honorable gentleman from Georgia, (Mr. CRAWFORD) who reported this bill, as the chairman of the committee to whom the subject was generally referred, excited not a little surprise in my mind, by the prefatory remarks which fell from him in support of it. The gentleman prefaced his arguments by observing, that "it had latterly become the fashion to eulogise the constitution of the United States; and that, whenever he heard lavish encomiums applied to it, he could not help apprehending mischief." I acknowledge I could not comprehend the bearing of this remark upon the question under discussion. I, sir, have long been in the habit of venerating the constitution, and have often expressed my admiration at the wisdom of its provisions; and I really had hoped that I might have been indulged in these sentiments and prepossessions, and even the expression of them, upon proper occasions, without exciting in the mind of any gentleman apprehensions of mischief; nor can I divine what species of mischief the gentleman apprehends from that cause. Mr. President, when we look over the whole world known to us; when we particularly cast our eyes over that part of it with which we have the most intimate relations; when we see the rapid strides which despotism is making over the whole human race; when we observe the various and powerful means now in use, to rivet its immoveable dominion upon mankind; when we reflect that the constitution of the United States now affords the only practical experiment upon the republican principle, and the only and last hope for the preservation and extension of the liberties of man; is it wonderful or alarming that we should feel and express some partiality, and even veneration, for an instrument of so peculiar a character, or should even endeavor to teach others to venerate, to cherish, to support it?—an instrument, whose provisions at least exempt us from the general scene of despotism, and may eventually extend their blessings to the whole human race. Or, if, in dwelling upon the wisdom and importance of its provisions, we might pass over some possible defects, without scrutinizing them with an hypercritical eye, might not the omission be indulged without producing animadversion or censure? Sir, we all venerate the republican principle. I know the gentleman from Georgia (Mr. CRAWFORD) does; nor do I pretend that my devotion to it is greater than his; but, sir, I have given the greatest attention to the observations of the gentleman upon the constitution, and I can now say, that my veneration for the instrument, and admiration at the wisdom of its provisions, are not at all impaired, nor diminished, notwithstanding the gentleman's criticisms, &c. I will now, Mr. President, endeavor to exhibit the general character of the constitution; to point out the mode for its correct interpretation; and apply it to the subject now under consideration. In doing so, I propose to follow the course of observations made by the honorable chairman of the committee who reported the bill.

The gentleman proceeded to remark, that, in taking a review of the constitution, he found general as well as incidental powers enumerated therein. I did not see the precise application the gentleman intended to make of this remark, but I have been induced to review the constitution in reference to this subject, and it does appear to me, that the classification and definition of powers is as well arranged as human wisdom could devise. I know that nothing is perfect, which is the work of man; that no language is capable of

perfect definition. But, as far as definition can be drawn from language, I conceive the constitution exhibits as perfect an example as is in existence. In the next place, the gentleman remarked, that there was a number of cases in which Congress had departed from the particular enumerated powers in the constitution, and had resorted to implication, or construction, for the derivation of its powers. The remark is perfectly correct, and I am very ready to admit that there is no such thing as carrying into effect enumerated powers, in any instrument whatever, without the intervention of certain derivative and implied powers. But, if the gentleman had succeeded in showing that there had been aberrations by the Congress of the United States, from the enumerated powers of the constitution—would he think it correct to use those aberrations as precedents for still further aberrations? Ought they not rather to be considered as mementoes on the part of Congress, to induce them to tread with more care, and, if they find that their former errors could not be supported by a fair and candid construction of the constitution, to restrain the laws within its wholesome provisions? Certainly, that is the use to which the history of errors, presented by the gentleman from Georgia, ought to be applied. But, before I proceed to examine the subject with more accuracy, I cannot avoid expressing my surprise at another observation which fell from the gentleman. The gentleman observed, that the argument drawn from the distinction between ends and means was “incomprehensible;” and he went so far as to call it “nonsensical jargon.” It is not only comprehensible to me, sir, as I conceive, but, in my opinion, is the only way in which a just construction of the constitution is to be attained. This results from the peculiar nature and organization of the instrument. Permit me here to endeavor to illustrate my idea by a reference to the constitution itself. The constitution is an instrument which grew out of the situation of the United States, at the time of, and preceding its adoption; and, to show that the constitution recited the great objects of its formation, and then prescribed the means for carrying them into effect, I beg leave to refer to a part of the instrument itself. The preamble, like all other preambles, was designed to express the objects of the instrument, or the ends to be effected by its provisions. “We, the People of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.” What is the plain language of this preamble? The answer is obvious. That certain great *ends*, or *objects*, are here proposed to be effected. In what mode, or by what *means*, are they to be effected? The preamble tells you, sir, “by establishing this constitution, for the United States of America.” That is the mode in which these great *ends* are proposed to be effected; and the body of the instrument prescribes the *means*, which were deemed necessary and proper to the effectuation of these *ends*. This subject will be better understood by throwing the mind back to the period of time when this constitution originated, and reviewing the peculiar political situation of the United States then, and for some time antecedently thereto.

At the time, and antecedently to the establishment of the present constitution, the existing State Governments were in possession of all the powers of sovereignty, subject only to feeble and inefficient articles of confederation, without the means of executing their own will; and resting for its execution solely on requisitions upon the respective States, which might either comply or refuse to comply with such requisitions, at their discretion. A non-compliance was almost invariably the result of State deliberations; and hence the feebleness of the old confederation. The present constitution was adopted as the remedy for this great and alarming evil. Without it, disunion and ruin to the States would have been the inevitable consequences; because, upon actual experiment, the States were found utterly incompetent to the due administration of *all* the powers of sovereignty entrusted to their management. The reason of this incompetency was, that some of the most important powers of sovereignty inherently possessed a geographical influence beyond the geogra-

phical limits of the several States, individually; and their jurisdiction could not transcend their geographical limits. Of this description of powers is the power to declare war, &c. to regulate commerce, &c. &c. and all the other enumerated powers of the constitution. In consequence of the conflicting systems adopted by the several States in relation to some of these powers, which were then in practical operation, particularly in the conflicting regulations of commerce, the States were getting into the most serious collisions, &c. &c. The formidable evils necessarily growing out of this state of things required a formidable and competent remedy. The great subject for the contemplation of every reflecting mind in America was, what that remedy should be?

The wise framers of our admirable constitution, after great deliberation, conceived and executed the only practicable expedient. It consisted in separating the powers of sovereignty; in establishing a General Government, and conferring on it all the powers of sovereignty, whose geographical influence was found co-extensive with the geographical limits of the United States, and reserving to the State Governments, respectively, those powers which were of a more local character, and which possessed no influence beyond the limits of the States, respectively. And also to confer on the General Government "all the means necessary and proper" for executing its own laws in relation to these enumerated powers, without any dependence upon requisitions from the respective State Governments for this indispensable object. The idea was a grand one, and executed with an admirable simplicity, and the most consummate wisdom. Hence it appears, that the great object of the framers of the constitution was, to establish a *general* or *federal* government, and to confer on it all the powers of sovereignty, which, in their nature and character, possessed an influence co-extensive with the United States; and to *reserve* to the previously existing State Governments, all the powers of sovereignty of a more local character, and whose influence did not extend beyond the geographical limits of the States, respectively, and therefore could be rendered completely subservient to State jurisdiction and management. These are the *means* prescribed in the constitution, for effecting the *ends* expressed in the preamble. To the administrators of the General Government, the framers of the constitution have said, We *give* to you all the powers of sovereignty of a *general character*; and to the administrators of the State Governments, they have said, We *reserve* to you all the powers of sovereignty of a *local character*. I verily believe, that, if those various governments should be administered with the wisdom with which this separation of powers was made in the body of the constitution, the People of the United States will not be disappointed in the great and interesting objects proclaimed in its preamble. But I cannot help expressing some apprehensions, that, from an incorrect understanding of the constitution; from an unwise spirit of jealousy; a disposition to strip the Government of its necessary and proper energies, &c. &c. the administrators of the Government may not only disappoint the just expectations of the People in this respect, but may lead to incalculable political mischiefs and disasters. This arrangement was, in my judgment, indispensable to the preservation of the republican principle, and all-important to the dearest interests of the People of the United States. As far as the practical experiment has been carried, it has been attended with the happiest effects. I still hope for the best in its future operations; but I also hope I shall be pardoned for expressing some fears, arising from various manifestations of imbecility in measures relating to our *internal* as well as *external* concerns. From this short history of the origin of the constitution, and the causes which produced it, it evidently appears that the General or Federal Government is, in its nature and character, a government of enumerated powers, taken from previously existing State Governments, *enumerated, and conferred on it, reserving* all unenumerated powers to the State Governments, or to the People in their individual capacities. But if any doubts had existed upon this subject, two amendments to the constitution, growing out of some jealousies lest a contrary interpretation should be given to the constitution, have been adopted, which

ought to put this question to rest for ever. The 9th and 10th articles of amendments to the constitution are as follow:

“The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others, retained by the People.” “The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the People.”

Now, sir, can language be more explicit than this, in declaring that this charter contains certain enumerated powers, and that all not enumerated are reserved to the States or to the People? There is one article reserving rights to the People, and afterwards another article reserving them to the States and to the People.

While on this subject, I beg leave to read a clause in the constitution, which I find among the enumerated powers, and which has been construed by some, as intended to convey a general grant of powers amongst the enumerated powers: “Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States.” The words, “*and to provide for the common defence and general welfare,*” have, by some, been considered as conveying a general grant of power. Nothing is necessary to show that this is not a fair and correct construction of the constitution, but reading it with attention. These terms contain no grant of power whatever, but are used to express the *ends* or *objects* for which particular grants of power were given. Paying the debts, and providing for the common defence and general welfare, are *great objects*, intimately connected with the particular grants of power which are given for their effectuation. And, without these particular grants of power, it would not have been possible for Congress to effect them. The framers of the constitution have simply selected some of the objects expressed in the preamble, and declared, that, to effect them, *and to pay the debts of the United States*, were the considerations which induced them to give to Congress the “power to lay and collect taxes,” &c. Thus, taxes are to be laid, &c. “to pay the debts, and to provide for the common defence and general welfare.” Could they have chosen a more appropriate phraseology? The plain language to Congress is, “You shall have power to lay and collect taxes, to pay the debts,” &c., and to provide for the common defence and general welfare, or, in other words, for the purpose of paying the debts, &c. and of providing for the common defence and general welfare. These words do not contain a general grant of powers, but express the objects of a particular grant of powers. The framers of the constitution could not have done an act so absurd, as to make a general grant of powers amongst an enumeration of specified powers.

I will now, Mr. President, proceed to examine those instances which the gentleman has presented, of the supposed aberrations of the Congress of the United States from the enumerated powers; and I think it will not be difficult to show that there is not a single instance quoted, but which is deducible from a fair and correct interpretation of the express words of the constitution, giving them their common and appropriate meaning.

The first instance presented to our consideration by the honorable gentleman from Georgia, (Mr. CRAWFORD) of the exercise of a power by Congress, not enumerated in the constitution, was the erection of light houses. The gentleman from Massachusetts, (Mr. LLOYD) to whose dispassionate observations I listened with great pleasure, superadded the instance of the erection of custom houses. On these, both of the gentlemen seemed to place great reliance, as cases in point with the one under consideration. Both these powers I conceive are given to Congress by the express words of the constitution; but if I should be mistaken in this idea, they are certainly comprehended as incidental and subservient to, or, in other words, “necessary and proper” for, carrying into effect some of the enumerated powers.

The express words of the constitution give to Congress the power “to lay and collect taxes, duties, imposts, and excises,” &c. &c. “To regulate commerce with foreign nations, amongst the several States, and with the Indian tribes;” “to exercise exclusive legislation in all cases whatever, &c. over



all places purchased by consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and *other needful buildings.*" From these clauses of the constitution, taken in connexion with each other, I think Congress possesses the power to erect light houses and custom houses by the *express words* of the constitution: for both of these descriptions of houses must necessarily be included within the term, "needful buildings;" or, the only construction which is at all applicable to these cases, is, that needful buildings is the general term, and light houses and custom houses are particular instances, or examples, under the general term: or, if I may be so allowed to express my ideas, needful buildings may be considered as the genus, of which light houses and custom houses are particular species. The reason, with the framers of the constitution, for using this general term, is obvious: It was, because it was impossible for them to foresee all the particular species of needful buildings which might become necessary to the salutary operations of this Government, in the course of its complicated and due administration; they, therefore, wisely left that subject to the discretion of Congress, restrained and limited, nevertheless, by the requisition of the consent of the Legislatures of the States, respectively, in every case proposed for the exercise of this discretion. That this is a plain and correct interpretation of the constitution, is evinced by the concurrent opinions of every Legislature of every State which has heretofore ceded lands for any of these objects; and it is to be remarked, that Congress has never attempted to erect any of these buildings without the constitutional requisition of the consent of the States, respectively. But if this term, "needful buildings," had not been expressed in the constitution, I should not hesitate to admit, with these gentlemen, that the erection of light houses and custom houses might properly be deduced from the power to lay and collect taxes, *duties, &c. &c.*, and from the power to regulate *commerce, &c.* which are particular grants of power enumerated in the constitution. Because custom houses are appropriately necessary to the collection of *duties*, and have always been deemed indispensable for that object, as are light houses to the due regulation of commerce.

These two powers are indispensably connected with, and subservient to, particular enumerated powers, and are, therefore, amongst the means which are necessary and proper for their effectuation; and as such, are given to Congress by the express words of the constitution; which are, Congress shall have power "to make all laws 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 or officer thereof." From this course of interpretation, the gentlemen, reasoning from a supposed analogy, have asked, if Congress can derive the right to erect light houses and custom houses from their necessary agency in effectuating the particular powers to which they are said to be appendant, or appurtenant, why may it not, in the same way, derive the right of granting charters of incorporation for the same objects? Or, in other words, if Congress can constitutionally erect custom houses for the purpose, or as the necessary means, of collecting duties, why may it not establish a bank for the same object? &c. The question is admitted to be a fair one; and if a clear distinction cannot be made in the two cases, it will be admitted, either that Congress may constitutionally establish a bank, or, that it has heretofore transcended its powers, in erecting custom houses, &c. A clear and most obvious distinction appears to me to exist in the cases suggested by the gentlemen to be analogous, arising from the striking difference in the nature and essential character of these powers. A custom house is, in its nature, incidental and subservient to the collection of duties. It is one of the common, necessary, and proper means to affect that end. It is believed that, in no commercial country in the world, are duties collected without them. Besides, the erection of custom houses does not involve in it the exercise of any other higher or consequential powers. The same remarks will apply to light houses, as amongst the common, necessary, and proper means for the regulation of commerce, &c.

Is the incorporation of a bank of this character? It is not amongst the common, necessary, and proper means of effecting either of the foregoing enumerated powers, nor of any other enumerated in the constitution; still less is it incidental or subservient to any of the enumerated powers. It wants that connexion, affiliation, and subserviency, to some enumerated power, which are clearly pointed out in relation to the two powers to which it has been said to be analogous. Besides, does granting a charter of incorporation to a bank involve no other higher or consequential power, than merely erecting a needful building for collecting duties? &c. It certainly does. It involves the power to grant charters of incorporation generally; and in this respect, principally, its character is essentially different from both of the powers cited by the gentleman. The power to grant charters of incorporation is not an incidental, subordinate, subservient power: it is a distinct, original, substantive power. It is, also, susceptible of the clearest definition; and not being amongst the enumerated powers, it seems to me that Congress can have no fair claim to its exercise in any case. If Congress had been expressly authorized to grant charters of incorporation generally, then, granting a charter of incorporation to a bank would have been an instance, or amongst the means, of carrying into effect that enumerated power; and would have been as much connected and affiliated with it, as is the erection of custom houses with the collection of duties; but the power to grant charters of incorporation generally, not being expressly given in the constitution, no particular instance involving the exercise of that power can be inferred, by a fair and candid interpretation of the instrument. I do not mean to exaggerate the consequences which might result from an assumption of the power to grant charters of incorporation, &c. It is sufficient for me to say, that it is a power of primary importance; that it involves as many incidental powers in its exercise, as any one of the enumerated powers; that it is equal, if not paramount, to any; and therefore, in my judgment, cannot be assumed, by fair construction, as incidental and subservient to any; and, of course, not as amongst the necessary and proper means for carrying any into effect. In fact, in its nature, it does not, in the smallest degree, partake of the derivative, incidental character. It is original, substantive, distinct in itself, and susceptible of the plainest definition. Hence, whilst I am willing to admit that a power, which is, in its nature, incidental and subservient to any enumerated power, and also amongst the necessary and proper means for carrying it into effect, may be exercised by Congress without the express words of the constitution, I should be very unwilling to admit that Congress should also exercise a power neither incidental or subservient to any of the enumerated powers, nor amongst the necessary and proper means for carrying any into effect; still less should I be inclined to this admission, when the power thus proposed to be derived, incidentally or constructively, involves in it the exercise of almost unlimited powers. To illustrate my idea still further, in this respect, I would observe, that the power to regulate descents, and to regulate the distribution of intestates, I conceive to be original, distinct, substantive powers; and, being amongst the powers, which could in all respects be limited by the geographical boundaries of the individual States, and were, therefore, amongst the powers reserved to the management of the States, might as easily be assumed by Congress as incidental to some one of the enumerated powers, as the assumption of the power to grant charters of incorporation, which I conceive was, for the same reason, left to the management of the States. I believe no gentleman will contend that Congress can, under any candid construction, go so far in relation to those powers; nor do I see how it can in relation to the power of granting charters of incorporation.

I have not overlooked the observation, sir, made by gentlemen to destroy the effect of this course of reasoning, to wit: that the passing every law is an act of sovereignty; that to pass a law to erect a light house, is as much an act of sovereignty, as to pass a law to lay and collect a tax, &c. or to grant a charter to a bank, &c. In fact, that there are no degrees of sovereignty. Without entering into this reasoning, it will be sufficient to show its inapplicability to my argument, to observe, that I have not grounded my distinctions upon any

suggested difference in the degrees of sovereignty; but upon the clear and obvious difference in the nature and character of the powers upon which this sovereignty, &c. is intended to operate, &c.

The gentleman from Georgia (Mr. CRAWFORD) observed, that the clause in the constitution, last read, "Congress shall have power to pass all laws which shall be necessary and proper," &c. had been considered by some, as entirely inoperative; but that he thought it a clause of great importance, &c. In this opinion, I entirely concur with the gentleman; I consider it the most important clause in the constitution. It is, in my judgment, the true key for unlocking the meaning of all the other clauses. The former confederation did not possess the means necessary and proper for carrying into execution its own powers. It was dependent upon the State Legislatures for that purpose; and it was too important a difference in the organization of the present and former Government, to be left to construction. It was therefore expressed, to declare the true character of the present Government; and to proclaim its sovereignty upon all the subjects of the enumerated powers. But, sir, the most important bearing of this clause appears to me to be the designation of the department which should be the ultimate depository of all the power vested in the Government by the constitution. Thus, Congress is declared not only to have power to pass all laws which shall be necessary and proper for carrying into execution the powers particularly confided to its management, but "all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof." This clause, I think, intended to settle all differences between the departments respecting the ultimate deposite of power, in which light it has been hitherto too little regarded. None of these considerations, however, can vary in the smallest degree the results I have attempted to draw against the power of Congress to resort to unenumerated, original, substantive power, general in its character and operation, as the necessary and proper means for carrying into effect any of the enumerated powers.

This brings me to consider the observations of the gentleman (Mr. CRAWFORD) upon the 4th article of the constitution, in the following words:

"Full faith and credit shall be given, in each State, to the public acts, records, and judicial proceedings, of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings, shall be proved, and the effect thereof.

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

"A person charged, in any State, with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

The gentleman observed, that this article contained no grant of power whatever; it was merely declaratory of certain principles, which ought to be left to the States to carry into effect; yet Congress had passed laws in relation to several of these subjects &c. and of course transcended the limits of the constitution; or rather had legislated upon subjects not enumerated, &c. To these observations I would reply that I do consider these clauses as investing the Government, generally, with the exercise of all these powers, although the particular department intended for their exercise is not here designated; but by reading these clauses in connexion with the clause before read, it will be found that Congress is entrusted with the execution of these powers.

Congress shall have power to pass all laws which shall be necessary and proper for carrying into effect the foregoing powers, and all other powers *vested by this constitution in the Government of the United States, &c.* It is then clear that other powers were vested, and intended to be vested in Congress, besides the foregoing enumerated powers; all the powers in the 4th ar-

ticle I presume to be strictly of this description. That this is the understanding of the article, is evinced by the concurrent opinions of the General and State Governments in those respects.

The difference of opinion, therefore, between the gentleman and myself consists in this: That the principles here declared, he thinks, ought to be executed by the State authorities; and I think they were intended to be executed by Congress; and if my interpretation be correct, then Congress has not transcended the limits of its authority.

This solution is at least satisfactory to myself. Another argument urged by the honorable gentleman (Mr. CRAWFORD) requires some attention. The gentleman considered the General and State Governments, taken collectively, as forming one complete sovereignty; he then referred to a clause in the constitution which he conceived excluded the State Governments from the right to grant bank charters; and thence inferred the right in the General Government, &c. Although I have full confidence in the opinions generally expressed by that gentleman, I cannot concur with him in this mode of deriving power to the General Government. It is directly repugnant to the principles of construction I have just suggested, and therefore I cannot yield my assent to it.

The 10th section of the 1st article says: "No State shall enter into any treaty of alliance or confederation; grant letters of marque and reprisal; coin money, emit bills of credit," &c. The particular terms of this section, selected to exclude the States from incorporating banks, are these: "No State shall emit bills of credit." The gentleman supposes that a bank bill is a bill of credit, and therefore, that the States cannot establish an institution to issue a bill of credit. Our ideas differ as to the meaning of the term "bills of credit." As to the argument of the gentleman, that he who does an act by another does it by himself, it does not apply to the present case: for, if we recur, to the charters of incorporation, we shall find that a particular fund is fixed, and that this fund only is answerable for the redemption of the notes. The argument of the gentleman would as well apply to every common note given by one individual to another; because the States as much issue bills of credit by protecting promissory notes, as by authorizing banks to issue such notes. In case of notes given by individuals, they become the property of him to whom they are payable; the drawer is responsible for the amount, and the State enforces the payment. In that case, too, the whole property of the drawer is pledged for the payment. In the case of bank bills, nothing is pledged but the sum specified in the charter. The real meaning of this clause, therefore, I understand to be, to prevent the emission of bills, the payment of which is to be made by the States, themselves; similar to the old continental paper money; for that was evidently in the contemplation of the framers of the constitution, when they very wisely denied the power of issuing such bills to the States.

The gentleman from Georgia next read the 1st section of the third article of the constitution. I should not take up the time of the Senate in noticing it, but that the construction which I then put upon it differs from that which he gave as an universal admission. The gentleman supposed there had been some departure from the constitution, under the following clause: "The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish." The gentleman observes that, at the time of the repeal of the judiciary act, it was generally admitted by the advocates of the repeal, that the supreme court was not tangible. That was not the opinion I then expressed; and the opinion I then expressed has, since that time, been strengthened and confirmed by further reflection. I do not know how the gentleman's argument can apply to the case under consideration, unless he meant to shew that the decision in that respect, made by Congress, was unconstitutional. My opinion is, that it was constitutional, and that Congress might constitutionally modify and change the supreme court in the most essential point; and permit me here to protest against the usual mode of construing the constitution by analogy. Instead of examining the expressions of the constitution itself, to

ascertain its meaning, we are often referred to certain principles borrowed from British jurists. Thus we are often referred to the fundamental principle of the separation of departments, &c. the independence of judges, &c. although neither of these terms are to be found in the constitution; and the principles, although correct in themselves, as general principles, are subject in practice to material qualifications and limitations; and this is particularly the case in the constitution. It appears to me as easy to ascertain the true meaning of the words used in the constitution, as the meaning of these or any other terms; and the error in this mode of reasoning generally, arises from the misapplication of the terms to the subject in question; or, in other words, when reasoning from analogy, in recollecting the resemblances and overlooking the differences in cases supposed to be analogous. To ascertain the true meaning of the constitution, therefore, I have always had reference to its own words, and discarded all reasoning from its analogy to any thing else. By referring to the clause respecting the judicial department, just read, and taking it in connexion with the clause which declares that Congress shall have power to pass all laws which shall be necessary and proper for carrying into execution all the powers, &c. "*vested in any department,*" &c. it will appear obvious, that Congress might, according to the express words of the constitution, establish the judicial department, as it has done; and from time to time alter or modify it at its discretion, &c.; and if Congress thought proper to increase or lessen the number of judges of the supreme court, or to increase or lessen the duties to be performed by them, I would ask, where is the constitutional prohibition? I see none. Congress can designate the duties of the court and the compensation of the judges. They may take away the duties, and of course, also, the compensation. And why? Because we find the service and, compensation inseparably connected, and the one made the consideration of the other. Congress has a right to designate the services which the judges shall perform? And by what authority will they retain compensation after the services to be performed are taken away? It is not the name of office, nor good behavior in it, for which compensation is constitutionally given, but for service rendered. The reason of this article, in relation to the supreme court, is very obvious. It was to obtain an uniformity of decision; and if Congress establish one supreme court, they perfectly satisfy all the injunctive part of the constitution. But, I do not know how the gentleman's reference to this clause could affect the constitutional question in the present case.

I have thus far endeavored to explain and reconcile to the constitution those laws passed by Congress, which the gentleman has considered contrary to the constitution.

I will now proceed to some other arguments of the gentleman. He observed that the bank law had been in existence for twenty years, during which time there had been an acquiescence in the law. I concur in that opinion. I do consider that all the instances presented by the gentleman, to wit: authorizing the bank to lend money; the extension of its right of establishing branches to New Orleans in 1804; and also the act to punish counterfeiting bank paper, in 1807, ought to be considered as acts of acquiescence by the Government in the constitutionality of that law.

I have given the most respectful attention to the arguments used by the opposers of the bill, to account for this acquiescence, and to obviate the reasoning drawn from it by its friends; and, whilst I give the gentlemen in opposition great credit for the ingenuity of the argument, I cannot concur in the reasoning upon which it is founded. I understand it to be bottomed upon the idea, that the bank law was in the nature of a contract; and that, under its influence, private rights became vested in individuals; and that, therefore, the Government was bound to carry it into effect, and that a refusal to have done so, or the repeal of the act, would have been a violation of good faith, &c. &c. The honorable gentleman from Tennessee (Mr. ANDERSON) observed, that the republican administration, viewing this law in the nature of a contract, from a sacred regard to the preservation of good faith, passed these several acquiescing laws, &c. &c. The observation of the gentleman, so far as it respected

the manifestations of good faith on the part of the republicans, was certainly both just and pertinent. The republicans have certainly fulfilled, with the most scrupulously fidelity, all the public engagements of their predecessors as well as their own; yet I do not believe that these several acquiescing laws were passed under the pressure of any obligation for the preservation of good faith.

I concur with the honorable gentleman from Georgia (Mr. CRAWFORD) in the conclusions he drew against this argument, of the imperious obligation due to contracts, under the influence of this law; but not precisely for the reasons he assigned for them. The gentleman observed, that it was essential, in the formation of contracts, that there should be parties, and a *consideration*. That, under the bank law, there was no sufficient consideration for the formation of a contract. In this, I am inclined to think the gentleman is mistaken. I presume the mistake has arisen from an inattention to the circumstances under which the law was passed. Under the terms of the law, there were facilities given to the United States by the bank, of very considerable value. The bonus given was certainly a sufficient consideration to make the contract binding on the part of the United States. But I have several objections to this argument urged against the bill. In the first place, parties and a consideration are not only essential to the formation of a contract, but parties *capable* of contracting. If the bank law be unconstitutional, then it cannot, as I conceive, give a *constitutional capacity* to the artificial person created by it to contract. An unconstitutional corporation has no more a constitutional or legal *capacity* to contract, than a married woman, or even an idiot, each equally laboring under legal disabilities. The argument, therefore, which is used, to shew that the bank law is unconstitutional, and, at the same time, gave a *constitutional capacity* to an artificial person to contract, appears to me to be in the nature of a *felo de se*—it destroys itself. Hence I conclude, that, if the law be unconstitutional in itself, it cannot confer on an artificial person a legal capacity to contract; and that any contract, made under its influence, would be void, for the want of that legal capacity. In the next place, if it be urged that Congress is bound to carry into effect all contracts in which individual rights or interests are concerned, then Congress may, in this way, derive to itself all the powers it may want for an object, instead of getting them by the shorter route of the assumption, under the terms common defence and general welfare; and in a much more exceptionable mode; because, it may not only thus acquire any power whatever, but may also acquire it in perpetuity. Hence, it appears to me that, if gentlemen should succeed in establishing this argument, they would lose more by the admission, than they would gain by limiting the powers of Congress to the enumerations of the constitution. In fact, that argument would be rendered worse than nugatory by this admission.

But I have a third objection to this argument of the obligation of the contract, more formidable than either of the preceding. It appears to me to be an argument against a fact. I know it is so as it respects myself. I have been present when most of these acquiescing laws have been passed, and I have no recollection of having been influenced in the votes I gave in their favor, by a view of the sacred obligations due to contracts; nor do I recollect to have heard this consideration urged by any gentleman, at the time of passing these several laws. In fact, at the time of passing the law for punishing counterfeiting the bills of the Bank of the United States, I recollect no other consideration operating on me, than the information that certain unprincipled individuals were counterfeiting bills in general circulation, to the great injury of the honest part of the community. I thought such conduct ought to be suppressed, and therefore voted for punishing all who should be engaged in it, without much attention to the constitutional question respecting the bank law. I cannot, without some violation to my feelings, agree to have any of my public conduct propped up by an after-thought, nor by any other considerations than those which operated at the time. These remarks, however, will certainly not apply to those gentlemen who voted under the suggested impressions. The general principle operating with me, was this: that all laws pass-



ed by Congress must be considered as constitutional, until they are repealed. Their unconstitutionality is a good reason, and the best reason, for their repeal; but, so long as they remain in the statute book unrepealed, they must be considered constitutional, and, in my judgment, no tribunal on earth can question their validity; nor can I admit that they are subject to the censorial power claimed by the judiciary. I am, therefore, disposed to admit the acquiescence in the bank law, and to give the gentlemen in favor of renewal all the advantage of the precedents quoted by them for that object, considered under all the circumstances of the case; and to what do they amount? Will they go so far as to preclude the present Congress from exercising its sound discretion upon the constitutional question, when brought directly to its consideration? and when, at the time of the several precedents quoted, it was only collaterally or incidentally considered, if considered at all? Certainly not; and, if in exercising the right of reviewing the constitution, the present Congress should be convinced that a former Congress had exceeded its limits, is it not bound by every conscientious consideration to correct the error, and to bring the laws within its wholesome provisions? It appears to me not only to be the right, but the indispensable duty of Congress to do so.

I will now proceed to animadvert upon some important observations made by two gentlemen, upon the right of the Legislatures of the respective States to instruct the Senators of the United States.

Acting, as I now am, Mr. President, under the influence of instructions from the Legislature of the State I have the honor to represent, I feel myself imperiously called upon to notice some observations which fell from the honorable gentleman from Georgia (Mr. CRAWFORD) and the honorable gentleman from Pennsylvania, (Mr. LEIB) in relation to that subject.

The honorable gentleman from Georgia (Mr. C.) feelingly complains of the tendency of instructions from the *great States*, to embarrass the proceedings of this Government, by giving an undue bias to the deliberations, and restraining the free exercise of opinion in this honorable body, &c. &c. Without particularly adverting to the emphasis laid by the honorable gentleman upon the term "*great States*," I agree in general with the gentleman in his opinions in that respect. But, sir, in the present case, it may be observed, that the questions of instruction to Senators was first moved in the State of Maryland. Now, sir, Maryland, although *great* in virtues and resources, is not so *great*, in point of population and extent of territory, as to have obtained the denomination of a *great State*. The proposition, then, however, was rejected by one vote. A similar motion, I am informed, is now depending before the Legislature of New Jersey. New Jersey, like Maryland, although *great* in virtues and resources, is not so *great* in point of population and extent of territory, as to have obtained the denomination of a *great State*. Indeed, sir, the right to instruct Senators has not been exclusively acted upon by the *great States*, generally so called, during the operations of this Government; but, I admit, has been more frequently resorted to by them.

The gentleman from Pennsylvania, (Mr. LEIB) after having read his instructions, informed the Senate that he represented one of the *great States* which had given instructions, and that he felt himself absolutely bound by them in the vote he should give on the present question; that he considered himself the representative of the *Legislature of Pennsylvania*; that it was the principal, and he the agent, and he was bound to carry into effect its will, &c. However high may be the respect I generally entertain for the opinions of the honorable gentleman (Mr. L.) I am compelled to dissent from him in these opinions. I feel myself compelled, too, to express this dissent, lest it might be supposed that, being similarly circumstanced with that gentleman, on the present question, my conduct might be influenced by similar considerations.

I do not consider myself the representative of the *Legislature of Virginia*, although I feel the most unbounded confidence in its wisdom and patriotism, and the highest respect for its proceedings. I consider myself the representative of the *People of the United States*, delegated to that character by the *Legislature of Virginia*. As an evidence of the correctness of this opinion,

I have only to remark, that the laws which I contribute to pass, in the character of Senator, are co-extensive with the United States, and operate upon the People thereof in their individual capacities. They do not operate upon the State Legislatures in their corporate characters, except in cases where, in that character, they are connected with the Federal Government, or instrumental in the execution of some of its powers. Still less do they operate upon the Legislature of Virginia exclusively; of course, I cannot consider myself as the representative of that Legislature exclusively, as its agent, and bound, in all cases, to execute its will upon this floor, &c. &c. It is not necessary, nor do I mean to question the right of the State Legislatures, so long practised upon, to instruct the Senators of the United States, chosen by them, respectively; because that might produce an unmeaning and useless discussion about terms; but I mean to inquire, whether the exercise of the right imposes a constitutional obligation on the Senator instructed, to obey; in what the real obligation to obedience consists; whether the instruction is injunctive and compulsory on him, or addressed only to his discretion; or, in other words, whether the Senator instructed has not a right to disobey? and whether such disobedience violates any moral or political obligation? I also propose to make a few observations on the operation of instructions upon the Federal Government and its proceedings. That the Senator instructed has a constitutional and legal right to disobey his instructions, is most obvious to my understanding, from the single consideration, that a law passed by a vote, in disobedience of instructions, is as valid as a law passed by a vote in obedience to instructions. Obedience to instructions is no where commanded, nor is disobedience of instructions any where prohibited, by any written law or constitution. The act of disobedience does not subject the disobeying Senator to any punishment whatever; of course, the disobedience of instructions violates no political duty, and, if the instructions be addressed only to the discretion of the Senator, his disobedience of them violates no moral obligation; provided he exercises a sound and conscientious discretion, founded upon the best reflections he is able to bestow upon the subject thus presented for consideration. I therefore conclude, if the State Legislatures possess the right to instruct Senators of the United States, chosen by them, respectively, it is an incomplete right, without a remedy, or with a very remote one. The influence or the true obligation of instructions, therefore, arises from the expression\* of opinion by the State Legislatures; and the very high respect which is at all times due from the Senator to the expression of such opinion by the Legislature of the State he represents—a respect which I feel so strongly, that I never would depart from an opinion thus expressed, unless in a clear and indisputable case; but the point I contend for is, that this opinion is not injunctive, compulsory, or mandatory. That it is not in the nature of a command, but addressed to the discretion of the Senator instructed; taking into due consideration all the circumstances of the case connected with such instructions.

It may be said, that the Senator is responsible to the Legislature which appoints him, at the expiration of his term of service; this is true, if applied to the individuals who may compose the Legislature at that time; but it does

\* It is presumed that this was the sense in which the Legislature of Virginia viewed this subject in 1800. In the memorable instructions of that day, the Legislature prefaces them with a declaration to the Senators of the United States, that they deem it important "to express their opinions" upon the subject of instructions. Then follows a course of reasoning, to convince the Senators of the propriety of the opinions thus expressed. The instructions in this case, therefore, were clearly addressed to the discretion of the Senators, and not considered as imposing a positive demand.

In 1808, the Legislature of Virginia instructed the Senators of the State, in the Congress of the United States, to use their best endeavors to obtain amendments to the constitution of the United States, which, in effect, would make the Senators of the United States recallable at the pleasure of the Legislatures of the respective States. It is presumed that the Legislature did not consider its instructions mandatory, and

not vary my conclusion; because, every act he performs, whether instructed or not, is an act of responsibility; and the most which can be inferred from this idea, is, that it increases his responsibility, and would naturally produce caution; but cannot affect his right to disobey.

It cannot escape attention, that I purposely avoid all observations upon the rights of the People, as the legitimate source of all power in their highest sovereign capacities, and upon whom all laws passed by their representatives, operate in their individual characters, to instruct all their representatives, which, I presume, if practicable, would not be denied by any; because such a discussion would be unnecessary upon the present question. The inquiry I am making respects the right of one set of representatives of the People, chosen for certain purposes, to give *mandatory* instructions to another set of representatives of the People, chosen for other purposes, without any written law to that effect, and by the mere force of implication. If it should be contended that the Senators of the United States are the representatives of the Legislatures of the respective States, and not the representatives of the People of the United States, in their individual characters, contrary to the express provisions of the constitution, then this absurd conclusion would follow: that the People of the United States are governed by laws, not passed by their representatives, but by the representatives of their State Legislatures, in their corporate characters, contrary to the fundamental principles of all republican Governments, and directly opposite to the universal expectations of the whole American People.

But, sir, let us resort to the constitution itself, and see the actual relations which do there exist between the Legislatures of the respective States, and the Senators of the respective States, composing the Senate of the United States.

In the 3d section of the 1st article of the constitution, are these words: "The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years, and each Senator shall have one vote." In another place, are these words: "And if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments, until the next meeting of the Legislature, which shall then fill such vacancies." These clauses of the constitution present all the relations between the Legislatures and Executives of the respective States, and the Senators of the United States; and in what do they consist? Certainly in nothing but in choosing the Senators; when that is done, all the functions of the Legislature and Executive are at an end, *quo ad* that particular subject. I see no influence given, either over the votes or the acts of the Senator, during the six years for which he is elected. During that period, the Senator is entrusted with the execution of all the powers and authorities conferred upon him by the constitution, at his own discretion, subject only to his constitutional responsibility, at the expiration of his term of service. But it may be said, that the right to instruct arises from the necessary connexion between the constituent and the representative. To this it may be replied, that this, upon the general princi-

that the instructed Senator was bound to obey, or in other words, had no right to disobey. Because, if the Senator was bound to obey the instructions of the Legislature, it might instruct him to resign, upon the same principle which would authorize instructions how to vote; and if the instructions be mandatory, the instructed Senator would be bound to resign as well as vote conformably thereto; of course, such an amendment to the constitution would be unnecessary. The Senators from Virginia, with the most respectful attention to the opinion expressed by the Virginia Legislature, in the most respectful terms, presented the instruction to the consideration of the Senate; but never thought themselves bound to use their best endeavors to obtain the amendment to the constitution, as they were instructed to do. The Legislature, however, forwarded the proposed amendment to the other State Legislatures for concurrence; and, as far as information is yet received, the proposition has been unanimously disapproved by every State Legislature which has acted upon it.

ple, is a constructive or an implied right; but I doubt its application, at least in its full force, to this particular case. The relations in this case, between the constituent and the representative, are expressly prescribed by the constitution; neither of them can claim any original or native rights; and no construction nor implication ought to be inferred against its provisions, not inconsistent with its obvious meaning. Besides, if this mere implication be the only foundation of the right of the State Legislatures to instruct Senators of the United States, it would equally apply to the State Executives, when, from adventitious causes, they exercise the right of appointment—a right, I believe, not generally admitted, even by the State Legislatures; especially in the sense contended for, that the instruction is *mandatory* and *conclusive*. Will it not also apply to the connexion between the electors and the President of the United States? I find, by the 2d article of the constitution, that the President of the United States is to be chosen by electors appointed by the several States, and they, of course, become the immediate constituents of the President. But what would be thought of their inferring a right, from this connexion, to instruct the President of the United States in what manner to execute the powers and duties of his office? And what would be the probability of a concurrence in such instructions from the different electors of the several States? The President's responsibility is tested at the expiration of every four years; that of a Senator, at the expiration of every six years; and I believe that the changes of the individual electors in the several States are not greater, at the expiration of every four years, than are the changes in the individuals composing the State Legislatures, at the expiration of every six years. The responsibility of the President of the United States, therefore, may be considered as great, or greater, to his electors, than the responsibility of the Senators of the United States to the respective State Legislatures: for, I contend, the responsibility of the Senator is not to the State Legislature, in its corporate character, but to the individuals who may happen to compose the State Legislature at the time of his election, in their individual capacities, described only by the corporate term. It is believed that a pretension of this kind, by the electors of the President of the United States, would not be tolerated even by the State Legislatures. But, is there nothing expressly contained in the constitution of the United States, which would afford a stronger implication against the exercise of this right by the State Legislatures, than the implication from which the right is said to be derived? I think the very first words of the constitution, after the preamble, afford strong evidence of the exclusion of the right of the State Legislatures to give mandatory instructions to the Senators of the State. They are the following: "All legislative powers, heretofore granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Now, sir, upon the principle of mandatory instructions from the State Legislatures to the Senators of the United States, will Congress exercise all the legislative powers granted by the constitution? Will not the State Legislatures essentially participate in the exercise of the legislative powers? If they can command and direct the votes of one distinct and essential branch of Congress, upon all legislative subjects, will it not be a material participation in the legislative powers granted exclusively to Congress? Could they not thus embarrass the whole proceedings of Congress? Could they not render all deliberations on the part of the Senate unnecessary? Could they not thus deprive the Government itself of all energy and efficiency? Surely the wise framers of the constitution could never have anticipated, still less could they have sanctioned, the assertion of such principles.

These considerations bring me to examine the tendency of the principle contended for, upon the character and proceedings of the General Government; and, sir, had it not been for the opinions I entertain on this question, I should not have given the other the critical examination I have attempted; but, sir, such is my opinion of the injurious effects of the practice of giving instructions by the Legislatures of the States to the Senators of the United States, that I deem it my indispensable duty to give the subject a full and

candid investigation; although, in doing so, I know I shall have to encounter strong and honorable, and perhaps insuperable prepossessions against my opinions; particularly in the State I have the honor to represent. I wish it to be understood, however, sir, that, in the discharge of my duties on this floor, I shall always obey the honest dictates of my own judgment; and whenever I see, or think I see, danger of any kind threatening the due administration of this Government, I will, at all times, endeavor to expose it to the view of the People, and particularly of those from whom the unintentional danger is apprehended, regardless of any consequences to myself upon the political theatre. The best mode of appreciating the tendency of *mandatory* instructions upon the proceedings of the Federal Government, will be to bring to our recollection the great points of difference between the present Government and former confederation.

Under the former confederation, the *States voted in their corporate characters*; and if the representatives of any one of them were equally divided in opinion, the State gave no vote. Under the present Government *each representative votes in his individual character*, and upon his individual responsibility. The words of the constitution are, "*and each Senator shall have one vote.*" Under the former confederation, the *requisitions of Congress operated upon the States in their corporate characters*. Under the present Government, the *laws of Congress operate upon the People of the United States in their individual characters*.

The former Congress did *not possess the means* necessary and proper for executing its own will upon the subjects confided to its deliberations. The present Congress *possesses power to carry into effect* its own will or its laws, upon all subjects confided to its management. These are amongst the great points of difference in the character and powers of the two Governments. The former government fell to pieces from the feebleness of its organization, and principally from the want of *power to execute its own will*, from its dependence upon the State Legislatures for the execution of its requisitions.

Now, sir, if the State Legislatures possess the right to give *mandatory instructions* to their Senators, respectively, I see very little difference in the character of the present and former confederation; for there can be very little difference in the practical effect of the principle of requisitions by Congress upon the State Legislatures, which may be rejected at their discretion, and the principle of the State Legislatures making requisitions by *mandatory instructions* upon one essential branch of Congress; which must be obeyed by that branch, in exclusion of all discretion whatever. The feebleness and incongruity of the latter principle is, in my opinion, at least equal to the first; and, if admitted and indulged in, will as certainly terminate in the ruin and dissolution of the Government. Another injurious tendency of *mandatory instructions* is, to add to the locality of feelings and opinions of the deliberations of this honorable body, already too strong by native and habitual prepossessions and predilections. Another injurious tendency of *mandatory instructions* results from their influence in restraining the free exercise of opinion in the deliberations of this honorable body; and, if generally practised upon, would render all deliberations unnecessary. The incongruity of *mandatory instructions* to the operations of this Government will appear more obvious, by reflecting, that, if the same measure were to be concurred in, and required by every State Legislature in the Union, and their Senators *peremptorily* instructed to effect it, without exercising any discretion of their own, it is probable that such would be the difference in the mode or detail of the instructions from the respective State Legislatures, as to put it out of the power of the Senate to effect their object, the Senators from each State being bound to pursue the mode pointed out to them by the Legislature of the State they respectively represent. Indeed, such is my opinion of the tendency of the principle of *mandatory instructions*, that I should regret very much to see it established and frequently resorted to. The practice, in my opinion, would eventuate in producing feebleness and inefficiency in the General Government; collision

among the several States; and finally disunion and dissolution of the General Government.

Sir, I now am, and always have been, attached to an efficient government; a government strong enough to repel external violence, and to ensure domestic tranquillity, and to secure the person and property of the individual citizens. The Federal Government I conceive to be an indispensable instrument in the effectuation of these great objects. I have often wondered at seeing gentlemen of learning, of talents, and of patriotism, rejoicing at the curtailment of its necessary powers. They seem to me to enjoy the triumph of every event of this kind, as much as if they had plucked a laurel from the brow of their most inveterate enemy, and placed it round their own; not being sufficiently impressed, in my judgment, with the importance of the Federal Government to the preservation of their own personal safety, and the security of their property, &c.

The gentleman from Georgia (Mr. CRAWFORD) was pleased to say, that, in giving instructions to the Senators upon this occasion, the *great States* had been influenced solely by motives of avarice. I regret the remark; and I think, if the gentleman would dispassionately reconsider it, he would also regret it. I think he would admit that the Legislature of Virginia could not have acted under the influence of such a motive. And, sir, I feel a pride and a pleasure in standing here to repel the imputation, and to do justice to the real motives of the Legislature. I am at a loss to determine what are the particular circumstances which could have induced the gentleman to ascribe the motive of avarice to the Virginia Legislature on this occasion. It is true, that a branch of the Bank of the United States, with the trifling capital of 300,000 dollars, is established at Norfolk; and that a branch of the Bank of Virginia is also established there. But these circumstances furnish no possible motive of avarice to the Virginia Legislature. The amount of capital and its effects, are quite unimportant to the State. Norfolk itself, although equally respectable and important with any other portion of the State of the same extent and population, is not sufficient to excite the avarice of the Virginia Legislature. The Legislature of Virginia consists principally of agriculturists, residing in the interior of the State, who concern themselves very little with banks and bank operations. They therefore have made no calculations of pecuniary interests upon this occasion. They have acted, in giving instructions, from the purest and most honorable motives, from a conviction that the power of granting charters of incorporation was not *conferred* on Congress by the constitution, but *reserved* to the States, respectively. That this conviction alone was the inducement to their instructions will appear obvious from the instructions themselves, which I beg leave to read:

The General Assembly of Virginia view, with the most serious concern, the late attempts which have been made to obtain from Congress a renewal of the charter incorporating the Bank of the United States.

This Assembly are deeply impressed with the conviction that the original grant of that charter was unconstitutional; that Congress have no power whatever to renew it; and that the exercise of such a power would be not only unconstitutional, but a dangerous encroachment on the sovereignty of the States. Therefore,

*Resolved*, That the Senators of this State in the Congress of the United States be instructed, and our Representatives most earnestly requested, in the execution of their duties, as faithful representatives of their country, to use their best efforts in opposing, by every means in their power, the renewal of the charter of the Bank of the United States.

January 22, 1811.

Agreed to.

ROBERT TAYLOR, S. S.  
JAMES BARBOUR, S. H. D.

A copy from the original.

Test.

JAS. PLEASANTS, C. H. D.

It manifestly appears from these instructions that a conviction of the unconstitutionality of the original bank law was the sole inducement with the Legislature for giving them; and here, sir, permit me to express a hope, that the arguments I have urged, in favor of this opinion, will amply justify the



Legislature in the honest conviction under which it has acted. Permit me, also, to remark, sir, that, whilst I cannot admit that instructions in any case possess a *mandatory* influence over the Senator; and whilst I think the practice of giving instructions in general, and upon general points of policy, is attended with injurious effects upon the proceedings of this Government, &c.; yet, in a case of rights reserved to the States, the Legislatures not only have the right, but it is their duty to express their opinions to, or instruct, their Senators (for I will not cavil about terms) to resist the usurpations of the General Government. It is the mildest way in which their agency can be brought to bear upon all such cases; and, this being a case in point, the instructing Legislatures stand perfectly justifiable in the conduct they have adopted in that respect. I hope, sir, that I have rescued the Legislature of Virginia from the unmerited imputation thrown against it, inadvertently I am sure, by the gentleman from Georgia, (Mr. CRAWFORD) and have shown that it has been influenced by the purest, the most laudable, and the most honorable motives, &c.

I have, sir, thus presented to the Senate the most impartial and comprehensive views, which my best reflections have enabled me to take of the constitutional question involved in the present discussion, and of all the other topics which have been incidentally connected with it. I will now proceed to examine the subject in another point of view.

Upon the question respecting the expediency of the renewal of the bank charter, the friends of the bill claim the whole weight of the argument; whilst some of its opposers tacitly acquiesce in, and others faintly oppose this lofty pretension. Notwithstanding these circumstances, I entertain very great doubts upon that point. There appear to me to be considerations of great weight against it; perhaps more than sufficient to counterbalance those urged in favor of it. Both the gentlemen in favor of the bill relied very much upon the suggestion, that the prosperity of the United States was attributable, in a very great degree, indeed almost exclusively, to the establishment and operation of the Bank of the United States. I believe, sir, nothing is more difficult than to ascertain the true causes of the wealth and prosperity of nations; very few writers have been successful in the investigation of that intricate subject; but the adventitious establishment and operation of the Bank of the United States are amongst the last causes to which I would ascribe their rapid increase of wealth, and their general and extensive prosperity. It is not to any adventitious local causes we are to look for these universal effects. If I were to look for their real causes, I should expect to find them in the genius and wisdom of our political institutions; in permitting every citizen to employ his faculties at his own discretion, for the attainment of property; and securing to him the perfect and uncontrolled enjoyment of it when acquired. Each citizen, thus acquiring wealth and prosperity to himself, would of course accumulate the general stock, &c. These inestimable blessings have also been attended with signal and peculiar advantages, with an exemption from wars, and all other great political calamities, &c. &c. whilst that portion of the world with which we have the most extensive commercial relations has been, and still is, unhappily involved in wars almost interminable, and of the most disastrous characters; from which, till latterly, our commercial fellow citizens have derived advantages almost incalculable, and of course added greatly to the general stock of wealth and prosperity, &c. To these, and such like causes, permanent in their character, and universal in their operation, are properly to be ascribed the general wealth and prosperity of the nation; and not to the adventitious circumstance of the creation of a bank; still less should we rely upon this cause, when we reflect that the bank is local in its operations; whilst the scene of prosperity is universal through the United States, pervading those parts of them where the operations of the bank are scarcely known, and its influence never felt, as much as those parts immediately within the local point of its influence, &c. This argument, therefore, I conceive has been urged by the friends of the bill greatly beyond its real merits, and received with too much facility and effect by its opposers.

The gentleman from Georgia, (Mr. CRAWFORD) upon introducing to the consideration of the Senate the report of the Secretary of the Treasury, was pleased to say, that he should rely in some degree upon that report; although he knew that mentioning it would excite invidious feelings in some of the members of this body. I do not know to whom the gentleman meant to apply his allusion. I can only say, for myself, that I think the report is entitled to a respectful attention; that I would give it the same respect that I would show to a report from the head of any other department. It has always been my invariable habit to form my opinions from the facts contained in the documents before me, regardless of the authors of them; nor could I ever condescend, in the discharge of my duty upon this floor, to permit personal considerations to intermingle with, still less bias my deliberations. But, sir, I see nothing very operative in the Secretary's report. He says, in substance, that he has found in practice the Bank of the United States to be a convenient instrument for facilitating the management of the fiscal concerns of the nation; which I believe is generally admitted. It is also true that the Secretary has found it convenient, and has ventured to express his opinion in favor of the constitutionality of the bank bill; and I am willing to give to the opinion credit for what it is worth. No gentleman would say it ought to preclude the free exercise of opinion by others; and I acknowledge, upon this particular subject, I am not inclined to give it the weight to which that gentleman's opinion would be entitled upon other occasions; because he has uniformly manifested too much zeal for the success of this bill, to leave the mind perfectly free in the investigation. He has, for a long time, used such various and incessant means to effect the renewal, that his mind must, in some degree, be divested of that coolness and impartiality which are indispensable to a critical and correct analysis of the constitution.

The gentleman from Georgia (Mr. CRAWFORD) observed, that it was better to have a bank dependent on the United States, than to increase the dependence of the Government upon the State banks, over which the Government of the United States cannot exercise any control. I would submit to the honorable gentleman, upon further reflection, to say, whether the remark is applicable to the bill under consideration. After the charter is once granted, I see no control reserved to the Government. I fear the controlling influence would be on the other side. If, however, there must be a United States' Bank, I would prefer one of that character to the present project. I have too much confidence in Congress to be alarmed at the influence of a bank under its direction; and should greatly prefer it to one whose direction should be under the influence of British capitalists.

The honorable gentleman from Massachusetts, (Mr. LLOYD) to whose dispassionate, enlightened, and dignified observations, I listened with great pleasure, informed us, that there was a capital of fifty millions of bank paper in circulation in the United States, and the specie circulation for its support did not exceed ten millions—and that was daily diminishing. If this be the true state of the circulating medium, I think the extension of bank paper circulation already too great; and it would not be surprising to me, if a knowledge of this fact alone should lessen its credit. Its excess has certainly become an evil, and, instead of being still further extended, ought to be curtailed. But the most objectionable circumstance to this excess of circulation of bank paper, I conceive to be its inevitable tendency to exclude the specie circulation, which it substitutes. A specie circulation is certainly greatly preferable to paper circulation; it has an intrinsic value in itself, whereas the paper circulation has no intrinsic value; and its currency depends upon the value of the specie circulation which it represents. Of course a circulation of value is excluded from the country, and substituted by one of no value; and in times of war, or other great political calamities, when the Government would stand most in need of the aid of banks for its support, their capacity to lend would be the most diminished, if not entirely destroyed, by the absence of specie capital, which the circulation of bank paper has banished from the country. I presume the gentleman would not consider the banishment of a circulation of intrinsic

value, and substituting it with one of a representative value only, amongst the prosperous effects resulting from the operation of the Bank of the United States. The gentleman from Massachusetts (Mr. LORD) favored the Senate with the perusal of his notes of the evidence of the democratic merchants and manufacturers of Philadelphia. I paid great attention to this information, derived from practical men, and should be sorry to misconceive it; and certainly could not disrespect it. But there were two facts, stated and assented to by all of them, which seem to me irreconcilable with the opinions expressed by those gentlemen, respecting the real causes of the present scarcity of money, and the distresses consequent upon that scarcity. The first fact was, that the bank in Philadelphia discounted precisely as much now, and proposed to do so till the 4th of March, as it heretofore had done. The other fact was, that the paper had not depreciated, but was still in good credit. The complaint was not that the paper, when obtained, was not of good credit, and would not answer their purposes, but that they could not obtain it.

Now, sir, I cannot conceive how the scarcity of money, and consequent distress, can arise from any apprehension of putting down the bank, when precisely the same sum of money is now put into circulation by it as was formerly done, and the money itself in good credit. The pecuniary distresses complained of, in my judgment, are not properly attributable to these causes, but to some others, more inscrutable, and which have escaped the observations of those gentlemen. Perhaps they may more justly be ascribed, in some instances, to the general embarrassment of the commercial world at present, particularly the embarrassments of American commerce at the present moment, and perhaps, in some instances, to some unknown embarrassments and difficulties in the particular occupations of the complaining individuals. There is another fact to show, that the alarm at present is greatly exaggerated, or is certainly greatly beyond any real cause for it. It will appear, from the Secretary's report, that the debts due to the Bank of the United States are only \$600,000 less now, than they were twelve months ago; of course the discounts of the whole institution could only be lessened to that extent, and it is impossible for me to believe that the payment of that trivial sum, compared with the whole mercantile capital of the United States, could be seriously felt by the merchants generally, especially as they have been twelve whole months in paying it. If the payment of that sum, in twelve months, could produce all the distresses we hear of, I hope we shall hear no more of our immense mercantile wealth, and the great extension of our mercantile capital. Yet this is the only real cause for all the clamor and alarm circulating through the country. I think, with some confidence, that the consequences of putting down the bank of the United States must be artificially exaggerated, or very much misapprehended, and this opinion is grounded upon the consideration that it is directly repugnant to the interest of the bank to cause the apprehended distresses, and its directors certainly have the power to avoid the production of them. And I think that, when a calculation is made, and a conclusion drawn, upon the idea that a moneyed institution will pursue its own interest, it may fairly be said to be grounded on a solid consideration. I cannot see how putting down this institution can materially affect the pecuniary abilities of the nation; its actual funds for discounting will be nearly the same; the position of them only will be changed; they will find their way into the State banks, and their ability to discount will be increased proportionably to the increase of their deposits. Nor am I at all alarmed at the suggestion that seven millions of dollars will be drawn out of the country by the British capitalists, because it will not be their interest to do so; their dollars are worth more here than in Great Britain; if drawn there, they would soon be melted down into their depreciated paper circulation. They might also draw bills to advantage, so that I doubt whether an additional dollar will be shipped from the country in consequence of the rejection of this bill. Certainly they will not to any great extent.

I will now, Mr. President, suggest a few considerations, which I acknowledge have great influence on my mind in deciding on the expediency of the

proposed renewal of the charter of the Bank of the United States. I do it with great diffidence, because I have not yet heard them suggested by any other gentleman, at least not precisely as they affect my mind. I will, however, present them to the Senate, and do not wish them to be appreciated beyond what they are worth. In the incorporation of a bank upon the principles now proposed, the great advantage to the stockholders consists in legalising their *credit*, and authorizing them to draw an *interest* on it, as well as on their *money*; individuals can obtain interest only on a *loan of money*; the bank is authorized to obtain *interest* on a *loan of credit*, and that interest, according to the reported dividends of the Bank of the United States, has been 8 per cent. per annum, and it is probable it will continue quite as high. This advantage is not confined to the *credit* arising from the *money owned by the stockholders*; but, also, that which arises from the *deposits of money belonging to other people*. Nor is this all; it extends to the *credit* which arises from the *enormous deposits of public money*. It appears from the Secretary's report, that seven tenths of the whole stock are held by British capitalists; perhaps the proportion is greater, but covered, in some instances, by American names. It also appears that they will have enjoyed the full term of these incorporated advantages on the 4th of March next; of course, a refusal to renew them cannot, in any respect, be considered as a departure from good faith. Now I can see neither the policy nor expediency of extending these favors and advantages voluntarily to these foreigners for twenty years, in exclusion of our own citizens, at least to the extent of the foreign capital now invested in the institution. I think, sir, at the same time, I can see very strong and peculiar grounds of objection to the policy and expediency of this measure. My objection arises from the enormous British influence which notoriously pervades this country; and, I believe, affects the proceedings of Government so seriously, that it can hardly be said to be independent. I verily believe that this baneful influence has already driven the Government from measures which the best interest of the nation required.

Whilst we find Great Britain claiming exclusive dominion on the ocean, possessed of an immense mercantile capital and pecuniary resources, almost inexhaustible, we find many of her subjects intimately connected with our citizens in commercial pursuits. We find many mercantile houses in that country associated with mercantile houses in this, so much so, that when we hear of great failures in Liverpool, we may look out for squalls and breakers at New York. Not only has this influence operated on the people generally, but I state it as my firm conviction, that it has operated, and now operates, on the Government of the United States. Is this mercantile connexion the only source of influence? Not at all, sir; the influence accruing to Great Britain, from the identity of language; from reading British books; from the precedents derived from her systems of jurisprudence, inculcated in early life; from intermarriages, and various other circumstances, paralyzes the efforts of our country, and almost reduces it to a state of colonial dependence. I consider this bank as giving that diversified influence a body and form for action. Have we not been told that this bank has been so operative, as to elevate or depress the State banks at pleasure? As to enlarge or contract the circulating medium? And is it desirable that such an engine should exist in the hands of foreigners? Take away this influence, and Great Britain would stand nearly on the same footing, in relation to us, than any other nation does. I have not overlooked the observations of the gentleman from Georgia, in relation to this subject. He observed, if there be any influence, it is reciprocal; that these foreigners, having funds in the United States' Bank, will use their best exertions to procure a respect for our rights, or to keep the two nations at peace. I believe they will; but, whilst they may have an influence in this country, they will have none in their own. The influence of seven millions of dollars will not be felt in that country where three hundred millions are annually expended, although it will have much weight here. There is, then, no such reciprocation of influence as the gentleman supposes. I would ask the gentleman how this influence has been heretofore exerted, in practice,

upon the two Governments? Has it been able to induce Great Britain to relax in her hostility against us in the smallest degree? Has it prevented or repealed the orders in council? &c. Has it saved from imprisonment one American seaman? Did it prevent the attack upon the Chesapeake? In short, has it restrained the hostile arm of Great Britain from any hostile act? &c. On the other hand, how has it acted on our Government? Has it not been instrumental in paralysing every effort of resisting these hostilities? Has it not cooled us down to a state of humble submission? &c. &c. &c. These are its natural practical effects, and will continue to be so. I am very far from wishing to interrupt the harmony and friendship between the United States and Great Britain, provided they can be preserved on honorable terms, but not by submission brought about by British influence. I find I have trespassed too long on the indulgence of the Senate, but I beg to be permitted to reply to two observations, one of which has been much relied on, and I will pass over all others.

It has been asked by one gentleman, whether this was a very propitious time for putting an end to this establishment? I admit that it is not; that very serious embarrassments attend our commercial operations. The sequestrations of France, the British orders in council, as well as the interruptions from other countries, must have had a very serious effect on our commerce. I regret that this measure is called for, at so inauspicious a time. I am willing to admit that, if we enforce the non-intercourse, the pressure will not be lessened. But are these circumstances so inauspicious, as to warrant us in passing over solemn constitutional objections? Are they such as to warrant us in still further increasing British influence in the nation? These are serious considerations; and, in my judgment, furnish strong grounds of objection to the policy and expediency of the proposed renewal of the bank charter. Gentlemen may speak of the impartiality of the bank as they please; but it is notorious that it has always been hostile to all measures directed against Great Britain, and against the administration generally; evinced in the choice of directors, &c.

The honorable gentleman from Georgia (Mr. CRAWFORD) feelingly complained, that this had artificially been made a party question by the course adopted in its discussion. I fear the remark is too true; that this discussion partakes too much of that character. I have endeavored to exclude every idea of that nature from the observations just made. I always regret to see any question, in discussion before this honorable body, assume the character of parties. It is always unwise in the *party* in power artificially to create party questions. It reminds me of the silly boatswain, who, not content to sail easily along before a pleasant breeze, puts up his whistle for a storm, which, when it arrives, upsets his vessel, and sends her to the bottom. It is our duty to examine every question solely on the ground of right and wrong.

In this country, that party will keep longest in possession of power, which shall do right, and administer justice regardless of all other considerations. I hope all my efforts have heretofore tended to produce these ends. It has been at all times my object to search out right; and vigilantly to pursue it, regardless of incidental consequences. Influenced solely by these considerations, I have endeavored to give this subject the most impartial investigation. I have done so, with the most respectful attention to the motives and reasonings of other gentlemen. I know that I stand much in need of the same liberality and indulgence myself, which, I hope, and doubt not, I shall receive in return.

FEBRUARY 15, 1811.

Motion to strike out the first section depending.

Mr. CLAY spoke in favor of the motion, and Mr. POPE against it.

Mr. CLAY.—Mr. President: When the subject involved in the motion now under consideration was depending before the other branch of the Legislature, a disposition to acquiesce in their decision was evinced: for, although the

committee who reported this bill had been raised many weeks prior to the determination of that House on the proposition to re-charter the bank, except the occasional reference to it of memorials and petitions, we scarcely ever heard of it. The rejection, it is true, of a measure brought before either branch of Congress, does not absolutely preclude the other from taking up the same proposition; but the economy of our time, and a just deference for the opinion of others, would seem to recommend a delicate and cautious exercise of this power. As this subject, at the memorable period when the charter was granted, called forth the best talents of the nation; as it has, on various occasions, undergone the most thorough investigation; and as we can hardly expect that it is susceptible of receiving any further elucidation; it was to have been hoped that we should have been spared an useless debate. This was the more desirable, because there are, I conceive, much superior claims upon us for every hour of the small portion of the session yet remaining to us. Under the operation of these motives, I had resolved to give a silent vote, until I felt myself bound, by the defying manner of the arguments advanced in support of the renewal, to obey the paramount duties I owe my country and its constitution, to make one effort, however feeble, to avert the passage of what appears to me a most unjustifiable law. After my honorable friend from Virginia (Mr. GILES) had instructed and amused us with the very able and ingenious argument which he delivered on yesterday, I should have still forborne to trespass on the Senate, but for the extraordinary character of his speech. He discussed both sides of the question with great ability and eloquence, and certainly demonstrated, to the satisfaction of all who heard him, both that it was constitutional and unconstitutional, highly proper and improper to prolong the charter of the bank. The honorable gentleman appeared to me in the predicament in which the celebrated orator of Virginia, Patrick Henry, is said to have been once placed. Engaged in a most extensive and lucrative practice of the law, he mistook in one instance the side of the cause on which he was retained, and addressed the court and jury in a very splendid and convincing speech in behalf of his antagonist. His distracted client came up to him whilst he was progressing, and interrupting him, bitterly exclaimed, "You have undone me! You have ruined me!" "Never mind; give yourself no concern, said the adroit advocate;" and turning to the court and jury, continued his argument by observing, "May it please your honors, and you, gentlemen of the jury, I have been stating to you what I presume my adversary may urge on his side. I will now show you how fallacious his reasoning and groundless his pretensions are." The skillful orator proceeded, satisfactorily refuted every argument he had advanced, and gained his cause! A success with which I trust the exertions of my honorable friend will on this occasion be crowned.

It has been said by the honorable gentleman from Georgia, (Mr. CRAWFORD) that this has been made a party question, although the law incorporating the bank was passed prior to the formation of parties, and when Congress was not biassed by party prejudices. [Mr. CRAWFORD explained. He did not mean that it had been made a party question in the Senate. His allusion was elsewhere.] I do not think it altogether fair to refer to the discussions in the House of Representatives, as gentlemen belonging to that body have no opportunity of defending themselves here. It is true that this law was not the effect, but it is no less true that it was one of the causes of the political divisions in this country. And, if, during the agitation of the present question, the renewal has, on one side, been opposed on party principles, let me ask if, on the other, it has not been advocated on similar principles? Where is the Macedonian phalanx—the opposition in Congress? I believe, sir, I shall not incur the charge of presumptuous prophecy, when I predict that we shall not pick up from its ranks one single straggler! And if, on this occasion, my worthy friend from Georgia has gone over into the camp of the enemy, is it kind in him to look back upon his former friends, and rebuke them for the fidelity with which they adhere to their old principles?

I shall not stop to examine how far a representative is bound by the instructions of his constituents. That is a question between the giver and receiver



of the instructions. But I must be permitted to express my surprise at the pointed difference which has been made between the opinions and instructions of State Legislatures, and the opinions and details of the deputations with which we have been surrounded from Philadelphia. Whilst the resolutions of those Legislatures—known, legitimate, constitutional, and deliberative bodies—have been thrown into the back ground, and their interference regarded as officious, these delegations from self-created societies, composed of whom no body knows, have been received by the committee with the utmost complaisance. Their communications have been treasured up with the greatest diligence. Never did the Delphic priests collect with more holy care the frantic expressions of the agitated Pythia, or expound them with more solemnity to the astonished Grecians, than has the committee gathered the opinions and testimony of these deputies, and, through the gentleman from Massachusetts, pompously detailed them to the Senate! Philadelphia has her immediate representatives, capable of expressing her wishes upon the floor of the other House. If it be improper for States to obtrude upon Congress their sentiments, it is much more highly so for the unauthorized deputies of fortuitous congregations.

The first singular feature that attracts attention in this bill is, the new and unconstitutional veto which it establishes. The constitution has required only, that, after bills have passed the House of Representatives and the Senate, they shall be presented to the President for his approval or rejection, and his determination is to be made known in ten days. But this bill provides, that, when all the constitutional sanctions are obtained, and when, according to the usual routine of legislation, it ought to be considered as a law, it is to be submitted to a new branch of the Legislature, consisting of the President and twenty-four Directors of the Bank of the United States, holding their sessions in Philadelphia, and if they please to approve it, why then, it is to become a law! And three months (the term allowed by our law of May last, to one of the great belligerents for revoking his edicts, after the other shall have repealed his) are granted them to decide whether an act of Congress shall be the law of the land or not! An act which is said to be indispensably necessary to our salvation, and without the passage of which, universal distress and bankruptcy are to pervade the country. Remember, sir, that the honorable gentleman from Georgia has contended that this charter is no contract. Does it then become the Representatives of the nation to leave the nation at the mercy of a corporation? Ought the impending calamities to be left to the hazard of a contingent remedy?

This vagrant power to erect a bank, after having wandered throughout the whole constitution in quest of some congenial spot whereupon to fasten, has been at length located, by the gentleman from Georgia, on that provision which authorizes Congress to lay and collect taxes, &c. In 1791, the power is referred to one part of the instrument; in 1811, to another. Sometimes it is alleged to be deducible from the power to regulate commerce. Hard pressed, here, it disappears and shows itself under the grant to coin money. The sagacious Secretary of the Treasury, in 1791, pursued the wisest course; he has taken shelter behind general high sounding and imposing terms. He has declared, in the preamble to the act establishing the bank, that it will be very *conducive* to the successful *conducting* of the national *finances*; will *tend* to give *facility* to the obtaining of loans; and will be *productive* of considerable advantage to *trade* and *industry* in general. No allusion is made to the collection of taxes. What is the nature of this Government? It is emphatically federal—vested with an aggregate of specified powers for general purposes, conceded by existing sovereignties, who have themselves retained what is not so conceded. It is said, that there are cases in which it must act on implied powers. This is not controverted, but the implication must be necessary, and obviously flow from the enumerated power with which it is allied. The power to charter companies is not specified in the grant, and I contend, is of a nature not transferable by mere implication. It is one of the most exalted attributes of sovereignty. In the exercise of this gigantic power, we have seen an East India company created, which has carried dismay, desolation, and

death, throughout one of the largest portions of the habitable world. A company which is, in itself, a sovereignty; which has subverted empires and set up new dynasties; and has not only made war, but war against its legitimate sovereign! Under the influence of this power, we have seen arise a South Sea company and a Mississippi company, that distracted and convulsed all Europe, and menaced a total overthrow of all credit and confidence, and universal bankruptcy. Is it to be imagined that a power so vast would have been left by the wisdom of the constitution to doubtful inference? It has been alleged that there are many instances in the constitution, where powers, in their nature incidental, and which would have necessarily been vested along with the principal power, are, nevertheless, expressly enumerated; and the power "to make rules and regulations for the government of the land and naval forces," which, it is said, is incidental to the power to raise armies and provide a navy, is given as an example. What does this prove? How extremely cautious the convention were, to leave as little as possible to implication! In all cases where incidental powers are acted upon, the principal and incidental ought to be congenial with each other, and partake of a common nature. The incidental power ought to be strictly subordinate and limited to the end proposed to be attained by the specified power. In other words, under the name of accomplishing one object which is specified, the power implied ought not to be made to embrace other objects, which are not specified in the constitution. If, then, you could establish a bank to collect and distribute the revenue, it ought to be expressly restricted to the purpose of such collection and distribution. It is mockery, worse than usurpation, to establish it for a lawful object, and then extend it to other objects, which are not lawful. In deducing the power to create corporations, such as I have described it, from the power to collect taxes, the relation and condition of principal and incident are prostrated and destroyed. The accessory is exalted above the principal. As well might it be said, that the great luminary of day is an accessory—a satellite to the humblest star that twinkles forth its feeble light in the firmament of Heaven!

Suppose the constitution had been silent as to an individual department of this Government, could you, under the power to lay and collect taxes, establish a judiciary? I presume not. But, if you could derive the power by mere implication, could you vest it with any other authority, than to enforce the collection of the revenue? A bank is made for the ostensible purpose of aiding in the collection of the revenue, and whilst it is engaged in this, the most inferior and subordinate of all its functions, it is made to diffuse itself throughout society, and to influence all the great operations of credit, circulation, and commerce. Like the Virginia justice, you tell the man whose turkey had been stolen, that your book of precedents furnishes no form for his case; but, then, you will grant him a precept to search for a cow, and when looking for that, he may possibly find his turkey! You say to this corporation, we cannot authorize you to discount, to emit paper, to regulate commerce, &c. No. Our book has no precedents of that kind. But, then, we can authorize you to collect the revenue, and whilst occupied with that, you may do whatever else you please.

What is a corporation, such as the bill contemplates? It is a splendid association of favored individuals, taken from the mass of society, and invested with exemptions and surrounded by immunities and privileges. The honorable gentleman from Massachusetts, (Mr. LLOYD) has said, that the original law, establishing the bank, was justly liable to the objection of vesting, in that institution, an exclusive privilege, the faith of the Government being pledged that no other bank should be authorized during its existence. This objection he supposes is obviated by the bill under consideration. But all corporations enjoy exclusive privileges; that is, the corporators have privileges which no others possess. And if you create fifty corporations instead of one, you have only fifty privileged bodies instead of one. I contend that the States have the exclusive power to regulate contracts, to declare the capacities and incapacities to contract, and to provide as to the extent of responsibility of

debtors to their creditors. If Congress have the power to erect an artificial body, and say it shall be endowed with the attributes of an individual; if you can bestow on this object of your own creation the ability to contract; may you not, in contravention of State rights, confer upon slaves, infants, and femmes covert, the ability to contract? And if you have the power to say that an association of individuals shall be responsible for their debts, only in a certain limited degree, what is to prevent an extension of a similar exemption to individuals? Where is the limitation upon this power to set up corporations? You establish one, in the heart of a State, the basis of whose capital is money. You may erect others whose capital shall consist of land, slaves, and personal estate, and thus the whole property within the jurisdiction of a State might be absorbed by these political bodies. The existing bank contends, that it is beyond the power of a State to tax it; and if this pretension be well founded, it is in the power of Congress, by chartering companies, to dry up the whole of the sources of State revenue. Georgia has undertaken, it is true, to levy a tax on the branch within her jurisdiction, but this law, now under a course of litigation, is considered as invalid. The United States own a great deal of land in the State of Ohio; can this Government, for the purpose of creating an ability to purchase it, charter a company? Aliens are forbidden, I believe, in that State, to hold real estate; could you, in order to multiply purchasers, confer upon them the capacity to hold land, in derogation of the local law? I imagine this will hardly be insisted upon; and yet, there exists a more obvious connexion between the undoubted power which is possessed by this Government to sell its land and the means of executing that power by increasing the demand in the market, than there is between this bank and the collection of a tax. This Government has the power to levy taxes, to raise armies, provide a navy, make war, regulate commerce, coin money, &c. &c. It would not be difficult to show as intimate a connexion between a corporation established for any purpose whatever, and some one or other of those great powers, as there is between the revenue and the Bank of the United States.

Let us inquire into the actual participation of this bank in the collection of the revenue. Prior to the passage of the act of 1800, requiring the collectors of those ports of entry, at which the principal bank or any of its offices are situated, to deposit with them the custom house bonds, it had not the smallest agency in the collection of the duties. During almost one moiety of the period to which the existence of this institution was limited, it was nowise instrumental in the collection of that revenue, to which it is now become indispensable! The collection, previous to 1800, was made entirely by the collectors; and even at present, where there is one port of entry, at which this bank is employed, there are eight or ten at which the collection is made as it was before 1800. And, sir, what does this bank or its branches, when resort is had to it? It does not adjust with the merchant the amount of the duty, nor take his bond; nor, if the bond is not paid, coerce the payment, by distress or otherwise. In fact, it has no active agency whatever in the collection. Its operation is merely passive; that is, if the obligor, after his bond is placed in the bank, discharges it, all is very well. Such is the mighty aid afforded by this tax-gatherer, without which the Government cannot get along! Again, it is not pretended that the very limited assistance which this institution does, in truth, render, extends to any other than a single species of tax—that is, duties. In the collection of the excise, the direct, and other internal taxes, no aid was derived from any bank. It is true, in the collection of those taxes, the farmer did not obtain the same indulgence which the merchant receives in paying duties. But what obliges Congress to give credit to all? Could it not demand prompt payment of the duties? And, in fact, does it not so demand, in many instances? Whether credit is given or not, is a matter merely of discretion. If it be a facility to mercantile operations, (as I presume it is) it ought to be granted. But I deny the right to engraft upon it a bank, which you would not otherwise have the power to erect. You cannot *create the necessity* of a bank, and then plead *that necessity* for its establishment. In the administration of the finances, the bank acts simply as a payer and receiver. The Secretary of the Treasury has mo-

ney in New York, and wants it in Charleston; the bank will furnish him with a check, or bill, to make the remittance, which any merchant would do just as well.

I will now proceed to show, by fact, actual experience, not theoretic reasoning, but by the records themselves of the treasury, that the operations of that department may be as well conducted without, as with this bank. The delusion has consisted in the use of certain high sounding phrases, dexterously used on the occasion. "The collection of the revenue;" "the administration of the finance;" "the conducting the fiscal affairs of the Government;"—the usual language of the advocates of the bank; extort express assent, or awe into acquiescence, without inquiry or examination into its necessity. About the commencement of this year, there appears, by the report of the Secretary of the Treasury, of the 7th January, to have been a little upwards of two millions four hundred thousand dollars in the treasury of the United States; and more than one-third of this whole sum was in the vaults of local banks. In several instances, where an opportunity existed of selecting the bank, a preference has been given to the State bank, or, at least, a portion of the deposits has been made with it. In New York, for example, there was deposited with the Manhattan Bank \$188,670, although a branch bank is in that city. In this District, \$115,080 were deposited with the Bank of Columbia, although here, also, is a branch bank; and yet the State banks are utterly unsafe to be trusted! If the money, after the bonds are collected, is thus placed with these banks, I presume there can be no difficulty in placing the bonds themselves there, if they must be deposited with some bank for collection, which I deny.

Again, one of the most important and complicated branches of the Treasury Department is the management of our landed system. The sales have, some years, amounted to upwards of half a million of dollars; are generally made upon credit; and yet no bank whatever is made use of to facilitate the collection. After it is made, the amount, in some instances, has been deposited with banks, and, according to the Secretary's report, which I have before adverted to, the amount so deposited was, in January, upwards of \$300,000, not one cent of which was in the vaults of the Bank of the United States, or in any of its branches, but in the Bank of Pennsylvania, its branch at Pittsburg, the Marietta Bank, and the Kentucky Bank. Upon the point of responsibility, I cannot subscribe to the opinion of the Secretary of the Treasury, if it is meant that the ability to pay the amount of any deposits which the Government may make, under any exigency, is greater than that of the State banks. That the *accountability* of a ramified institution, whose affairs are managed by a single head, responsible for all its members, is more simple than that of a number of independent and unconnected establishments, I shall not deny; but, with regard to safety, I am strongly inclined to think it is on the side of the local banks. The corruption or misconduct of the parent, or any of its branches, may bankrupt or destroy the whole system, and the loss of the Government, in that event, will be of the deposits made with each; whereas, in the failure of one State bank, the loss will be confined to the deposit in the vaults of that bank. It is said to have been a part of Burr's plan, to seize on the branch bank at New Orleans. At that period, large sums, imported from La Vera Cruz, are alleged to have been deposited with it, and if the traitor had accomplished his design, the Bank of the United States, if not actually bankrupt, might have been constrained to stop payment.

It is urged by the gentleman from Massachusetts (Mr. LLOYD) that as this nation progresses in commerce, wealth, and population, new energies will be unfolded, new wants and exigencies will arise, and hence he infers that powers must be implied from the constitution. But, sir, the question is, shall we stretch the instrument to embrace cases not fairly within its scope, or shall we resort to that remedy, by amendment, which the constitution prescribes?

Gentlemen contend that the construction which they give to the constitution has been acquiesced in by all parties and under all administrations; and they rely particularly on an act which passed in 1804, for extending a branch to New Orleans, and another act, of 1807, for punishing those who should forge or utter forged paper of the bank. With regard to the first law, passed no

doubt upon the recommendation of the Treasury Department, I would remark, that it was the extension of a branch to a territory over which Congress possesses power of legislation almost uncontrolled, and where, without any constitutional impediment, charters of incorporation may be granted. As to the other act, it was passed no less for the benefit of the community than the bank—to protect the ignorant and unwary from counterfeit paper, purporting to have been emitted by the bank. When gentlemen are claiming the advantage supposed to be deducible from acquiescence, let me inquire what they would have had those to have done, who believed the establishment of the bank an encroachment upon State rights? Were they to have resisted, and how? By force? Upon the change of parties in 1800 it must be well recollected that the greatest calamities were predicted as consequences of that event. Intentions were ascribed to the new occupants of power of violating the public faith, and prostrating national credit. Under such circumstances, that they should act with great circumspection, was quite natural. They saw in full operation a bank, chartered by a Congress who had as much right to judge of their constitutional powers as their successors. Had they revoked the law which gave it existence, the institution would, in all probability, have continued to transact business notwithstanding. The judiciary would have been appealed to, and, from the known opinions and predilections of the judges then composing it, they would have pronounced the act of incorporation as in the nature of a contract, beyond the repealing power of any succeeding Legislature. And, sir, what a scene of confusion would such a state of things have presented—an act of Congress, which was law in the statute book, and a nullity on the judicial records! Was it not wisest to wait the natural dissolution of the corporation, rather than accelerate that event by a repealing law, involving so many delicate considerations?

When gentlemen attempt to carry this measure upon the ground of acquiescence or precedent, do they forget that we are not in Westminster Hall? In courts of justice, the utility of uniformity of decision exacts of the judge a conformity to the adjudication of his predecessor. In the interpretation and administration of the law this practice is wise and proper, and without it, every thing depending upon the caprice of the judge, we should have no security for our dearest rights. It is far otherwise when applied to the source of legislation. Here no rule exists but the constitution; and to legislate upon the ground merely that our predecessors thought themselves authorized, under similar circumstances, to legislate, is to sanctify error and perpetuate usurpation. But, if we are to be subjected to the trammels of precedents, I claim, on the other hand, the benefit of the restrictions under which the intelligent judge cautiously receives them. It is an established rule that, to give to a previous adjudication any effect, the mind of the judge who pronounced it must have been awakened to the subject, and it must have been a deliberate opinion formed after full argument. In technical language, it must not have been *sub silentio*. Now, the acts of 1804 and 1807, relied upon as pledges for the rechartering this company, passed not only without any discussions whatever of the constitutional power of Congress to establish a bank, but, I venture to say, without a single member having had his attention drawn to this question. I had the honor of a seat in the Senate when the latter law passed, probably voted for it; and I declare, with the utmost sincerity, that I never once thought of that point, and I appeal confidently to every honorable member who was then present to say if that was not his situation.

This doctrine of precedents, applied to the Legislature, appears to me to be fraught with the most mischievous consequences. The great advantage of our system of government, over all others, is, that we have a *written* constitution, defining its limits, and prescribing its authorities; and that, however, for a time, faction may convulse the nation, and passion and party prejudice sway its functionaries, the season of reflection will recur, when, calmly retracing their deeds, all aberrations from fundamental principle will be corrected. But once substitute *practice* for principle; the expositions of the constitution for the text of the constitution; and in vain shall we look for the instrument

in the instrument itself! It will be as diffused and intangible as the pretended constitution of England. And it must be sought for in the statute book, in the fugitive journals of Congress, and in reports of the Secretary of the Treasury! What would be our condition if we were to take the interpretations given to that sacred book, which is, or ought to be, the criterion of our faith, for the book itself? We should find the holy bible buried beneath the interpretations, glosses, and comments, of councils, synods, and learned divines, which have produced swarms of intolerant and furious sects, partaking less of the mildness and meekness of their origin than of a vindictive spirit of hostility towards each other! They ought to afford us a solemn warning to make that constitution, which we have sworn to support, our invariable guide.

I conceive, then, sir, that we are not empowered, by the constitution, nor bound by any practice under it, to renew the charter of this bank; and I might here rest the argument. But, as there are strong objections to the renewal upon the score of expediency, and as the distresses which will attend the dissolution of the bank have been greatly exaggerated, I will ask your indulgence for a few moments longer. That some temporary inconvenience will arise, I shall not deny; but most groundlessly have the recent failures in New York been attributed to the discontinuance of this bank. As well might you ascribe to that cause the failures of Amsterdam and Hamburg, of London and Liverpool. The embarrassments of commerce—the sequestration in France—the Danish captures—in fine, the belligerent edicts, are the obvious sources of these failures. Their immediate cause is the return of bills upon London, drawn upon the faith of unproductive or unprofitable shipments. Yes, sir, the protests of the notaries of London, not those of New York, have occasioned these bankruptcies.

The power of a nation is said to consist in the sword and the purse. Perhaps, at last, all power is resolvable into that of the purse: for, with it, you may command almost every thing else. The specie circulation of the United States is estimated by some calculators at ten millions of dollars; and if it be no more, one moiety is in the vaults of this bank. May not the time arrive when the concentration of such a vast portion of the circulating medium of the country in the hands of any corporation, will be dangerous to our liberties? By whom is this immense power wielded? By a body, who, in derogation of the great principle of all our institutions—responsibility to the People—is amenable only to a few stockholders, and they chiefly foreigners. Suppose an attempt to subvert this Government—would not the traitor first aim, by force or corruption, to acquire the treasure of this company? Look at it in another aspect. Seven-tenths of its capital are in the hands of foreigners, and these foreigners chiefly English subjects. We are possibly upon the eve of a rupture with that nation. Should such an event occur, do you apprehend that the English premier would experience any difficulty in obtaining the entire control of this institution? Republics, above all other nations, ought most studiously to guard against foreign influence. All history proves that the internal dissensions, excited by foreign intrigue, have produced the downfall of almost every free government that has hitherto existed; and yet gentlemen contend that we are benefitted by the possession of this foreign capital! If we could have its use, without its attending abuse, I should be gratified, also. But it is in vain to expect the one without the other. Wealth is power, and, under whatsoever form it exists, its proprietor, whether he lives on this or the other side of the Atlantic, will have a proportionate influence. It is argued that our possession of this English capital gives us certain influence over the British Government. If this reasoning be sound, we had better revoke the interdiction as to aliens holding land, and invite foreigners to engross the whole property, real and personal, of the country. We had better at once exchange the condition of independent proprietors for that of stewards. We should then be able to govern foreign nations, according to the arguments of gentlemen on the other side. But let us put aside this theory, and appeal to the decisions of experience. Go to the other side of the Atlantic, and see what has been achieved for us there, by Englishmen, holding seven-tenths of the capital of this bank.



Has it released from galling and ignominious bondage one solitary American seaman, bleeding under British oppression? Did it prevent the unmanly attack upon the Chesapeake? Did it arrest the promulgation, or has it abrogated the orders in council—those orders which have given birth to a new era in commerce? In spite of all its boasted effect, are not the two nations brought to the very brink of war? Are we quite sure, that, on this side of the water, it has had no effect favorable to British interests? It has often been stated, and although I do not know that it is susceptible of strict proof, I believe it to be a fact, that this bank exercised its influence in support of Jay's treaty; and may it not have contributed to blunt the public sentiment, or paralyse the efforts of this nation against British aggression?

The duke of Northumberland is said to be the most considerable stockholder in the Bank of the United States. A late lord chancellor of England, besides other noblemen, was a large stockholder. Suppose the prince of Essling, the duke of Cadore, and other French dignitaries, owned seven-eighths of the capital of this bank, should we witness the same exertions (I allude not to any made in the Senate) to re-charter it? So far from it, would not the danger of French influence be resounded throughout the nation?

I shall give my most hearty assent to the motion for striking out the first section of the bill.

Mr. POPE.—Mr. President: In rising, on this occasion, I never more entirely obeyed both my feelings and my judgment. The principle involved in the decision about to be given, is, in my view, of more magnitude than any which has been presented for our consideration, since I had the honor of a seat here. It is no less than whether we shall surrender to the State Governments the power of collecting our revenue, and rely upon the old system of requisitions. We are called upon to return to that state of imbecility and chaos from which this political fabric was reared, by the wisdom and patriotism of the first statesmen of which any age or nation can boast. For twenty years we have collected our revenue, borrowed money, paid our debts, and managed our fiscal concerns, through the agency of a national bank. That it has answered the most sanguine expectations of its authors; that it has been well managed; is admitted by the most decided opponents to the renewal of the charter. Although, in public debate, in newspapers, court yards, muster fields, &c. we have heard much of dangerous powers, violations of the constitution, British influence, and poisonous vipers, &c. which were to sting to death the liberties of the People, yet we find ourselves as free almost as the air we breathe, and hardly subservient to the mildest code of laws by which any nation was ever governed. In the city of Philadelphia, and the state of Pennsylvania generally, where these animals called banks have grown to the most enormous size, we find as sound morals, and as much real practical republicanism, as in those parts of the Union where the rattling of this viper's tail has never been heard; and, in point of solid wealth and internal improvements, mark the contrast. We are required to disregard the lessons of that best teacher, experience, and to try some new scheme. However captivating new theories and abstract propositions were, a few years since, I believe the thinking men of all parties in the nation are perfectly convinced that one ounce of experience and common matter of fact sense is worth more, for the purposes of legislation, than a ship load of theory and speculation. We are told that we must force into the vaults of the bank a large portion of the circulating medium, and thereby depress the price of every thing in the market; we must give a shock to credit of every kind; check and embarrass every branch of agricultural, commercial, and manufacturing industry; give up the young mechanics, manufacturers, and merchants, with small capitals, a prey to the cupidity of moneyed men, who will be tempted to withdraw their funds from trade, to speculate on the wrecks of the unfortunate. This is not mere matter of calculation. I only state facts proved to us by the most unquestionable evidence. We are not only, sir, to ruin many innocent and unoffending individuals, but to derange the national finances. And for what is all this to be done? To promote the public good, or

advance the national prosperity? No, sir, it is not pretended. We are gravely told that we, the Representatives of the People, must sacrifice the People to save the constitution of the People, whose happiness and welfare it was intended to secure. If this be true, it is indeed a strange government under which we live. I advance the opinion with confidence, that no principle which, in its practical effects, outrages the common sense and feelings of mankind, can be a sound one, and we ought to examine it well, and—hesitate much before we give our assent. To bring distress on the country, not to prevent a violation of any positive provision of the constitution, but to correct what we suppose to have been an erroneous construction of it by our predecessors, of which neither the States or the People have ever complained, appears to me more nice than wise.

Disguise this question as you will, sir, and still it will clearly appear to be a contest between a few importing States and the People of the United States. Resolutions have been already laid on our table by gentlemen from the two large States; from which instructions have been received in substance, requiring Congress to give up to the State banks the collection of the national revenue. I am, Mr. President, on the side of the People of the United States. This is, indeed, a question of party, but of a very different character from that which will be attempted to be palmed on the People. It is a contest between the friends and enemies of the federal constitution, revived: for, if I am not mistaken, the power of laying and collecting imposts and duties was strongly objected to by some of the large States, having advantageous sea ports, before the constitution was adopted. I am for preserving both the States and the Union. I consider the safety and independence of the several States, and the liberties of the People, inseparably connected with, and dependent on, the efficiency of the National Government; and it is to me unaccountable that gentlemen in favor of strong measures against foreign nations should be so solicitous to strip the General Government of this very essential part of its power. We were told, a few days since, that our army was so insignificant and contemptible, that it would require a constable with a search warrant to find it. I have heard another gentleman, of very high standing, suggest the propriety of retroceding the ten miles square to the States of Virginia and Maryland. Our gun boats are almost rotten. We have not more frigates and other armed vessels than sufficient to carry our ministers and diplomatic despatches to foreign courts; and if we yield to the States the collection of our revenue, what will remain of the Federal Government with which the People can identify their feelings or affections? In what will this Government consist? It will be a mere creature of the imagination—a political fiction. And, analogous to the fiction in the action of ejectionment, we shall have to suppose its existence, and then bottom our proceedings upon that supposition. If I was hostile to our Federal Union, or wanted to prepare the public mind for a surrender of this happy system of government, I would join in the hue and cry against this institution; I would support every measure calculated to destroy all confidence in, and respect for, this Government, both at home and abroad; I would endeavor to produce, throughout the country, confusion and disorder, and a state of glorious uncertainty: then persuade the People to seek security and tranquillity under some other form of government. The transition, from a wild, factious democracy, to despotism, is often easy, and generally sudden. The extremes are very nearly allied. A republican Government, guided by the virtue and intelligence of a nation, is the first of human blessings; but, when directed by the angry vindictive passions of party, the worst of which the imagination can conceive. A republic, to be durable, must inspire confidence and respect. Such instability, such variable unsettled policy, as now appears to be the order of the day, could not have been anticipated by any man blessed with a tolerable degree of faith in the success of this great republican experiment. Mr. President, I have ever been opposed to yielding to the commercial interest an undue influence in this Government, but I am unwilling to make an unnecessary and wanton attack upon them. Coming from an agricultural State, I am not disposed to increase the jealousies which

unfortunately exist, and thereby weaken the ties by which these States are held together. I am sensible, too, how much the prosperity of the State I represent depends on a prosperous State of trade; and although the shock from the dissolution of this bank will be first felt in the commercial cities, it must immediately react to the extremes of the empire. I know many are under an impression that federalists and British agents are to be the victims; but very different will be the result. I refer to the evidence detailed by the honorable gentleman from Massachusetts, (Mr. LLOYD.) But is it possible that an intolerant spirit of party has prepared us for this? Are gentlemen ready to injure their country, weaken our federal Union—the sheet anchor of our political safety—to reach their political opponents? I will not believe it. When I see around me some of the soldiers of the Revolution, actuated, I am sure, by nobler views; when I see the professors of a religion which teaches us to love our neighbors as ourselves; I cannot persuade myself that Christian charity, and all the noble, generous feelings of the human heart, are extinguished by this demon, party spirit. If there be a man in the nation who can witness, with unfeeling apathy, the distresses of his fellow citizens, he would have figured in Smithfield, in the bloody reign of Queen Mary of England, in binding heretics to the stake, or in the sanguinary time of Robespierre, in adding victims to the guillotine; but he is unworthy the blessings of a free Government.

Sir, I address the Senate under circumstances discouraging indeed. I have been told, and on this floor, that debate is useless; that no man's opinion is to be changed; that I shall find verified, in the decision of this question, the sentiment contained in two lines of Hudibras: "He that is convinced against his will is of the same opinion still." I cannot admit this. I know there are gentlemen fully sensible of the evils about to befall their country, without any obstinate pride to conquer, who would rejoice at being convinced it is in their power to avert them. Let me intreat them to pause and reflect, before they inflict a wound on their country's interest, under the influence of constitutional doubt; and if they err, I would ask them, would it not be more safe and patriotic to err in favor of the People? Permit me, now, sir, to redeem this subject from the constitutional difficulties with which it has been encumbered.

To form a correct opinion, we must retrospect the defects of the old Government, and ascertain the remedy which was anticipated in the present constitution. I believe it will be conceded that the great cause of the inefficiency of the former was not because the principal field of legislation was too limited, but was owing to its dependence on the States for the means to carry their powers into effect. For the truth of this position I appeal to the history of that day—the candor of gentlemen who hear me. The present constitution was framed for rational purposes, with ample authority to pass all laws necessary and proper for the attainment of its objects, independent of State authority, except so far as expressly made dependent by the constitution. The erroneous impressions with regard to this bank have arisen from ignorance of facts, relative to the practical fiscal operations of the Government, and from confounding an original independent power to establish banks and corporations with a necessary auxiliary to the execution of the powers given. By the constitution it is expressly declared, that Congress shall have power to pass all laws necessary and proper to carry into effect the powers previously enumerated, and all other powers vested in the Government of the United States, or any department or officer thereof. Our power to create a bank is not derived by implication. No, sir. If this express delegation of power had not been inserted, we must have implied the authority to provide the means necessary and proper, &c.

But the convention, with a full knowledge of the defects of the old confederation, and deeply impressed with the necessity of an efficient national Government, determined to exclude all doubt, by granting to the new Government, in express and unequivocal language, ample authority to use all means necessary and proper for the attainment of the ends for which it was instituted. If a man was requested to look at the constitution, and decide whether power

is given to Congress to create a bank or corporations generally, he would answer in the negative. This would very naturally be the answer of most men, upon the first blush of the constitution. It is not pretended that Congress have power to create corporations, as an independent proposition. The authority to establish a bank, or corporation, is only contended for so far as it can be fairly considered as a necessary and proper auxiliary to the execution of the powers granted by the constitution. The question of constitutionality depends upon facts, *dehors* the instrument, of which we must be informed before we decide, and which could not be ascertained before the attempt was made to give motion and energy to this political machinery. If the fact be ascertained, by the best evidence the nature of the subject affords, that a bank is necessary and proper to effectuate the legitimate powers of Government, then our power is express, and we need not resort to implication. To prove, to the satisfaction of the Senate and the world, this material fact, will be my business, before I request their assent to the position assumed, that Congress have an express power to incorporate a bank. To do this it is indispensable that we should understand the practical financial concerns of the Government, or have the information of those who do. We appropriate money for fortifications, on the report of our engineer, Colonel Williams, and for the capitol, &c. upon the report of Mr. Latrobe. To know how much timber or other materials are necessary for a ship or a house, you must understand the subject yourself, or have the information of those who do. For myself, I am ready to admit that I rely much upon the information and experience of others. To ignorant men, and those who do not profess to be fully acquainted with the nature and management of the national finances, the following evidence is presented. The first, and, with many, perhaps, the best, not heretofore particularly noticed, which I shall offer, is the Congress of 1781, which established a national bank, called the Bank of North America, during our Revolutionary struggle, the utility and necessity of which was ascertained by the experience of that day.

It is worthy of remark, that they created a bank, under powers much more limited than ours. That act was not passed precipitately, but was the result of the most mature and deliberate consideration. I beg leave to read the preamble of the law which contains the opinions of that Congress with regard to the utility and necessity of a national bank. "Whereas Congress, on the 26th day of May last, did, from a conviction of the support which the finances of the United States would receive from the establishment of a national bank, approve a plan for such an institution, submitted to their consideration by Robert Morris, Esq. and now lodged among the archives of Congress, and did engage to promote the same by the most effectual means: And whereas the subscription thereto is now filled, from an expectation of a charter of incorporation from Congress, the directors and president are appointed, and application hath been made to Congress, by the said president and directors, for an act of incorporation: And whereas the exigencies of the United States render it indispensably necessary that such an act be immediately passed: *Be it therefore ordained,*" &c. This act passed on the 31st day of December, 1781. And here permit me to observe, that this national bank, styled the Bank of North America, was not produced by British influence or party spirit. No, sir, the little, slandering, intriguing partyism, of the present moment, was unknown to the patriots of that awful period. They had no party but their country; liberty and independence were their objects. Their souls were fired with a noble, a generous enthusiasm, on which Heaven looked down with pleasure. It appears, from the journals of the Congress of 1781, that the members from every State were unanimous in favor of a national bank, except Massachusetts, Pennsylvania, and Virginia; the two members from Massachusetts voted against it, the two members from Pennsylvania were divided; of the four from Virginia, Mr. Madison alone voted against it. Here it is evident that, in the very infancy of our republic, before, indeed, it could with propriety be said to be born, when every bosom glowed with enthusiasm for liberty and a pure disinterested patriotism, a national bank was not thought that dangerous, dreadful monster, which the very wise, and exclu-

sive patriots, of 1811, are endeavoring to represent it to the American People. And the construction given to the grant of powers, in the articles of confederation, by the Congress of 1781, is strong evidence of our right to establish a bank, under a grant of powers much more ample, and with money concerns vastly more extensive and complicated.

The next evidence I shall adduce, for the consideration of the Senate, is the opinion of the late General Hamilton, appointed by President Washington the first Secretary of the Treasury; whose province and duty it was to superintend the national finances. His attention was, therefore, particularly directed to the subject, and, in a very able report to the first Congress, assembled under the new constitution, he recommended a national bank. Although opinions have been imputed to this gentleman, very foreign to my feelings and notions about government, yet he has ever been acknowledged, by the candid and liberal of all parties, one of the first of American statesmen. For reasons, which it is unnecessary for me to assign, I will not press his opinion upon the attention of the Senate, but will introduce other and perhaps less exceptionable testimony. The Congress of 1791, which incorporated the present bank, merits the highest regard. It was composed of the most enlightened and distinguished men in America, many of whom had been members of the convention, and were fully apprized of the defects of the old and the objects of the new Government. A large majority of both branches voted in favor of the bank. They were not divided on the question by party. Many, who have continued with the republican party under every administration, voted in favor of this bank. Although different speculative or abstract political opinions were then entertained, yet the spirit and passion of party had not diffused itself so generally through the nation as at a subsequent period. The next authority in favor of this bank, and one which must, at all times, and on all occasions, command the highest respect, is no less than our immortal Washington. He was President of the United States in 1791, when this bank law passed. After it had received the sanction of both branches of the Legislature, with that circumspection and prudence which regulated his conduct through life, he consulted the able men who composed his cabinet council, on the constitutional question; they differed in opinion; he heard their arguments for and against the measure; and, after full consideration, approved the law. I cannot yet, sir, take leave of this very important testimony in favor of the bank. The opinion of our Washington has the strongest claim to our confidence. Let us pause, before we disregard his solemn advice. This is the hero who led our armies to victory; this is the Washington, who, at the close of our Revolutionary war, disbanded a disciplined army in the bosom of the republic, and voluntarily exchanged the splendid robes and ensigns of military power, for the plain, humble garb of a private citizen. This Washington, who continued an American, a republican in heart and in sentiment, until summoned to the mansions of bliss; yes, sir, this illustrious departed hero, this practical statesman, has solemnly declared to the American People, that a national bank is a necessary and proper auxiliary to the execution of the national powers. The last authority I shall particularly notice, in support of this institution, is the opinion of the present Secretary of the Treasury, Mr. Gallatin. If this gentleman cannot boast of the military laurels which have adorned the brows of the patriots I have mentioned, as a statesman and faithful public servant, he stands inferior to none. Mr. Gallatin, from his first appearance on the theatre of public life, has been considered, by all parties, an able financier. At a very early period, the finances of the United States became the subject of his particular attention and inquiry; the result of which was a treatise, published in 1796, called 'Gallatin on the finances of the United States,' in which he gives a decided opinion in favor of this bank. I rely much on his opinion at that period, because it must have been the result of conviction, and not of any party feeling or consideration, as he was then in the minority, and continued in it until the administration changed. His report to the Senate, during the last session of Mr. Jefferson's administration, and his letter to the committee, show that time and experience, so far from

changing, have confirmed him in the opinion he first formed on the subject; to which, I might add, every administration, and almost every man practically acquainted with our money concerns. Is not this mass of evidence sufficient to substantiate the facts upon the existence or non-existence of which the constitutionality of this measure depends? I put the question to the candor and good sense of gentlemen, whether they are not satisfied, in the language of the constitution, that a national bank is necessary and proper to effectuate the legitimate powers of the National Government? If they answer in the negative, I can only say, he who will neither regard the suggestions of experience, nor believe the report of the great political disciples who have gone before us, would not believe though one were to rise from the dead. And what is the answer to all this out of doors? Why, that we are not to be governed by the information or opinion of others, however well acquainted with the subject: we are so self sufficient as to disregard the best lights which can be presented to us. The cry is up to the hub, down with the bank, huzza for the party! So long, Mr. President, as I shall be honored with a seat in the Senate of the Union, I am determined to respect my station, and my own feelings and character, too much, to be driven along by any such idle, ridiculous clamor.

To all the high authority I have mentioned, in support of a national bank, may be opposed the names of some great men of Virginia, who have, long since, I hope, got rid of their errors and prejudices; among others will, probably, be mentioned the name of the present President, who voted against the present bank, in 1791. and against the Bank of North America, in 1781. No man has a higher respect than myself for his virtues and wisdom; but, I believe, it is not pretended that he ever was a practical financier. No State can boast of more genius, eloquence, and talents, than Virginia; it will, however, be conceded, that no People are more deficient in practical knowledge of finance and the nature of moneyed institutions. Indeed, they were, a few years since, frightened at the very name of a bank. As soon as they heard of one, they began to write books, make speeches, and pass resolutions, to lay this ghost of tyranny. It required all the eloquence of my honorable friend from that State, (Mr. BRENT) to persuade the Legislature that the little bank of Alexandria would not sweep away their liberties. The talents and boldness with which he, on that occasion, assailed the prejudices of Virginia, instead of injuring him, inspired the People with the highest confidence in his integrity and firmness; since, however, they have become acquainted with this bank animal, they find it perfectly harmless, and no People in the Union are more disposed to foster it.

The People, in framing the constitution, have avowed the objects for which it was created. They say in the preamble, "We, the People of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America." After declaring by whom, and in what manner, the legislative power shall be exercised, the qualifications of the electors and elected, the terms, &c. for which the Senators and Representatives shall be respectively chosen, and making various other provisions relative to the legislative department, they proceed to enumerate the principal cardinal powers granted to Congress; among others, that the "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States; to borrow money on the credit of the United States; to regulate commerce with foreign nations, and with the Indian tribes; to establish a uniform rule of naturalization, &c.; to coin money; regulate the value thereof; to declare war, &c.; to raise and support armies, &c.; to raise and maintain a navy."

At the close of this catalogue, of what I shall call cardinal powers, they have inserted the general provisions before noticed: "To make all laws re-



cessary and proper for carrying into effect the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof." This provision contains a general authority as to the means necessary to carry into effect the national powers. The convention could not foresee or define what laws, in the progress of the Government, the varying circumstances of the nation might require, and therefore wisely submitted them to the discretion of Congress, to be exercised on facts and circumstances, as they occurred. It has been said this discretion may be abused; and so may every other power given to Congress; the security of the People against the abuse of this or any other power is their own virtue and intelligence, and the responsibility of their public servants. The question, on every law bottomed on this clause of the constitution, must be, whether it is necessary and proper; or, in other words, fairly suited to, and well calculated for, legitimate national objects; and, if it can be fairly considered necessary and proper, and is not prohibited, then it is certainly within the pale of the constitution.

The constitution may with propriety be compared to a ship, finished as to all the substantial parts, before she is put to sea. The People have built the national vessel, directed in what manner the commanders are to be chosen, and made it their duty to provide sails, rigging, sea stores, &c. necessary and proper to enable her to perform the voyages for which she was destined; and those appointed to navigate her are not only bound to provide what is necessary and proper for those seas were temperate and gentle breezes are to be met with, but fit her to encounter the most tempestuous seasons.

As I heard much said about absolute, indispensable necessity, I may be pardoned for giving what I consider the sound interpretation of the words *necessary* and *proper*, in the constitution. This idea of absolute, indispensable, &c. must have originated in an excessive jealousy of power, or a decided hostility to the federal Union. This instrument was framed by and for the People of the United States, and, in the language used, was certainly intended to be understood in that sense in which it is used and understood by them generally. If you ask a plain man what are the necessities of life, he will answer, something below luxury and extravagance; what is calculated to afford him reasonable comfort. Neither a house nor a bed is absolutely or indispensably necessary to a man's existence; he could live in a camp, and sleep on boards, or on the ground; yet, the common sense of mankind would respond, they are necessary and proper. If a man had a journey to make, either to Richmond, in Virginia, or Lexington, in Kentucky, although every person would pronounce a coach and six superfluous and unnecessary, all reasonable men would say, he ought to have a horse or a hack; but it will not be pretended that either are indispensable, because he could perform it on foot. If a gentleman from Baltimore gives his agent instructions to provide every thing necessary for an East India voyage, what would he expect? Certainly that he should avoid unnecessary expense, but would consider him acting within the pale of his authority if he procured only what was reasonably necessary and proper, or, in other words, what was fairly suited to the master and crew, and well calculated to enable the vessel to reach her port of destination. That interpretation is correct which best accords with the common sense and understanding of mankind. It must therefore be evident that the only question, as regards the constitutionality of the measure, to be decided, is a question of fact, and that is, whether a national bank is reasonably necessary and proper, or fairly suited to, and calculated for, the collection of our revenue and the management of our money concerns. And this fact appears to be admitted by the gentlemen opposed to the bill: for their arguments are predicated upon the probability that the State banks will answer the national purposes. This is a complete surrender of the constitutional objection: for, if banks be necessary and proper, it follows that we have a constitutional power to create them, and it will be a mere question of expediency whether we will use State banks or a national bank. My colleague (Mr. CLAY) has asked for the congeniality between a bank and the collection of our revenue. The

argument in favor of using State banks shews it; but let the use hitherto made of the bank answer the question. Is not a bank a proper place for the deposit and safe-keeping of money, more so than the custom house? Is it not a convenient agent for paying and receiving money? Through the agency of this bank, our revenue, or the greater part of it, has been collected, our financial transactions done, and public money transmitted to such places as the necessities of the Government required. The revenue, collected at Boston, Baltimore, or any other port, is paid, if required, at New Orleans, Natchez, St Louis, or any other place, without risk or expense. The money in the bank and its branches is payable at such of them as the convenience of the Government may require; and by this arrangement we can command the whole of the public money in any quarter of the Union, without risk or expense. The operations of this institution have been confined to the seaboard. The principal bank is at Philadelphia, with a branch at New York, Boston, Baltimore, Washington, Norfolk, Charleston, Savannah, and New Orleans; at all which places, the Government has considerable revenue to collect. No branches have been extended into the interior. It has been connected with our fiscal arrangements at all the places to which it has been extended, and may be fairly deemed a convenient, necessary, and appropriate auxiliary to the management of the national concerns. It is said that the revenue is collected at many ports where none of these branches are placed. This is true; the bank and branches are fixed only at the principal seaports, where a large amount of revenue is collected. Every one draws into its vaults, subject to the demands of Government, the revenue collected at the less important ports in the same quarter of the country. Boston being the commercial emporium of New England, the Government, by the agency of the branch bank there, is enabled to draw to that point most of the revenue received at the numerous ports in that quarter of the Union. The repeated sanctions this bank has received from the different administrations, and especially from Mr. Jefferson and the republican party, by authorizing the extension of a branch to New Orleans, and selling one million of the stock, the property of the United States, to British subjects, for four hundred thousand dollars more than the nominal amount, is, indeed, strangely accounted for. Gentlemen say the Government was bound to fulfil their engagements, and that the charter, being in the nature of a contract, was sacred. I had thought the fashionable doctrine was, that an unconstitutional law was wholly null and void. It has been held by some of the States. However plausible the answer to the argument of acquiescence, it furnishes no apology for a positive confirmation. Permit me to assimilate a common case between individuals to the question before us. A man, in Washington, executes a joint power to five trustees, in Kentucky, to collect his debts, settle his land business, &c. and authorizes them to take all steps, necessary and proper to effectuate the trust or power. In the progress of the business, a measure is suggested as necessary, about which there is a diversity of opinion among the trustees. A majority, however, decide that it is within their authority; the principal is informed of it; does not complain or disavow; but positively, and by the strongest implication, assents to the construction given by his agents. In such a case there would be but one opinion. In 1791 a national bank is proposed to Congress; they differ as to the constitutionality; a large majority decide in favor of it; the People and the States are informed of the measure; the States do not protest, nor do the People complain; many of the States pass laws to protect the institution; it receives the confirmation of three or four different administrations, and particularly of the one composed of men originally opposed to it; it violates no positive provision of the constitution; no mischiefs have been produced, but great convenience and advantage has been experienced by the Government and community. I ask whether, under such circumstances, the question ought not to be considered settled. Is no respect due to the opinions of our predecessors? Is a question of construction never to be at rest? Why is a judge, sworn to support the laws and constitution of the country, bound by a train of decisions contrary to his own opinions? Because the good, the peace, and tranquillity, of society, require it.

The conduct of a court, as well as every department of Government, must be regulated in its course, in some measure, by a regard for the public weal. It is worthy of remark, that, notwithstanding all the fuss about implied and incidental powers, if you except the sedition law, which was supposed to violate a positive provision of the constitution, the same practical construction has been given to this instrument by every administration of the Government. Indeed, the sphere of national legislation has been more enlarged under Mr. Jefferson's than any other administration. All parties have found that the national vessel could not be navigated without sails, rigging, and *every thing necessary and proper*. Whence was derived a power to pass a law, laying an embargo, without limitation? There is nothing in the constitution about embargoes. Whence did we derive a power to purchase Louisiana, and incorporate it with the good old United States? There is no express delegation of power to purchase new territory. On these subjects, the constitution is silent. I have approved both. No State can lay an embargo, or acquire new territory. Our power to perform these acts results from the nature of the national sovereignty created by this constitution. The republican administrations have no pretensions to the approbation of the People, on the ground of having restrained any latitude or liberality of construction. Their claim to the public confidence is founded on very different considerations. They have repealed the internal taxes, paid a large part of the public debt, purchased Louisiana, and preserved to the nation the blessings of peace. For these acts they have, I believe, the thanks of the nation. They have mine, most sincerely.

Great stress is placed on the 12th article of the amendments to the constitution, which declares, the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the People. I must confess that I cannot discover what influence this can have on the bill under consideration, or any other measure which may be proposed. It appears to me to have been adopted rather to quiet State jealousies and popular fears, than with a view to produce any positive effect: for the inquiry must ever be, is the power given? And if granted, it is not retained. The supporters of this bill do not pretend to usurp any power retained by the States or the People, but contend that the power to pass the bill is expressly delegated, if the facts assumed are true.

It is not pretended that our fiscal concerns can be managed with gold and silver. If our territory was of no greater extent than Rhode Island, Delaware, or the city of Philadelphia, gold and silver would answer the purposes of the Government; but it would require a number of pack horses and wagons to transport the public money in gold and silver over this immense country, to the different places where it is wanting. Our extensive commerce, and the great extent of this empire, renders a paper medium necessary. Is the power to create this paper medium or national currency, an attribute of State or national sovereignty? I put the question to the candor of gentlemen, and solicit a serious answer. The argument of my honorable friend from Georgia, against the power of the States to authorize the emission of bank paper, founded on that part of the constitution which declares, that "no State shall emit bills of credit," acquires great additional force, when these bills of credit are made to assume the character of money, for national purposes. In the same article, the power to coin money is expressly prohibited to the States; and in the catalogue of cardinal powers granted to this Government, is that to coin money. It will, perhaps, be contended, that this only applies to gold and silver; but if that be admitted to be the literal meaning of the words, still it is evident, that what shall be the national currency, whether specie or paper, is a proper subject of national legislation. No gentleman will be so absurd as to insist that any State or States ought to coin the current money of the United States. That the power of the States to establish banks may be questioned, with at least great plausibility, is perfectly clear; but as this banking power has been so long exercised, as the national and State banks have conducted their operations very harmoniously, as no serious evils call for national interference, I am not for disturbing the existing state of things; it is better,

perhaps, that the banking power should be divided between the States and the United States. That bank paper, if good, is, in fact, money, although not made a legal tender, cannot be denied. The currency of this bank paper of the United States, although made by law receivable in payment of revenue, rests upon a much better foundation than an act of Congress; its national character, the extended operations of this bank from Boston to New Orleans, have given it credit with the People of every part of the empire, more than the bank paper of any particular State can be expected to have; so that, by common consent, this money coined by the National Bank has become the current money of the United States. I hope we shall never be driven to the necessity of compelling our citizens, by law, to receive our paper. We should so guard and regulate our banking operations as to make the national paper at least equal to gold and silver, in every quarter of the Union.

If this bank is removed, the Secretary of the Treasury must nationalise the bank paper of the great importing States: for, I presume, Congress will never decide what State paper shall be used by the officers of the General Government. Most of the public money is now collected and deposited in the Bank of the United States; if that is destroyed, the Secretary of the Treasury is to deposit in the State banks, and with him is the power of selection—a power and patronage greater than any ever exercised by any officer in this nation. The deposits of the public money are sought after with great avidity, by all the State institutions. He can deposit the whole in one, or divide it between two or three, or all the banks in any one place; he can change them at pleasure; he may, with great apparent fairness and propriety, make it a condition with every bank, where deposits are made, that they shall appoint a certain portion of the directors of his nomination, and, through them, he can reach the credit of any man who may have accommodations in it. It is true, we have now a man at the head of the treasury who may not be disposed to abuse this power; but we may not always have such an officer. This immense power and influence may be exercised in an invisible manner, and, of course, without responsibility. Is this republican? It was not a few years ago. I have always understood that one of the strongest and most popular objections to the Federal Administration was, their disposition to increase Executive patronage.

We are told that our remittances to foreign countries and to different parts of the United States, can be made in bills of exchange; this, to be sure, is possible, but this mode is less convenient and more hazardous. I believe the Government has sustained no loss in the remittances made to Europe, through the agency of this institution. They are able, through the medium of their several branches, to ascertain the credit and solvency of every commercial house in the United States, and thereby to purchase bills for foreign remittances with safety. The great punctuality secured to the Government in the payment of the revenue, by their agency, is also an object of some consequence.

Much alarm and delusion have been artfully spread through the country about a violation of the constitution, and a consequent destruction of our republican institutions. I fear the People are unfortunately led to believe, that the security of their liberties depends too much upon paper barriers, and too little upon their own virtue and intelligence. It appears to me, that the constitution is occasionally made a mere stalking horse, to serve the purposes of unprincipled demagogues and pretended lovers of the People, to get into power to the exclusion of honest men. They, with great address, distract and inflame the public mind about some nice constitutional question, or abstract proposition, and thereby bring the People to decide, not which candidate is the most entitled to their confidence, but who rides the finest electioneering hobby. We are misled very much, I fear, by theories, and terms, more applicable to other governments than our own. In Great Britain they speak, with great propriety, of the Government and People, because there is, in that country, an immense power, independent of the People. But, here, where every public functionary is responsible to, and the Government in the hands of, a majority of the People, those terms do not appear to me applicable.

in the sense in which they are used in other countries. My reflections and practical observations on the Government, incline me to the opinion, that, with regard to measures of general policy—not assailing individual liberty or right, or the independence of any State—there is not that danger to be apprehended from a liberal construction of the constitution which gentlemen seem to imagine. So long as the Government is in the hands of the People, measures, affecting the whole nation, if oppressive or inconvenient, will be resisted and corrected by the public feeling and opinion. This is not mere *theory*. Look at the State of Connecticut, one of the best regulated democracies in ancient or modern times, whose Legislature is as omnipotent as the British Parliament.

What People enjoy more real liberty and independence! In what country is to be found more practical intelligent republicanism! Those principles which secure the rights of the citizen, and the responsibility of their public servants, are held sacred; but the Legislature is, I believe, unrestricted, with regard to measures of general policy. It is a truth, which ought to be deeply impressed on the American mind, that the preservation of this republican system depends more upon the virtue and intelligence of the People, and the responsibility of their public servants, than paper restrictions. It is unfortunate, that every measure calculated to advance the national prosperity, is arrested by some constitutional difficulty. The bills respecting the Ohio and Delaware canals, which passed the Senate, have been opposed, in the other House, by the same constitutional obstacles urged against this bank. I may be asked, if I am opposed to any limitation on the powers of the Government? To which I answer, no. I think the nature of the powers to be exercised by the General Government ought to be defined with as much precision as the imperfection of human language and foresight is capable of. The convention acted wisely in giving no more latitude than was necessary to the success of the experiment. Not because I think them so essential to the security of the rights of the People, as to prevent unpleasant and dangerous collisions of authority between the National and State Governments. In the application of this instrument by the different men and parties to the ground supposed to be embraced by it, some trivial variations from what may be deemed by many the true political meridian, was to be expected, and a small allowance is perhaps due to human fallibility. It will be some time before the boundary line will be plainly marked by usage and practical construction. So far as it has been ascertained, and any question of power settled by common consent, every consideration connected with the good of our country forbids us to disturb it. Gentlemen endeavor to alarm us with a thousand imaginary dangers: they say, suppose Congress were to do this, that, and the other monstrous thing. You may suppose any thing, and make what deductions you please. Suppose the People were to destroy their own liberties; what then? Their liberties would be destroyed. Suppose they were all to collect on the bank of the Potomac, plunge into the stream, and drown themselves; why, to be sure, they would be drowned; but does it follow that there is any danger of their doing either? All this supposing seems to accord better with a sentiment advanced by a celebrated Senator a few years since, “that the People’s worst enemies are themselves,” than the generally received opinion respecting the nature of this Government.

This bill, probably, is opposed by many, under an expectation of a new National Bank. As this question will at least appear to be decided on constitutional ground, their expectations will hardly be realised. Indeed, it is questionable, whether either foreigners or our own citizens will again vest money in a National Bank. The fall of this will throw a large portion of the banking capital into the banks of the great commercial States, whose influence and hostility will be increased against a new national institution. But why put down one National Bank to raise up another? How are the People to be benefitted by it? I shall be told, perhaps, that the direction ought to be changed. And what will be this change? Why, putting out one set of mo-

neyed men to put in another, who will very soon be the same. If this be the object, I will only observe,

“Strange there should such difference be,  
“Twixt tweedledum and tweedledee.”

It is but the difference between Hopkins and Sternhold, and Sternhold and Hopkins. A new National Bank, with an increased capital, would, to be sure, open a new field of speculation, and increase that influence of which gentlemen pretend to complain: for, if moneyed men retain their confidence in our institutions, the same motives which induced foreigners to purchase seven millions of the present stock, will induce them to purchase the stock of the new bank. I hear, with some astonishment, gentlemen opposed to this bill, and particularly my friend from Tennessee, (Mr. ANDERSON) declaim, with such apparent earnestness, about the danger of this institution, with a capital of only *ten millions* of dollars, when I recollect the partiality they manifested for a bill before us last year, which proposed to create a national bank, with a capital of *thirty millions*. On the motion to postpone that bill till the first Monday in December last, in substance a motion to reject, it will be found by a reference to the journals, that most of those opposed to this, voted against the postponement. If this bank of *ten millions* is such a viper, a *thirty million* bank would indeed be a monster. Gentlemen may say, that, although they voted against postponement, they intended ultimately to vote against the passage of the bill; let this be conceded, and still their votes evince a decided preference of the new to the present institution. I voted for the postponement, because I was not entirely convinced of its constitutionality—nor was I satisfied with the details. The banking operations of the present institution are confined to the seaboard, and may be considered a *necessary* and *proper* mean—subordinate to the end of aiding the finances; but the bill I have mentioned contemplated an extension of branches into every part of the country, to places where the General Government had no revenue to collect, and the creation of it might perhaps be deemed the exercise of an independent original power, transcending the limit of an auxiliary measure. I do not design to give a decided opinion of the constitutionality of it at this time; other substantial objections to that bill will suffice to justify my vote, if necessary. If the object of gentlemen was to eradicate the banking system from the country, I might, in obedience to my former prejudices, be more disposed to join them. But this is not even pretended. The sole object, in the death of this, is, to generate more of these *vipers*, under State or Federal authority.

The People of the United States, through the medium of the National Government, have within their control that portion of the moneyed capital vested in this bank, which is not only a convenient agent, in the management of the finances, but furnishes loans to the Government, to answer occasional deficiencies in the revenue. If we relinquish entirely our power over the moneyed capital, will not the influence of the interior States be diminished, and that of the commercial States increased? The importing States will have the moneyed capital; the greater part of our revenue will be collected by their banks, and we shall not only be dependent on them for loans, but they can at any time withhold our revenue, without the interposition of force.

The sum required to be paid by the stockholders, is strongly objected to. And why, sir? Is there any thing unreasonable in this provision? The privileges and benefits, to be enjoyed by them, they will derive from the People of the United States: for which, justice requires them to pay the People an equitable equivalent. This sum is demanded in the nature of a tax on the privilege granted. The premium contemplated, with the probable advance on the five millions of stock, authorized to be subscribed by the United States, will amount to about three millions of dollars. They are to pay three per cent. on the public deposits, which will, I suppose, without pretending to have made an accurate estimate, amount to several millions more during the term of incorporation; so that this bill, if passed into a law, will bring into the national treasury five or six millions of dollars, for the benefit of the People



of the United States; and what are we about to do? Why, sir, give it up to the large States on the sea board, in whose banks we are told by gentlemen on the other side, this very dangerous foreign capital will be vested, and our revenue deposited. Well may those States clamor about State rights and State interests; but how the interest or importance of Kentucky in the Union, or of any other State where none of the national revenue is collected, is to be advanced by the destruction of this institution, I am not conjurer enough to discover.

It might be contended, with some plausibility, that this Government is under an implied obligation to continue this bank upon equitable terms, and with reasonable modifications. The present stockholders, both citizens and foreigners, have paid for every 100 dollars they own, from 140 to 150 dollars. The Government sold at about that advance a few years ago. When the Congress of 1791 passed the law declaring that there should be a national bank, did they intend it to be a temporary institution? In the numerous transfers of stock which have taken place, was it so understood? Could it have been expected that a Government, which declared a national bank necessary and proper, the first twenty years of its existence, would dispense with it afterwards? The limitation of the corporation to that period was very proper. It is highly expedient that these charters should return occasionally into the power of the People, to afford them an opportunity of revising and correcting them; besides, such a limitation, by increasing their dependence, gives some security to the community against abuses. Has not the conduct of the Government authorized an expectation that this bank would be continued? And if it has, are they not bound, by the rules of morality, to fulfil that expectation, unless the constitution or public good clearly forbid it?

Although this subject has received much false coloring through the country, by charges of British influence, &c. I did not expect to hear it from an honorable Senator of the United States; it has not, indeed, been positively asserted, but hinted in such a manner, as to make an impression on the community. Some stale circumstances connected with the British treaty, have been very unnecessarily lugged in, to increase the prejudices against this bill. It has been insinuated that British influence, operating through this institution, has prevented the Government from taking strong measures against Great Britain; but in what manner this has been effected, gentlemen have not been good enough to explain. Did it prevent Mr. Jefferson from taking a war course? For I believe it is generally understood that he was opposed to a war. Has it operated upon the present Executive? Such a suggestion will not be made. I have, during my service here, given a fair and faithful support to the administration, and I have certainly voted for stronger measures than they were willing to accept. It is due to the 10th and 11th Congresses, who have been so much abused, to state, that their course, as regards the question of peace or war, has been in perfect unison with the views of the late and present Presidents. Let it not be inferred that I am disposed to find fault; I believe, when we consider the very extraordinary state of the foreign world, and retrospect the embarrassing circumstances which have surrounded us, the course pursued by them ought to be deemed substantially correct, certainly so as respects their leading object, which has been to avoid making this country a party in the present war. If I was disposed to censure, it would be for not making an effort to chastise some of the British armed vessels, which lay in our waters after the affair of the Chesapeake, in open contempt of the President's proclamation; if a single vessel had been driven out or compelled to strike her colors, it would have healed the wound inflicted on the national pride and feeling, by the outrage by the Leopard.

That this Government should have an influence with foreign Governments, proportioned to the interest their subjects have in our funds, is probable, but how this interest gives them an influence here, I am at a loss to perceive: foreigners cannot even vote in the appointment of directors. If there is any reality in this idea of foreign influence through this institution, why did gentlemen permit the present stockholders to be incorporated into the bill intro-

duced last year? And why was not a provision inserted, to prevent foreigners from purchasing additional stock?

We are told too of their partiality in discounts. I might answer this argument, by asking, what bank or what administration has not been partial? What member of this Senate has never used his influence in favor of his friends against men, perhaps, of more merit? If partial evils or small improprieties, are to authorize a war of extermination, against our institutions, none would prove so immaculate as to escape the general catastrophe. By the bill reported, an odious feature in the present charter, granting an exclusive privilege, is expressly repealed, and the Government authorized to subscribe stock and appoint directors. This will give us a sufficient control to guard against all the evils, real or imaginary, which have been complained of. I have heard no gentleman advocate a simple renewal of the charter. This charge of partiality, on the score of party, at least for the last twelve years, has been completely repelled by the deputation of five from the mechanics and manufacturers of Philadelphia, and let it be remembered, too, that these men are republicans of the first water. We are arraigned, sir, for the great attention and respect shown to the two deputations from Philadelphia, one in behalf of the mercantile, the other of the manufacturing interest; from the latter we derived the most of the facts which have been detailed to the Senate. They did not come armed with any political resolutions, to influence our deliberations; no, they were sent to represent the embarrassments of the commercial and manufacturing classes in Philadelphia, arising from the apprehended dissolution of the bank. And was it improper in the committee to hear them? Their candor and respectability were not doubted by those of the committee most opposed to the bank. Is any thing more common in England than for Parliament to hear witnesses, and even counsel, in behalf of any class of men whose interest is supposed to be affected by a measure depending before them? And shall we deny to American citizens privileges enjoyed by British subjects?

Gentlemen say the embarrassments in Philadelphia could not have been occasioned by the Bank of the United States, because they continue to discount as usual. If I recollect the evidence, and I hope to be corrected if I mistake it, it was this: that the calling in of ten per cent. on their debts occasioned such a pressure, that they were prevailed upon to extend their discounts, until the ultimate decision of Congress should be known. I have heard it seriously urged, that the evils and inconveniences to be experienced from its dissolution, prove it to be a dangerous institution; the same argument would prove that the Government ought to be destroyed. Nothing, indeed, seems too absurd for the human mind to seize upon, when under the influence of passion or misguided zeal.

I must omit, Mr. President, many of the remarks I intended to offer to the Senate, on this bill; I owe it to other gentlemen, who wish to express their views. Before I sit down, I beg leave to say a few words about the liberty or tyranny of the press. Tyranny is, to me, sir, a hideous fiend in every possible form. A press, well conducted, is invaluable; but this palladium of our rights may, if permitted to exercise an undue influence, be made the instrument to entomb the liberties of this People. With what indignation would an attempt, through the medium of the press, to intimidate a court or jury, in relation to a controversy while pending, be viewed; and what course would be taken? I need not answer the question. And is it not equally important that our deliberations should be free from any improper and irresponsible influence? After I have given my vote, I am ready to meet investigation; but this system of abusing and denouncing members who may speak or vote for or against a measure depending before Congress, is a monstrous outrage upon the independence of the National Legislature; and every attempt of editors to influence their decision by assailing or exciting unfounded prejudices against them respecting a subject upon which they are deliberating, ought to be reprobated and resisted by every friend to his country.

If it is once understood that Congress are controlled by the dictatorial arrogance of the press, what will be the consequence? However pure the presses may now be, if it should become an object with a foreign nation to give a direction to our measures, or of a junto of assassins behind the curtain to proscrib[e] every honest independent man from the confidence of the People, a sufficient number of them will be purchased at any price; and through this medium, if well combined and organized, an unseen power will guide our councils.

My honorable friend from Georgia has been reminded of the Macedonian phalanx. I trust, sir, we shall ever be found associated with a phalanx, American, republican, in heart and in sentiment. I will not sacrifice the interests of my constituents, for fear of being called hard names. The epithets of quidnism, quadronism, or any other ism, which malice or policy may suggest, shall not drive me from the course called for by the public good. I am proud that I represent a People, just, generous, and independent; not to be carried away by unmeaning clamor. Before they discard a public servant, they will view him, both on the political theatre, and in the walks of private life. They know, too well, that those are not always the best Christians, who sing hallelujahs on the house top; nor have they forgotten the celebrated Sempronius, who, on the approach of Cæsar, thundered war in the Roman Senate, and at the same time was secretly co-operating with the traitor to overthrow the liberties of the Roman People.

Deeply impressed, Mr. President, with the opinion, that the rejection of this bill will give, at least, a temporary check to the prosperity of the rising State from which I come, I shall give my negative to the motion to strike out the first section. Yes, sir, not only the interest, but the importance of that State in the Union, is about to be sacrificed. When I look beyond the mountain, and remember that Kentucky has nurtured me almost from my cradle—that she has bestowed on me her choicest honors—my bosom is filled with emotions of gratitude, which impel me to say, on this, as on all other occasions, Kentucky, I am only thine!

FEBRUARY 16, 1811.

Motion to strike out the first section of the bill.

Mr. SMITH, of Maryland, said, that, in seconding the motion to strike out the first section of the bill, he had pursued a course, which, in his opinion, was the most correct. When I first took a seat in Congress (said he) the course of proceeding was to fix the principle by resolution, and that once fixed, to send it to a committee to report a bill. By a motion to strike out the first section the principle will be tried, and the Senate, if the motion fails, will go into a discussion of the provisions of the bill. This I conceive a better course, than for the Senate to go into discussion of the details of a subject which would probably be ultimately rejected on the general ground of principle.

The gentleman who introduced this subject spoke with great animation and with great feeling against the press or presses which have undertaken to give their opinions upon this great and important question. He spoke with warmth, and said that whoever knew him would not believe that he would permit himself to be driven out of his opinion by any man or set of men. There is no man, sir, the least acquainted with the gentleman from Georgia (Mr. CRAWFORD) but will believe his declaration. But another result may be apprehended; that those who feel so great an offence at the freedom the press has taken, may be driven into the opposite course by the irritation of their feelings. Certainly those feelings must have been extremely strong, with the gentleman from Kentucky (Mr. POPE) to have induced him to terminate his speech with an oration hostile to the liberty of the press. Are the gentlemen from Georgia and Kentucky the only Senators who have had their feelings wounded by the conduct of the press upon this subject? Sir, if the gentleman's opinions and sentiments have been censured by one description of presses, he may find consolation in having been greatly eulogized by others. For more than a

year, those on the same side of this question with myself have had their opinions tortured into every shape, to destroy them in the estimation of the People; not only in this session but during the last. Sir, there are some presses in the Union which could not exist, whose papers would not be read, but for the discussion of individual character. Is any advantage to be derived from complaining of this? It results from the nature and temper of our Government, and the best way I have ever found to treat it, is, with silent contempt. He who does otherwise engages in the contest at a great disadvantage, and will seldom come out the victor. In the same presses of which those gentlemen complain, I have seen them both eulogised, and properly, for their conduct on the subject of the embargo and West Florida questions.

If the press be an evil in this respect, we must submit to it; those gentlemen who take a high and prominent stand must expect to be noticed. Sometimes gentlemen will be put down by the press, but (their conduct being correct) will more frequently be written up by its abuse.

It has been objected that this question is discussed on the ground of party; and the gentleman from Georgia, as I understood him, said, that this had been made a party question elsewhere, and might be so here. [Mr. CRAWFORD said he had mentioned no place, but had said that this might be made a party question.] I understood the gentleman to say (said Mr. S.) that this may again be made a party question. But for this observation of the gentleman, the subject of party would probably not have been introduced at all; and we must indeed shut our eyes, or we cannot avoid seeing that this is made a party question, at least on one side. Do you see one gentleman, one solitary gentleman of one party, discriminated generally as federal, who does not vote for this measure throughout? Do you see one public body in Philadelphia or New York, which has a majority of federal directors or agents, which has not come before you with memorials drawn up with the ingenuity of lawyers, to impose on your judgment? Have not the same party prepared memorials, and got the subscription of every one of their caste, bringing forward nearly the same number of petitioners as they have of federal voters? Have they not done so in Baltimore? Of that city I would say as little as may be: for, being a manufacturing as well as a commercial city, it has stirred up an animosity in some gentlemen against it, not easily accounted for. In Baltimore, on a warmly contested election, the federal party mustered 814 votes, all they could parade with every exertion. To the petition for the renewal of the charter of the bank there are 840 odd signatures! They have gained some few since the last contest. Is this coincidence of numbers, this exclusively federal petitioning, no mark of party? They have also got one public body in Baltimore to memorialise in favor of the bank; the rest were not to be intimidated by the threats of the Bank of the United States. What, sir, have the other party done? Have they disturbed the quiet of either House? Have they brought forward the mass of their voters as signers to petitions? No, sir, they have trusted the subject to their Representatives, confiding in their disposition and ability to speak their sentiments. The representation of New York, Philadelphia, Baltimore, Norfolk, and Charleston, in the other House, have opposed the renewal of the charter. Every city, high in estimation as a commercial city, is opposed to the renewal of the charter, except Boston. This speaks with a strong voice what are the feelings of the People; stronger evidence cannot be presented to the human mind. Far be it from me, sir, to endeavor to work up the feelings of party spirit on this occasion; but the thing itself was one of the first causes which created the present parties, and separated man from man, and brother from brother. This measure was originally brought forward and adopted when the representation in Congress was not bottomed on an actual but supposed census of the People of the United States. Sixty-five members composed Congress then, which was a representation taken by accident. If a proportionate representation had been given to the States, according to their population, the law probably would not have passed. The States of North Carolina and South Carolina had each five representatives, being thus placed on an exact equality. Now North Carolina has *twelve*.

South Carolina only eight. What was the vote then? Out of sixty-five members, thirty-nine voted for the bill. It was not, as my friend from Kentucky said, a subject not fully discussed or carried by a tremendous majority.

The bank having been formed, it may not be improper for me to take some view of its beginning and its operation. At first, its operations were confined to Philadelphia; it extended its branches, some time afterwards, to Boston, New York, Baltimore, and Charleston. Wherever it extended its influence, dissension commenced; wherever it placed its foot, it became absolutely necessary for the States to erect another bank, to counterbalance its pecuniary and political influence. In Philadelphia it began to oppose certain people, and turn down their paper. The State of Pennsylvania, in defence of its own citizens, created the Bank of Pennsylvania. Here was a check upon its pecuniary and political operations. I believe I am not mistaken when I say, that, soon after it commenced in Boston, a new bank was established there, from what cause I know not. In Baltimore, sir, it soon taught us a lesson, and we met the lesson as other States had done. Charleston and New York acted in a similar way. Operating as the bank did on the politics of the country, before its effects were neutralised by competition, man being man, place him where you will, those concerned in the direction of the bank felt power and exercised it. When the British treaty was pending before Congress, the president and directors (as I am informed) themselves, carried about a memorial to Congress in its favor, with what view, and with what effect, may easily be conceived. In Baltimore (until we were able to check them by other banks) its political influence was great. Prior to the great struggle between the parties, in 1798, they did permit one democrat to be within the walls of the sanctuary, (as a director) a gentleman of as much respectability and independence of character as any one of the direction. He was, however, (immediately after daring to give his vote in favor of a democratic candidate) put out; and since that time no man of democratic principles has been permitted to enter its walls as a director. Men must shut their eyes to the fact of this being a party institution, when they see that no democrat has been admitted to the direction of the bank, but in this city, and New York, where the collector was admitted as a director, for the purpose of protecting the public money, at the instance (it is said) of the Secretary of the Treasury. Can we shut our eyes so as not to see that men hostile to the democratic party, and of course to the success of the administration of the Government, are not the most proper persons to have charge of its pecuniary concerns? I would have been very unwilling to have gone into this part of the subject; but when the gentleman from Kentucky, scarcely able to retain his rage, cried out, party! party! I was bound to show that it was not those with whom I act, who had any agency in pressing the subject of party into the present discussion.

The gentleman from Kentucky reprobates the system of petty mischievous intrigue, for the purpose of carrying measures through Congress. No man, sir, despises or contemns such conduct more than I do. But on whose side has this intrigue been? It is necessary to put the saddle on the proper horse. Have we gone to insurance companies or corporations of one kind or another? Have we intrigued with the People, to induce them to take sides with us? No, sir, we have been tranquil; we wanted no aid of that kind. Have we sent persons here to intrigue with members, or a deputy to remain here the whole of the last and present session, to explain to Congress the effect of putting down the bank, and threaten them with destruction and ruin to the United States, if they passed the measure? No, sir, we have had no one here. Have we stirred up the People in town meetings, to aid us by memorials? No such thing, sir. Have we called meetings, and induced honest mechanics to come here to influence Congress by idle fears, impressed upon them by those who are interested, to tell a tale that shall answer our purposes? No, sir, we have pursued no such course.

Respectable merchants, I observe, form a part of the bank deputies—for what? To represent the late fall of the price of flour as a consequence of the danger of the bank charter not being renewed, and thereby to alarm the minds

of members. I am sorry that men of such respectable character did permit themselves to come here on such an errand. I think I have seen in the papers that one of the manufacturers (now here) on being asked to sign a petition for a renewal of the charter for twenty years, said, he would rather cut off his right hand than sign it; he wished for a renewal for a short time, to give the bank an opportunity to wind up its affairs. If this statement be true, and of its truth I have no cause to doubt, it shows the depth of that intrigue which sent this gentleman here, through the instrumentality of his excellent character, to get a renewal of the charter for a period which he never contemplated. These are intrigues for which men ought to blush, and from which, I thank God, we are exempt. At the time these deputies arrived, there were three mechanics of Baltimore here, of character inferior to none, and of wealth inferior to few in Philadelphia, and who would have given a different view of the subject, if they had been asked to appear before the committee. I thought it unnecessary; I wanted no assistance of that kind, no species of intrigue. They did, however, declare, sir, that granting this charter would be a death blow to the politics of the State of Maryland. They did believe the renewal would be injurious to them: for neither they nor many of the manufacturers of Baltimore had received much advantage from the branch bank. They had their own banks, from which they generally received accommodation. Another species of intrigue is carried on, to wit: by pamphleteering. The press is groaning with pamphlets—for what? To teach the minds of members, on this question, the necessity of renewal, and probability of destruction to the nation, if their demands are not complied with. Our tables are covered with pamphlets of that tendency. Has there been any thing of the kind on our part?

I will now take a view of a part of the subject, into which, permit me to say, I have been pressed by other gentlemen, to wit: *What has been the operation of the bank, in regard to the collection of duties, prior to 1800?* Prior to the institution of the bank, the collectors took the bonds of the merchants for duties, received the money, and deposited it for safe-keeping in the State banks, where there were any. After the bank was erected, it had (for some time) but two branches; still the revenue was as well collected, (I am informed) where the branch Banks of the United States were not, as where they were; and yet (it is said) we cannot have that reliance or confidence in the banks of the States as we can on the branches of the Bank of the United States. The gentleman from Massachusetts told us that in five New England States there was but one solitary branch bank; and I could not find, from any thing that the gentleman said, that he apprehended any distress would overtake the New England States. The gentleman from Kentucky (Mr. POPE) told us that, in Boston, the branch was the great bank of deposite; that, in the trifling out ports, it was not of so much consequence to have branches, the whole collections being drawn into the branch bank at Boston. In order to show that there is an absolute necessity for these branch banks in the collection of the revenue, the gentleman (Mr. POPE) ought to show that the company can place a bank wherever money is to be collected, without enlarging the present capital: for, if it were extended beyond its present amount, his conscience would be pricked: for, (if I understood him) he does not advocate the constitutionality of the bank, if its capital was extended beyond what he supposes to be necessary.

[Mr. POPE said his idea was, that a bank of thirty millions must extend its branches where there was no necessity for them, and where banks of another description were competent to all the ordinary purposes of society.]

And of course, said Mr. SMITH, if the capital extended beyond the limits of the gentleman's idea of necessity, it would be doubtful whether it was constitutional or not. Can a ten millions bank extend itself, as the gentleman contemplates, to every place where the United States have moneys to collect? In the State of Massachusetts there are twenty-three collection districts; Boston owns 83,000 tons of shipping; the only branch of the United States' Bank in the State, is in Boston; whilst the other ports of the State own 200,000 tons of shipping, and have no branch in any of them. The gentleman from Kentucky erred extremely, when he supposed that those towns in Massachusetts which



had no branch, were of little importance. In the town of Salem, where there is no branch bank, there is, perhaps, more East India trade than from any town in the United States; the town of Nantucket, also, is a great trading place; the town of Portland is a great trading town, and there are a number of other towns of great commerce in Massachusetts, none of which have a branch bank; and yet I am informed, from high authority, that there are no towns in the Union where the revenue is better collected than in those towns. The branch bank at Boston, then, may be considered as a treasury chest, and has nothing to do with the collections; an office, where the Secretary of the Treasury keeps an account, to know whether the State banks transmit the money properly to Boston or not. I have been informed, sir, by the Comptroller of the Treasury, that no where are collections better made than where there is no branch bank. It is among the most ridiculous of all ideas, to say that the bank has any influence on the payer of the bond. The influence on the payer is this, and this only, that, if the merchant does not pay his bond when due, he has no longer credit at the custom house; he is compelled thereafter (and until his bond is paid) to pay the cash for all duties, and in that way only does he suffer. I agree with the Secretary of the Treasury, that the creation of banks has contributed to produce the greater punctuality of payment; but this arises as well from the State banks as from those of the United States. A note given to an individual now, must be paid, or the credit of the signer is lost; but that has no operation as to the collection of the revenue. In case of non-payments of bonds, what course does the bank pursue in relation to custom house bonds? The same as with ordinary notes. If the bond be not paid when due, the cashier returns it to the collector, who puts it in suit. The bank is a mere place of deposit for the safe keeping of the bond, and has no farther interest in, or discretion over it, after its payment is refused. There are in the United States, including the territories, ten banks, emanating from, and including the mother bank of the United States; and without these banks we are told the revenue cannot be collected. This does appear to me to be one of the most extraordinary arguments that ever entered the mind of man. Let us examine it. In the State of Massachusetts there is but one bank to collect from three and twenty ports, possessing, independent of Boston, one-fifth of the whole tonnage of the United States; there is no Bank of the United States in Connecticut, and yet Connecticut pays her duties as punctually as any State in the Union; there is no branch in Rhode Island, and whoever heard that Rhode Island did not pay her duties punctually? Maryland has eight ports and but one branch. Virginia has eleven ports, and no branch but a little one at Norfolk, whose operation is confined within the limits of that town. Where there are no branch banks of the United States in the ports of that State, (Richmond and Petersburg for instance) the duties are better paid than where there is a branch; I am authorized to say so. In North Carolina there is no branch bank, and yet there is no difficulty whatever in the collection of the revenue. South Carolina has a branch bank. Georgia, with four ports, has but one branch. My object (it will be observed) is to show, that the revenue has been as well collected where there were no branch banks, as where they have existed. Let me tell the gentleman (Mr. POPE) that the banks of the United States afford no facility in the collection of the revenue, that it is possible for them to avoid. I state this, as deducible from the report of the Secretary of the Treasury. He states that there is in the Bank of Manhattan 188,000 dollars of the public money. From what cause did it get there? The truth (it appears) was, that the branch bank of the United States in New York refused to receive Connecticut or Rhode Island paper, and the Secretary of the Treasury was compelled to deposit it in the Manhattan Bank, which bank had agreed to receive that paper. Here, then, sir, we see that a State bank, although it gains no advantage from the deposit of New York, yet has accommodated the treasury by taking and accounting for the bank paper of Connecticut and Rhode Island, and placing it in a situation in which it can be made use of with facility. Again we find that, in Georgetown, the Bank of Columbia has a deposit of

115,000 dollars of public money. How did it get there? The Secretary informs us, in his report, "that the deposits in the Bank of Columbia arise from occasional drafts on some collectors in Virginia, and from the receipt of moneys, paid at the treasury for lands, patents, &c. in bank notes *not receivable* at the office of discount and deposite, Washington." That is, sir, the branch bank of Washington refused to receive Virginia paper from those collectors, and refused to give any aid or assistance in the collection of the revenue, except that which went to their own emolument. Not so with the Bank of Columbia. It opened its vaults to all; and if any man desires it, he may deposite in the Bank of Columbia, the paper of Virginia, Maryland, or Pennsylvania, and the cashier will give him a check on some one of the banks of those States for the amount. This they will not do in the branch bank. Do gentlemen suppose that the notes of the United States' Bank pervade the whole United States? No, sir, they do not. Does a gentleman representing Ohio bring bank notes of other States to pay for his constituents for land bought of the United States, or debts due in Philadelphia? Can he go to the branch bank and pay them? No, they are not bank notes of the United States, but of the individual States, and the branch bank at Washington will refuse to receive them. The Bank of Columbia (on the contrary) will receive them, and will (if he wishes) pay the money in Baltimore, Philadelphia, or New York, or will pay it here into the treasury. What bank is it that collects the revenue derived from the sales of western lands? Not that of the United States, which is represented as indispensably necessary for the collection of the revenue. No, sir, the collection is made by the Bank of Pennsylvania, which bank established a branch at Pittsburg, and collects the money due the United States, from the purchasers of public lands, as stated in the report of the Secretary of the Treasury.

There has been one great mistake entertained by a gentleman, (Mr. LLOYD) with respect to New Orleans. He supposes that there is no territorial bank in that city, and asks how the collection of duties will be made without one. The Bank of the United States there, has a capital of only 300,000 dollars; that of the territory has 600,000 dollars, as good a bank, too, as any in the United States. And (notwithstanding what has been said) the banks of New Orleans are in as good credit, and have more specie, in proportion to the population of the city, than any banks in the United States. If we should be fortunate enough to obtain a majority for destroying this bill, the gentleman need be under no apprehension for any injurious result arising at New Orleans. The public money will be as safe there as in any bank, and we shall find as honorable men directors of the territorial bank, as in that of the branch Bank of the United States established in that city.

There is scarcely an evil which has not been attributed to the embargo, and which is not now (with as little justice) attributed to the expected non-renewal of the bank charter. Great failures have lately taken place at New York; bills of exchange on London, to a large amount, have returned protested, and the drawers are not able to pay the holders; and to the present critical situation of the bank some gentlemen attribute the distress brought upon those who have suffered by these failures and protests. But, Mr. President, what is the real cause of those failures? They are confined principally to New York, and may be attributed to the following causes: It is natural for men born in Great Britain to entertain predilections favorable to a commerce with that country; their connexions, as well commercial as of family, are there; their credit is there; and from those causes, the house which has failed, and carried so many others with it in its fall, has probably directed the principal part of its commerce to England; they have no doubt shipped cotton and tobacco, the trade in which being in a great measure confined to Great Britain, the natural consequence has been, that the markets of England were completely glutted; tobacco (except the very fine Virginia) scarcely paid the charges of freight and commission, and the loss on cotton must have been near fifty per cent. The consignees, under those circumstances, refused to pay the bills drawn upon shipment of those articles. The bills returned protested, and ruin to the Amer-

ican shipper has been the consequence. At any other time, the English merchants would have accepted the bills, and held the cargoes for a better market; but, at that time, ruin stared every man in the face. No man in London knew who to trust, and very few would enter into engagements which they saw any difficulty in meeting. No censure ought to be attached to the American shipper: for, by the usage of trade between the U. States and Europe, the American merchant is entitled to draw for two-thirds the amount of his cargo, on transmitting invoices and bills of lading with orders for insurance. Other causes have existed to cause the present distress in New York and elsewhere. to wit: the seizure, detention, and confiscation, of property in Denmark, Prussia, and France, of ships and cargoes to the amount of many millions, on the proceeds of which cargoes, merchants calculated to meet their engagements at home, and to meet their bills drawn on London: for, sir, the merchants who make large shipments to the continent, order the greatest proportion of their proceeds to be remitted from thence to London, and on the expectation thereof, draw bills on their friends there. Disappointment has been the consequence of such seizures and losses; protests of such bills and ruin has followed. But, Mr. President, we might (with as much propriety) attribute the late great failures in England and on the continent to the expected non-renewal of the bank charter, as those which have happened in New York, or the present distress of the merchants in the United States. The returns of the bills protested to so large an amount, of course destroyed the merchant's credit at bank; he failed, and, by his fall, has caused the ruin of others. When a great house fails, it is like a game of nine pins; knock one down, and it will probably carry with it four or five others.

When the honorable gentleman, up yesterday, made an observation on the remarks of my friend from Tennessee, (Mr. ANDERSON) he certainly was not warranted in what he said. He supposed that my friend from Tennessee gave a vote at the last session different from that which he should give now. I can only say, for him, that he (Mr. ANDERSON) then said, uniformly, "make your bill as good as you can, but I shall vote against it on constitutional grounds." He wished the bill perfect if it should pass, though he was fully determined to vote against it.

We have been told, Mr. President, in case the charter should not be renewed, that we shall find, in future, great difficulty in obtaining loans. What loans, I ask, have Government ever received from the Bank of the United States? I recollect, when I first entered Congress, that Government were indebted for loans made from the bank, but I also recollect, that the bank complained of the loans as an inconvenience, and that Congress took the earliest measure in their power to pay them off; and have, since that period, made no new loan from the bank, until that made payable the 1st of January last. I will not inquire whether *even that loan* was necessary, but I will venture to promise, sir, and will give any security that may be required, that the State banks will give a similar accommodation, to wit: if the Secretary of the Treasury will deposit with the State banks two millions five hundred thousand dollars of the public money, (the amount of the late loan) they will lend Government to the same amount, and thus do as the Bank of the United States has done, *lend you your own money*, and very kindly receive from you an interest of six per cent. therefor. We are told that the bank has lately lessened the discounts of individuals 10 per cent. and that the merchants are *thereby* greatly distressed. Is that a fact? If it is, and great distress has ensued therefrom, what will be the distress of the merchants if the bill now before you shall pass, and if, agreeably to its provisions, Congress should, at any time hereafter, call on the bank for the loan of four millions, promised by the bill? If, sir, a lessening of their discounts one-tenth per cent. creates distress, what will be the consequence, when, by a loan of four millions, called for from the bank, the bank shall be compelled to lessen the discounts four-tenths?

But, sir, the promise to lend four millions from a bank of ten millions, is idle; it is worse, it is deception on the face of it. The loan, if made, would

not be from the bank, but from the merchants, whose discounts would thereby be lessened, and whose ruin would follow.

We are told that, if the charter of this bank be not renewed, and the funds of the United States be deposited in the State banks, it will be extremely unsafe, because it is said we can have no control over them. And I wish to know, sir, what control we have over the Bank of the United States? None, but the same as we may have over the State banks. We cannot check the operations of the Bank of the United States; and if they obtain this charter, they will know that they can have their charter renewed whenever they please; so that the fear of a non-renewal of their charter will have no operation on them in future. You will have a much greater control over the State banks, because you are under no obligation to put money in them, and you can change them whenever you think proper; the danger of losing the public deposits will always be a sufficient control over their conduct. The security of the State banks is doubted, however; and we are told, *very gravely indeed*, that there is much more security in the mother bank and her nine children, than in ten independent banks. This I must deny. I should, as a merchant, place more confidence in ten independent houses, than in one with nine branches.

It has been observed, (said he) by an honorable gentleman from Kentucky, (Mr. POPE) "that the question on the Bank of the United States was not originally a party question, and had not excited much sensibility at the time." When first this question came before Congress, sir, it excited not a little sensation. The doings of the convention having been recent, were then fresh in the minds of such of the members of Congress as had been in that body. To them it was well known, that an unsuccessful attempt had been made, in that convension, to give the power of creating charters. The subject, it is well known, was very fully and amply discussed, on the passage of the charter. The honorable gentleman from Georgia has, in the course of his argument, disclaimed all authority, and depends (as every gentleman should) on a fair construction of the instrument itself. Not so with my friend from Kentucky, (Mr. POPE.) He bottomed himself on authority, and called to his aid the great name of Washington. He told us, also, of the able support that measure received from a gentleman, for whose virtues and talents he always had the highest respect, although generally differing from him in politics—he meant General Hamilton. He also called into his aid the opinions of the present Secretary of the Treasury. These, sir, are powerful authorities. General Washington, it is true, signed the charter, and gave it the sanction of his name and authority. But, let it be recollected, sir, that General Washington demurred on the bank bill till the last hour of the ten days, and that he signed it reluctantly at last. He took the opinion of the then Secretary of the Treasury, Mr. Hamilton, on the subject; it was an able one, and he being at the head of the Treasury Department, it had, in consequence, a powerful effect on the mind of General Washington. It was as ably resisted, in point of argument, by the late President of the United States; and however high may be my opinion of the talents of General Hamilton, I must venture to believe that, in point of a discriminating mind, Mr. Jefferson was no ways his inferior. The charter, also, was opposed by the then Attorney General of the United States, (Edmund Randolph) a man inferior to few in point of legal knowledge; and, but for the impression made on General Washington by General Hamilton, (whose being at the head of the Treasury Department added great weight to his opinion) he probably never would have signed it. In the discussion of that question, a very able part was taken by Mr. Madison. The name of that gentleman, as President of the United States, has been made use of by the gentleman from Kentucky; I am not certain that we are entirely in order, when we undertake to bring into debate the name and opinions of the President of the United States. It having, however, been done, I presume that I shall not be out of order in pursuing the same course. The arguments of that gentleman, on that occasion, add another wreath to his fame. Neither was its rejection less ably advocated, on that day, by my friend from Virginia, Mr. Giles. In point of authority, I produce these, as at least equal

to those brought forward by my friend from Kentucky. We are, therefore, left, as we ought, to exercise our own judgments on this instrument itself, the authorities being counterpoised.

I have already, sir, taken a short view of the course of the proceedings by the bank for the collection of the revenue. Permit me to pursue that point. Prior to the establishment of any branch bank in the United States, the collectors, as I have already stated, did collect each for himself; and after the money had been so collected, they paid it over into the banks, either of the States, or of the United States, where it was deposited for safe-keeping, the banks being accountable to the treasury for the amount. There was no difficulty, at that time, that I ever heard of, in conveying the public money wherever the exigencies of the country might require. After the branch banks were extended, no use was made of them, but *as places of safe keeping* for the public money. They had *no instrumentality* whatever, in the collection of the revenue, prior to the year 1800; simply treasure boxes, (if you please) in which the public money was deposited. This was the course of business for nine or ten years after the charter of the Bank of the United States had been created. No use, I repeat, whatever, (for nine years of its existence) was ever made of the bank or its branches, *for the collection of the revenue*; they were mere places of safe deposit. If they were necessary and all-essential, why were they not necessary, and equally essential, at all times? Was not the revenue equally as well collected, for the first nine years of their existence, as it has been since, and with as little loss to the public? In 1800, a bill was brought in and passed. If my recollection serves me, I was the author of it. My object, whether I was the author of it or not, *was not to aid the collection of the revenue*. Such an idea never entered my mind. I knew the collection of the revenue was *then well made*. What, then, induced me to bring in, or advocate that bill? It was this: the collectors gave bond and security when they entered the office; I feared that they might aid those gentlemen who became their securities, and, from time to time, lend to them (for their private uses) the public money. It appeared to me that it was to the private interests of the collectors, as well as the public interest, to deposite the bonds taken for the revenue, in the great towns, within the banks of the United States. Prior to 1800, the collectors took the bonds themselves, and kept them in their offices. To put it out of their power (if they were so disposed) to lend their friends the public money, I was induced to support that bill; and I have no doubt that it did save the public money, in some instances, from the effects of the failures in 1798. The bonds, in the six great towns, were, after that, as the law of 1800 directed, deposited in the bank and its branches, and collected by a short notice being sent from the bank to the merchant, to wit: *that his bond became due on a certain day*, and the bonds were, *ever after, paid into those banks*. The banks had no instrumentality whatever in obtaining (except in that way) payment of those bonds. Compulsory process was not found in the Bank of the United States, but in the revenue laws; if the debtor did not pay the bond when it became due, he lost all credit at the custom house, and *must therefore pay cash*—he is put under the ban. This is a lien on his punctuality, and it is such a lien as secures to Government the punctual payment of the revenue. However unable the merchant may be to pay the debts due to individuals, every exertion will be used by him to pay the debts due to the United States, for his bonds. I trust that, from this practical exposition of the operation of the banks, (and as far as my information goes, I am bold to say it is a correct one) that no gentleman will doubt that State banks will be as efficacious in the collection of the revenue as those of the United States have been.

But, in the event of a non-renewal, we are asked how are we to pay the army and navy, and the public officers? Precisely in the manner we have always paid them—through the instrumentality of the banks. At New Orleans, (where a great part of our army now is) the public money will be deposited in the bank of that territory, consisting of a capital of \$600,000—a bank, as well and as honorably conducted as that of the United States. For a draft

of the paymaster of the army of the United States on that bank, the deputy paymasters will have the option to take either paper or hard dollars. I may add, that the territorial bank paper is as well received, and in as good credit, as the paper of the branch bank at New Orleans. How is your navy generally paid off? By a treasury warrant on the Bank of Columbia, (which is not a branch bank) and which is paid in branch or other paper, at the option of the holder. Would this paper, by such means, be made a coin of the United States? No, sir, it would have no such effect. If, however, the purser of the navy should ask specie for his treasury warrant, the Bank of Columbia would give it to him; it is at his option to take the one or the other. In like manner your public officers will be paid.

In what paper, the gentleman asked, will your duties be collected? In that kind of paper which the collectors, or the Secretary of the Treasury, will think as secure as that of the United States. If a merchant offers to pay his bond with paper not approved of by the cashier of the State bank, (where the bonds are deposited) he will refuse to receive such paper. What will be the consequence? The merchant must pay approved paper or specie, or his credit will be lost at the custom house; the consequence, I have already stated. As I have observed, sir, let the gentleman look into the respective States, among the farmers, merchants, and planters, of the interior, and see what proportion of the paper in circulation is that of the United States. I venture to say, not one for ten; and it arises from this circumstance, that the agents and factors of the farmers and planters do business principally with the State banks.

But, Mr. President, some kind of inconvenience, it is thought, will result from the dissolution of the bank, because its paper is an universal medium. Sir, there will be an understanding between the banks of the different States; and the Secretary of the Treasury tells you that arrangements are nearly completed to attain that object; the Secretary does not complain of the inconvenience that some gentlemen appear to apprehend. I am of opinion that the more accounts the treasury opens with the State banks the easier will be the transmission of the public money. What is the present mode of making remittances, by individuals, from New York to Richmond? A merchant in New York wishes to purchase five hundred hogsheads of tobacco in Richmond. If he applies to the branch bank, and says he wishes to make a remittance for the purpose of purchasing tobacco at Richmond, the branch bank will not, cannot aid him; but if he applies to the Manhattan, Farmers', or Mechanics' bank, they will take his money, and give him a check on Richmond to enable him to make his purchase. Here, then, is a convenience not afforded by the United States' Bank and its branches. In the same way will the State banks act in relation to the funds of the Government. The Government wants \$100,000 in New York. They have it not there, but have it, however, in Richmond. All the Secretary of the Treasury will have to do, will be to direct the cashier of the Virginia bank to send \$100,000 to New York. It is done every day for individuals, and no inconvenience is experienced. Suppose a merchant in New York wants to buy a cargo in Baltimore; he applies to the branch bank in New York, takes out their notes, and sends them to Baltimore to buy his cargo; he will apply to the branch bank of Baltimore, and say, "here are notes of the branch bank of New York; give me money for them." No, sir, the cashier will not receive them; the branch bank will not take the paper even of the mother bank. They may do it to oblige particular gentlemen, but they are not obliged to do it. I have said that the paper of the mother bank is not a payment to the branches; nor are the bank notes of the branches to the mother bank. Each branch is bound *only* to receive its own paper, and not that either of the bank or any of its branches. For instance, lately, (as I am informed) the branch bank of Baltimore being called on by the mother bank for specie, applied to the Union Bank for specie, for a debt due by that bank of \$50,000; assigning as a reason that they were called upon for specie by the mother bank. The cashier of the Union Bank said, as was natural, *we have notes of that bank to the amount of \$100,000, we will pay you in them; her own paper will certainly be as good a payment to her as*



*specie.* No, was the answer; you must give the specie; and the specie was paid. The Union Bank was, in consequence, compelled to send to Philadelphia, at its expense, for payment of the notes which it held of that very bank. A similar transaction (I have been told) took place between the Mechanics' Bank of New York and the branch bank of that city. I state those cases to show that the paper of the mother bank is not a universal medium, not even payment to her own branches; whereas, in the understanding which exists from Richmond to the Bank of Columbia, from the Bank of Columbia to the bank in Baltimore, and thence, to New York, the paper of each will be received by each, and when too great a balance exists against either, its paper is sent to the debtor bank, for which it returns specie. I cannot believe that any gentleman can seriously suppose that bank paper can be considered as coin. It is true, that, by your law, all the paper of the mother bank and its branches, is receivable in payment for duties; but it is not a currency in all cases, because it is not a tender in any, except for duties, and if I owe a note at the branch bank of Baltimore, and offer to pay mother bank paper, it is optional with the branch whether it will receive it or not. I have no way of compelling them to receive it, because no paper is a tender to it but that of its own branch, except, as I have said, for public dues.

I have been referred by my honorable friend from Georgia (Mr. C.) to the late letter of the Secretary of the Treasury. I have been told by my friend from Kentucky, (Mr. POPE) that he is willing to place *his faith* on the great talents of the head of the treasury. I am not going to contest the talents of the Secretary of the Treasury, nor have I the smallest objection to his letter on this subject, as respects the information it has given. I respect it as that of one of the high officers of our Government, and hope I never shall be found (from any fortuitous circumstances) to doubt its due authority. I shall treat it as I would all the reports from the heads of departments, *with respect*; but I will not be bound by the report, or pin my faith (as my friend from Kentucky, Mr. P. proposes to do) on the sleeve of any man breathing. I did not object to this letter, but I had an objection to bringing in by committees a support of this kind, which is to have the preponderating force of a report of the head of a department, to the aid of gentlemen on that side of the question. I did state, and now repeat it, that, in 1793 and 1794, so powerful an instrument did such reports become, in support of improper measures, that the House was offended, and the Secretary of the Treasury (Mr. Hamilton) was compelled to confine himself, ever after, to the handing in reports stating facts, without being allowed to give opinions, and to use arguments in support of them. An intimation was given by a resolution of the House, and we had afterwards no arguments sent to us by the treasury. We received facts, statements, and documents, and were permitted to form our own opinions. A course, however, has been latterly taken in our proceedings, which fully justifies the honorable gentleman from Georgia in the course that he has pursued as chairman, and will also justify the Secretary of the Treasury in the greater part of his letter. I am not to be understood as having (on a former occasion) cast censure on the Secretary of the Treasury for writing the letter; it became his duty to answer the inquiries of the chairman of the committee; he did so. But the letter is now before us, and, having been referred to by the gentleman from Kentucky, I will take it up in parts; and, in doing so, I have no disposition to inflict the least wound on the feelings of the Secretary of the Treasury. He begins with saying, "Having already, in a report to the Senate, of March 20, 1809, expressed my opinion in favor of a renewal of the charter of the Bank of the United States, an opinion which remains unchanged, I can only add a few explanatory remarks in answer to the inquiries of the committee, as stated in your letter of yesterday." Here, then, sir, he bottoms himself and his opinions on the report of 1809, for a national bank—a bank truly national, not of the limited capital of the United States Bank, which is scarcely enough for the pocket expense of the merchants in a single city; not a ten millions bank, which was adequate to all the purposes for which it was intended twenty years ago; but not now, when we have grown

up to a state of comparative grandeur. The Secretary of the Treasury wants a bank, I presume, something similar to that which was proposed at the last session; to which, if I recollect right, my friend from Kentucky was opposed. If the letter of the Secretary be the authority on which my friend wishes to bottom himself, he ought to take the whole of it. The Secretary does not mean, by that paragraph, to advocate a simple renewal of the charter, but a national bank capable of extending its ramifications into every State, and placing branches in every State and town where large collections of public money are made. That being the view of the Secretary of the Treasury, I wish we had known how, at the last session, to have drawn out his aid in support of his own measure. Again, the Secretary says, "The banking system is now firmly established, and in its ramifications extends to every part of the United States. Under that system the assistance of banks appears to me necessary for the punctual collection of the revenue, and for the safe keeping and transmission of public moneys." Here the Secretary says, the banking system has extended its ramifications in every part of the United States. True, sir, but it is not the banking system of the United States; *that system only affects a few cities*. What then are the ramifications he alludes to? The State banks, through whose instrumentality collections have been made with as much honor, punctuality, and correctness, as by the Bank of the United States, and with more facility to the Government, because those banks will receive the paper of other banks in payment; whereas the branch banks will not.

"That the punctuality of payment is principally due to banks is a fact generally acknowledged." That is, sir, that the banking system has introduced a punctuality between man and man, which has created a regularity in all pecuniary transactions. The Secretary, however, certainly cannot mean to attribute that punctuality to the *Bank of the United States*, but to the general system of banking. The sentence is, however, ambiguous.

"Its punctuality is, to a certain degree, enforced by the refusal of credit at the custom house, so long as a former revenue bond, actually due, remains unpaid." Here, sir, I disagree with the Secretary. Punctuality in payment is not, in a certain degree, enforced by a refusal of credit at the custom house, but by that alone. The refusal of credit at the custom house is *alone* the real enforcing cause. It was not, therefore, *wise or correct* in the Secretary to insinuate that it was only in a certain degree. The loss of credit at the custom house will always compel the merchants to pay their bonds to the United States, however they may deal with individuals.

The Secretary then goes on to state, that "he thinks, nevertheless, that, in order to ensure that precision in the collection, on which depends a corresponding discharge of the public engagements, it would, if no use was made of banks, be found necessary to abolish altogether the credit now given on the payment of duties." *If no use was made of banks*, credit, he thinks, should be abolished at the custom house; and gentlemen who read this cursorily will be apt to apply the remark to the Bank of the United States. Not so the Secretary of the Treasury; the sentence is ambiguous, but he must mean that, if there were no banks of any kind, punctuality between man and man would not be so assured, and the merchants would not be so competent to meet their engagements, as they would if aided by banks.

"State banks may be used," says this report, "and must, in case of a non-renewal of the charter, be used by the treasury. Preparatory arrangements have already been made to that effect; and it is believed that the ordinary business will be transacted through their medium, with less convenience, and in some respects with perhaps less safety than at present, but without any insuperable difficulty; nor will the United States have any other control over the manner in which the business of the banks may be conducted than what may result from the power of withdrawing the public deposits."

What inconvenience can there be? None that I can imagine, nor will there be any. The safety will be the same: for, let me again repeat, that the treasury has no more control over the Bank of the United States, under the

law as it now exists, than it will have over the State banks. What control (it may be asked) will the treasury have over the State banks? A powerful one, in my opinion. If it does not appear that they are conducting your and their affairs safely, the Secretary will take the public deposits from such, and place them in others; you can thus operate powerfully on the interest of those with whom the public deposits are made. Have you more control now over the Bank of the United States? No, sir, not so much: for the law compels the Secretary to deposit the public bonds with the Bank of the United States and its branches, and he has no power to withhold them.

I am bold to say, sir, that the State banks are conducted with as much prudence and as much security, in the large towns, as that of the United States. In Virginia, as I have already stated, there is a trifling branch of the Bank of the United States, of 300,000 dollars capital. That branch is in a corner of the State with which the people of Virginia have very little intercourse. Their great intercourse is with the banks of Richmond and Fredericksburg. What is the state of the specie of the Bank of Virginia? It is superior to that of the Bank of the United States. I believe the capital of the Bank of Virginia is one and a half millions of dollars; it has near two millions of dollars in its vaults at present; it generally divides eight per cent.; the last dividend was ten. Here then is a dividend greater than that of the Bank of the United States; and the Bank of Virginia has none of that check from the United States Bank which is deemed by my friend from Georgia so necessary to the regularity of State banks. [Mr. CRAWFORD explained "that those who gave testimony against themselves certainly might be believed; and the State banks had themselves stated that they were kept in a salutary check by the Bank of the United States."] Mr. S. continued. I am happy to learn, sir, whence the gentleman drew his conclusion that the Bank of the United States was necessary to keep the State banks in check. I do not know what species of directors they can be who tell us that it is absolutely necessary that we should have the United States' Bank to check them, and keep them from injuring themselves. It is the old doctrine of Mr. Morris, revived in a new form, that the People are their own worst enemies. Can it be believed that the directors of any bank would state that the Bank of the United States was necessary to check them? If it be so in Philadelphia, it is certainly not so in Richmond, where they have not this check. So far from the branch in Virginia keeping the State banks in check, the Bank of Virginia always keeps the branch at Norfolk in check.

The Secretary does not give his positive opinion on the competency of State banks to the transmission of revenue, &c. but says, "it may be added, that, even for ordinary business of receiving and transmitting public moneys, the use of a State bank may be forbidden by the State, and that loans to the United States are by many of the charters forbidden without a special permission from the State." If there be any such charters, the Secretary of the Treasury need not make use of the banks which have them; he may find enough of banks that can give ample security. As for the ordinary and extraordinary business of the treasury with the banks, I have already shewn that, for the ordinary business, the State banks can do it as effectually and with as much security as has heretofore been afforded by the branches. The Secretary then goes on, sir, to give his opinion in direct contradiction to the bill before you, and shows that, whatever reliance gentlemen may have placed on his authority, they have not reported a bill in conformity to it. "It does not seem necessary to advert to the particular objections made against the present charter, as those may easily be obviated by proper alterations. What has been called a National Bank, or, in other words, a new bank of the United States, instead of the existing one, may be obtained by such alterations. The capital may be extended and more equally distributed; new stockholders may be substituted to the foreigners, as had been suggested in the report of 2d March, 1809; and any other modifications, which may be thought expedient, may be introduced, without interrupting the operations of the institution now in force, and without disturbing all the commercial concerns of the country." This

project, sir, was tried at the last session. We unfortunately did not get the aid of my friend from Kentucky. *It was then agreed to merge the whole capital of the Bank of the United States in a national bank*, but rejected by the bank agent—a bank of thirty millions, which would have been found capable to extend its ramifications wherever banks might be wanted. The Secretary's letter speaks of the plan of the national bank, and *not of the one contained in the bill presented to us*. The Secretary continues. "Without dwelling on the inconvenience of repaying at this time to Europe, a capital of seven millions," &c.

The Secretary, Mr. President, is considered by his friends, a very great man in fiscal operations; in commercial matters, I may be permitted to have opinions of my own, and to differ from him (without offence to my friend from Georgia) on a question simply and exclusively commercial. Now, sir, where is the difficulty of sending these seven millions (owned by foreigners) to Europe? There is no more difficulty, I answer, than for the merchant who owes seven thousand dollars in England to remit it. This seven millions will not be taken out in silver or gold, to send to England, as is feared by gentlemen. No, sir, men do not carry political enmities to the extent to injure their own interests. The foreign stockholders will not remit specie, because, if they do, it will cost them from five to seven per cent. If they do not remit in specie, how will their funds be conveyed to England? By the most plain and simple mode that can be. The agents of the British stockholders will do one of two things: they will vest the funds in the State banks, or funds of the United States; or direct their agents to remit the amount in bills of exchange. And how will that be done? By buying bills of exchange, which, for every ninety pounds paid here, will yield them one hundred pounds in England, because bills of exchange are ten per cent. below par, and there is no chance of their rising. As they can make this gain by bills, does any man conceive that they will not thus remit their money, if remitted at all? Well, sir, gentlemen will perhaps again ask, can we spare this money from the United States, and will it not injure the young industrious mechanics and ruin the agricultural interest? Those are idle fears; an exchange of property will take place. The American merchants have, at this time, more than double the amount (of the seven millions) now in, or which soon will be in, the hands of the English merchants, which they will be glad to transfer by bills to the British stockholder, for his funds in the stock of the Bank of the United States; and thus the English stockholder will receive the amount of his stock without one dollar of specie being sent out of our country, and the funds of our merchants, now in England, will thus replace the funds of the English stockholder.

Here follows an apprehension of the Secretary, founded on false premises. He says, "And, without adverting to other possible dangers of a more general nature, it appears sufficient to state, that the same body of men, who owe fourteen millions of dollars to the bank, owe, also, ten or twelve to the United States, on which the receipts into the treasury for this year altogether depend; and that, exclusively of absolute failures, it is impossible that both debts can be punctually paid at the same time." Permit me here to observe, that I differ with the Secretary on the question of *fact*. I cannot believe that the ten or twelve millions due by the merchants for duties to the United States, are due by the same individuals who are indebted to the Bank of the United States, the fourteen millions stated by the Secretary; because, I know that the great body of the merchants who owe for duties, do their business with the State banks, and of course cannot be those who are stated as debtors to the Bank of the United States. Some of my friends, for whose opinions and persons I have an unbounded respect, are still apprehensive that great distress will result for want of the usual discounts to the merchants of the United States, in case of a non-renewal of the bank charter. The fear is an idle one; it will be precisely the old story of the green ass. It will be remembered *nine days*, and not much longer. The course of proceedings will be this: The Secretary tells you, that arrangements have already been made to transfer the money from the Bank of the United States, to the State banks. I believe they are in full

operation. He will take three millions of dollars (the public money now deposited) from out of the Bank of the United States, and put it into the State banks. Add thereto, above four millions of deposite, the property of the merchants, which will also be taken out of the Bank of the United States, and put into the State banks. That is, seven millions of dollars will be immediately drawn from the Bank of the United States, and placed in the State banks. Upon this money the State banks will feel themselves justified in going into larger discounts, and upon such funds, will be able to take up all good paper thrown out by the United States' Bank, in consequence of the non-renewal of its charter. Were I a negotiator in the Bank of the United States, and had I great discounts in that bank, and were the moneys transferred as I have suggested, I should have no apprehension, and should put my paper in the State banks into which the deposites are removed, with a full confidence that it would be discounted. This, then, is an idle phantom, raised to deceive gentlemen, who are not particularly acquainted with the business. What is the reason, sir, that none of those fears, those horrible terrors, (presented to our imagination) are felt in Baltimore? The merchants there, generally, are of the republican party, and feel none of those fears. And yet, sir, we are told of the great distress, and almost led to believe that universal ruin will ensue. The distress will not be felt sixty days after the 3d of March. If felt by any, it will be by those who can now pay five shillings in the pound, and who, if they go on three months longer, would not pay sixpence. We are told that this bank has been honorably, correctly, impartially, and fairly conducted. The honorable gentleman who made this declaration, assured us that he was not versed in the subject of banking; and this was at once giving a most convincing reason against his opinion. He receives the opinions of the gentlemen who are most friendly to the institution, probably from gentlemen that never felt a partiality for any other. Let the gentleman apply to merchants on the other side of the question, and he will receive very different information indeed. In Boston, the honorable gentleman from Massachusetts told us, that the bank has for its President, a gentleman of high talents, great integrity and respectability, and he did not depict him too highly. I know him well, and am bound to believe the information the gentleman has given *as to the well meaning of the branch bank there*. By the well management of a moneyed institution, we understand an attention to the advantage of the stockholders. In that point of view, (no doubt) the bank has been well managed. I have a letter, which goes to prove, to my satisfaction, that the branch at New York has not been managed with all that impartiality and correctness which has been stated by the deputies from Philadelphia. I will read an extract therefrom; the writer is a gentleman whom I highly respect, of mild manners, good sense, and great respectability. He says, "I can speak from experience to this fact, (impartiality.) I have employed a capital of between two and three hundred thousand dollars in trade here, (New York) for several years, and from being considerably engaged in navigation, my bonds for duties to the United States have amounted to many thousands a year; yet I can aver, that the branch bank has never aided me in the payment, by discounts or otherwise, whilst the Manhattan Bank has freely discounted the paper which the branch rejected, merely by reason of the contamination of passing through republican hands." I know nothing, Mr. President, but from such information, as to the partiality or impartiality of the bank at New York, except from common fame, who is sometimes said to be a common liar; still some confidence is due to general report. In Philadelphia, it is said that the bank has been impartially and honorably conducted; and I will not doubt the gentleman's words. I do not know what it has done lately, but, some years ago, I heard such a detail of its conduct, as was no proof of the allegation. In Norfolk, I will venture to say, that the conduct of the bank never was considered impartial; and I had a letter last year, from a highly respectable merchant in that place, which (if now in my possession) would have proved the contrary. In Baltimore, sir, we have heard it said in another place, that the bank discounted as much for republicans as for federalists. I cannot contradict this;

I cannot, because I have not seen their books; but I believe there is not one republican in Baltimore who will give his assent to that information. If it were the case, I could not well have failed to know it. We ought not, sir, to place entire reliance on the information of interested men. We were told, but a few days ago, and the information was derived, I believe, from the same identical letter as the stated information, "that the Union Bank of Maryland was the first bank which refused to receive foreign gold." I have inquired into that fact, sir, and find that the Union Bank never refused it, except in one instance, until the House of Representatives rejected the bill from the Senate on the subject of foreign coin. I have a letter from the cashier of that bank in my hand. He writes, "that the first information I had respecting *foreign gold*, was from the cashier of the Bank of Baltimore, (Mr. Cox) who handed me the proceedings of the Banks in Philadelphia on that subject. It is impossible for me to say which was the first bank that refused to take it; and can only state, for *ourselves*, that we continued to receive and pay it, at its usual value, (with one or two exceptions) the amount not exceeding two or three hundred dollars difference, until the House of Representatives refused to agree to *your* resolution on that subject in the Senate. On the 30th of October last, we received from the bank of Maryland \$10,000, without deduction, as you will see by the enclosed certificate." I state this fact, sir, at this time, only to show how cautious gentlemen ought to be in placing reliance on information of this kind. It is impossible for me, living as I do, in Baltimore, to believe that the republicans have experienced impartial conduct from that bank.

We have been told, sir, that the high improvement in the agricultural State of Pennsylvania is to be attributed, in a great measure, to banks, particularly to the Bank of the United States.

The gentleman (Mr. POPE) called upon us to remark the difference in the improvement of cultivation between that State and others, and to see what the State owed to the institution of banks. I have no doubt, sir, that the institution of banks has contributed as well to the prosperity of agriculture as of commerce; but this effect has been much more produced by the State banks than by the Bank of the United States. Has Connecticut any branch of the United States? None; and yet the honorable gentleman from Kentucky, when he travelled through that country, could not have failed to see as high a state of cultivation there as in Pennsylvania. Now, sir, on the other hand, the State of Maryland, which has the *enviable* advantage of a branch Bank of the United States, in addition to her immense capital in State banks, has not as yet progressed to that high state of cultivation witnessed in Pennsylvania. This more probably proceeds from the temper, habits, and climate, of her population, than from the cause assigned by Mr. P.

We are told, Mr. President, there is a prodigious scarcity of money in the great cities. Money, Mr. President, like every other commodity, will go where it finds its best market; and if in the State of Virginia there be a better market than in Philadelphia, there will it go—and *there it has gone*. In Virginia, they have what will command money—wheat and tobacco; and the merchants from the great cities were obliged to go there for those products, where they could buy cheaper than they could at home. What was the consequence? Money went where it found the best market, and that was in Virginia; the fact is proved from the quantity of specie in their bank. There is no scarcity of money in South Carolina, where merchants were obliged to carry their money for the article of cotton. A scarcity of money results from a scarcity of means of acquiring it. From the large cities we have exported all or a great proportion of our means, and we cannot get back the money for want of the usual sale of bills of exchange; and thence results the great scarcity of money in those cities. It is in vain to tell me, as I have heard in the course of the discussion, that United States' paper is the only universal medium. In the interior, we find the paper of the State banks, and of the State banks alone, in circulation.



In the animadversions of the gentleman from Massachusetts, in order to enforce his argument, and show the danger which will result to State banks, he brought forward an example very strong in point, viz: that an agent of one of those banks, sent here for the purpose of obtaining those deposits, had decaimed from this city on hearing of the failure of a great broker, which endangered the bank of which he was a director, to such a degree, as to depreciate the value of its stock twenty per cent. [Mr. LLOYD said he had stated it is a rumor, for the authenticity of which he would not vouch.] I was going to say (observed Mr. SMITH) that, from the high opinion I entertained of the delicacy of that honorable gentleman on every subject touching the credit of a bank, I was convinced, that, unless he had proofs as strong as those of holy writ, he would not vouch in such a case; that he would be cautious in giving such a thing as truth, unless he knew it of his own knowledge. As to the statement which he made, there must have been some mistake. One week before the gentleman in question left this city, he gave notice that he should go away on Thursday. He did go on that day, and had previously applied to the Secretary of the Treasury for a share of the deposits of the Government, and produced a report from his bank to show the substantial character of the Mechanics' Bank. The account of the failure of the broker, Mr. Judah, did not arrive until two days after the gentleman alluded to had left this city. He could not, therefore, have returned to New York on that account. What is really the fact? The Mechanics' Bank of New York stands on as substantial a foundation as any bank in the United States, and has, in proportion to its stock, *more specie* in its vaults than any bank I know, except that of Virginia. Mr. Judah did fail; but the stock of the bank did not experience a more unusual fall than that of other banks. The great failures at that time staggered every man for his own safety. The banks looked around with caution. The value of the stock in every bank experienced a depression. At that moment the Mechanics' Bank paid its dividend of  $4\frac{1}{2}$  per cent. and the stock, which was worth 20 per cent. above par, did go down to  $15\frac{1}{2}$  per cent. What was the loss, at any rate, sustained by this great broker? The Mechanics' Bank, I understand, will not lose 2,000 dollars by all the failures; by Mr. Judah, not a dollar. On the contrary they have money to pay him. I mention this fact to show that we should be extremely cautious, indeed, in placing reliance on facts of this kind, from sources over which we have no control.

We are called upon, sir, to believe, that the borrowers at New Orleans are less safe than elsewhere. I had thought they were more safe, because they have more valuable produce to export; because they have more specie among them than in any other part of the Union; and because the people of the whole western country send their products there for sale, and do not press the merchants too much in return. One reason has been assigned (by Mr. LLOYD) why we should renew this charter; that, in this city, loans have been made to the amount of 400,000 dollars, which are expended in canals, houses, bridges, and improvements; and we must renew the charter to enable those people to go on. That reasoning, sir, has no influence with me. There has been one prodigious mistake in all this business. It is taken for granted, that the merchants cannot pay their notes at bank, unless they obtain new discounts. This would be to say, that they were carrying on trade without any other than bank capital. The loans in Baltimore, on made paper, are a mere drop in the bucket, compared with the extensive trade of that city. A great proportion of the notes which the bank reports as payable, are on bona fide sales. The borrower does not depend on any loans from banks to meet them, but draws on his own means to pay such notes. But there are in all banks what is called negotiable paper. We borrow from the bank a stipulated sum, and understand that, unless the bank is hard pressed, it will continue the renewal of notes, to take up that stipulated sum. A note is signed by A, and endorsed by B, for which no property is paid; it is a mere note of accommodation. That note, when it comes due, is not expected to be paid, unless by a renewal with the same endorser, or, if the endorser becomes bad, a good one. Thus

a director of the bank will have discounts to the amount of 27,000 dollars renewable at bank. He cannot get more unless on real paper. Our banks do not dare to discount beyond their means, because they are obliged to pay cash for every legal demand. The gentleman from Kentucky has told us, that two or three importing States may be benefitted by the dissolution of the bank. I will not answer the argument; it is such a one as can go only to disunite, to create envy and jealousy. I would not resort to that kind of argument, and I will not permit myself to answer it.

We are called upon, in a manner extremely impressive indeed, by the gentleman from Massachusetts, to hearken to the information received from the committee of mechanics and merchants now here, from Philadelphia. I am well informed, sir, that both those committees were composed of very respectable men; some of them republicans; and it is said, that they complained of a very great scarcity of money, and that trade was not brisk. I will ask them, sir, if they ever knew trade brisk in January or February? It is precisely the same at Baltimore as at Philadelphia; when the rivers are frozen, we wind up our books and do not expect to do business.

One of those gentlemen stated, that he always found a convenience in having his notes discounted in the Bank of the United States, and if he could not get it there, he applied to a friend, who discounted notes that had a longer time than two months to run. It is a possible case, that these persons may have been very much employed in building houses for one of the directors of that bank. It may have been the case, that that director accommodated him by discounting his paper at a longer time than sixty days. This kind of employment between man and man has a wonderful influence on the mind of man; and he who receives a benefit, is willing to return it in some way or other. Mr. Grice appears to be a very worthy mechanic; but I am sorry that he should be obliged to say, that those who contracted with him were afraid that they could not comply with the contract on account of the difficulty occasioned by the non-renewal of the charter; and yet he told us, that the Bank of the United States still discounted its usual quantity of paper. I am sorry to see that the merchants of Philadelphia, great and respectable merchants as they are, make contracts for ships, and tell the ship builder that they are obliged to depend on discounts for payment for the ships. I did not expect this was the case there; and will venture to say, it is not the case in many other places.

One of those gentlemen tells us he had to pay one and a half per cent. per month for money. Sir, he got the money very cheap. When one gets into the hands of the shavers, or what the gentleman calls only discounters, if he gets out for one and a half per cent. per month, he is not coarsely shaved. It is not an uncommon price. Money is worth what it will sell for; and, in Philadelphia, shaving or discounting is considered as honest and fair as any other commercial transaction; that is, to pay and receive more than legal interest. It is not there considered as dishonorable or improper, whatever it may be in Baltimore.

It is the belief of this committee of merchants that, in consequence of the non-renewal of the charter, flour fell to \$7½ in Philadelphia. Now, this, sir, is one of those good strokes, those excellent things, that the friends of the bank use to deceive and influence the agricultural interests with. It is, therefore, brought home to the farmers in Congress. I state this to show how cautious gentlemen ought to be in suffering their minds to be impressed with these statements. The fact, in this case, it not as stated. The moment at which flour fell was on the receipt of an account from Liverpool of its having fallen to 56s. per barrel; and that there was no demand for consumption. What was the consequence? Fifty-six shillings a barrel will not allow more than \$7½ to be given here; so the price of flour fell. These gentlemen also informed our minds further, that a demand from a British house, for Lisbon, was not executed, by a house in Philadelphia, from the want of funds. This may be true; but a great portion of that very order has been actually executed at Baltimore, at *ten dollars* per barrel, payable in bills of exchange, at a fair discount

of ten per cent. The ramifications of commerce are such that no one who is not daily conversant with them can know them. There was no occasion for a fall of flour, because the ports of Cadiz and Lisbon were still open; but there was a momentary apprehension that Massena had got into Lisbon, and commercial men for a moment afraid to let their property go to that market. This lasted but two or three days; *it lasted just as long as the terror of the non-renewal of the charter of the Bank of the United States will last.* The gentlemen who were sent on here happened to come at a favorable moment to scare us with the depression of the price of flour. But before the question is taken, we learn its rapid rise again to the former prices.

Our minds have been alarmed by a representation of the immense influence which the Secretary of the Treasury will have over the banks to whom deposits are given. I should have no objections whatever, as to myself, that the collector of every port should be, *ex officio*, a director of the bank in which deposits are made; and as to the argument that such a power would enable a Secretary of the Treasury, if he were a bad man, to injure individuals, it is not worthy of consideration. No Secretary would dare to take such a course; the thing would be proclaimed here in such a voice as would made the offender decamp with precipitation from his office.

The report of Mr. Orr, one of the mechanics, I had like to have forgotten. He says, all confidence between man and man is destroyed. My letters, sir, say that all confidence is not destroyed, but in those whose rashness has been the cause of their forfeiting all title to it. In order to strengthen Mr Orr's argument, we are told that the price of hemp is fallen. That is true; but what does the fact prove? Not that the approaching dissolution of the Bank of the United States has caused it; the reason is, that the arrivals from Russia are more numerous than ever before recollected—every vessel that comes from Russia brings hemp. Again, our good friends to the westward and in Virginia, have commenced the culture of hemp, and carried its production to an extent nearly equal to our consumption. Add to that cause that the demand is much lessened by the destruction of our shipping. We build few ships now. We ought not to rely on these facts; they result not from the dissolution of the Bank of the United States, but from the course of trade.

I have before taken occasion to remark that certain mechanics were here, respectable men, who would have come forward if I had wished them; they would have told you that they did not rely on the Bank of the United States at all, but on the State banks, for accommodation. I stated that one of those gentlemen thought the renewal of the charter would have an unfortunate effect on the politics of the State of Maryland. The party to which they belonged had twenty years ago declared the charter of the United States' Bank to be unconstitutional; they were in earnest when they declared so. From these circumstances, a renewal of the charter at this time, would go to convince the People that the struggle of parties was nothing but a business of ins and outs, and not depending on principle. For myself, sir, the question never came before me on a constitutional argument before; and I do confess, as my friend from Kentucky says, that I was not very squeamish on the subject. But the able arguments of my friends from Kentucky, Tennessee, and Virginia, have made a very serious impression on me, indeed, and have almost brought me to think, that, if there were no other objections, I should vote against the bill on the constitutional question alone. But my mind has received a wonderful impression indeed from the arguments of the gentleman last up. (Mr. POPE.) He carried his doctrine of construction so far, that, it appeared to me that he regarded no other part of the constitution as binding but the preamble. In support of his doctrine he brought forward the example of the State of Connecticut, which State has no written constitution. It appeared to me, sir, that the gentleman's arguments, if valid, reduced us precisely to the situation of Great Britain—to look for our constitution in laws, precedents, and parliamentary construction; to have no written guide. My mind became alarmed; and hereafter I shall be very much afraid, indeed, to

give my consent to these kind of constructions, about which I have not heretofore been very squeamish.

I have taken up the time of the Senate to an extent at least equal to any thing I had intended, and beyond that which many gentlemen no doubt think I ought to have occupied. I have not wished to prolong my discourse to an unreasonable length, and shall, therefore, leave untouched some points I had intended to have noticed. I am unwilling to trespass on the patience of the Senate, because I am well aware that, unless this bill passes speedily, it cannot pass at all. Aware of that, I was willing, for one, and so were *all* the gentlemen with whom I act, to take a silent vote on the principle, so as to have given full time to gentlemen who brought forward the bill to have gone through with its provisions. But another course, that of discussion, has been thought proper to be pursued, and I have deemed it proper to express my sentiments.

Mr. S. concluded with hoping that he had not said any thing to wound the feelings of gentlemen in opposition to him, for whom he had great respect. If any thing he had said had hurt the feelings of any one, he hoped to be believed when he assured them that such was not his intention.

Mr. POPE.—Mr. President: Instead of interrupting the gentleman from Maryland, I preferred to correct him after he had finished his speech. I have examined the journal, and cannot find that any question about extending a branch to Kentucky was made; but I have a very perfect recollection of my views and impressions in relation to the bill. That bill provided that six millions of the capital should be divided among the States, to be subscribed and paid by the States within a given period. I was aware that the rich moneyed States on the seaboard would subscribe, but did not believe the new States would tax the People to raise the money. In order, therefore, to diffuse the interest and influence concentrated in this moneyed institution, and thereby preserve to each State, if the bill passed, her due weight in the federal Union, I proposed an amendment to this effect: that the capital should be limited to twenty millions; that is, ten millions in addition to the present stock, four of which, as provided in the bill, to be subscribed by the United States, and six millions to be divided among the States, and paid out of the national treasury. If my plan had been adopted, and a branch extended to Kentucky, the dividends made on the capital employed there, would have gone into the treasury of the State. It has been a favorite policy with me to produce a unity or consolidation of interest in this nation. With that view I have advocated the encouragement of manufactures, and the appropriation of a portion of our funds for the improvement of the interior by roads and canals. Upon the same principle, if the bank bill had been permitted to assume the shape I proposed to give it, I should not have been hostile to its passage. A consolidation of interest is necessary, perhaps indispensable, to give strength and permanency to this confederated republic, and free it from the dangers and evils consequent upon a consolidation of power. I have several times expressed my opinion, on this floor, in relation to a consolidation of power. We ought to guard against it. Under this impression, I have been opposed to extending the coercive agency of this Government upon the People of the interior. Upon the same principle, I have approved the repeal of the internal taxes, not so much on account of the sums demanded from the People, but because I think it difficult, if not impossible, to have such a system, requiring so much federal agency, well managed by one Government, over this immense country.

FEBRUARY 18, 1811.

Motion to strike out the first section of the bill.

Mr. BRENT said he had not the vanity to believe, after the subject had been so fully discussed, that he should be able to shed any new light on it; but, having been instructed by the Legislature of the State which he had the honor to represent, to vote on constitutional principles against the bill under consideration, and as he was reduced to the painful necessity of going counter to

those instructions, it seemed to him to be indispensably necessary that he should submit to the Senate the grounds on which he acted. It is (said he) a most painful situation in which I stand in relation to the Legislature of Virginia, in being compelled to vote in opposition to their will, more especially as it is a prevalent opinion, with many whose opinions are entitled to great respect, that instructions are obligatory on a Senator. This question is one which has never been settled, or even fully deliberated on. Instructions, when heretofore given to Senators, have generally been in accordance with the sentiments of the Senators, and only added the greater weight to their opinions. If called upon definitely to pronounce with regard to instructions on questions of expediency, I might be under some difficulty as to what course to pursue; because, although there is no clause in the constitution to that effect, I am under a strong impression that, according to the principles of our Government, there is much reason to believe, that the respective State Legislatures should have such a right; but, on a constitutional question, (whatever may be the right of the State Legislatures in other instances) the right of instruction may be denied, in my judgment, that is, so far as to be imperative on the Senator. To give a vote in such a manner as in his estimation to inflict a vital wound on the constitution, is more than the Legislature of Virginia, or any other State Legislature in the Union, can compel me, or any other Senator of the United States, to do. The resolution of Virginia is bottomed, not on the ground of inexpediency, but on the principle that the constitution prohibited Congress from granting the bank charter in the first instance; that it now prohibited it; and, therefore, because it was unconstitutional, the Legislature have instructed their Senators in Congress to oppose it. Now, sir, although I shall not immediately and directly violate the constitution by voting against the bank, yet, if I vote against it when I believe it constitutional and necessary, it must be known that I vote in conformity to the instructions of the Virginia Legislature; and, so far as my vote goes, it will warrant and sanction that interpretation of the constitution which the Legislature of Virginia has given; which interpretation in conscience I believe to be erroneous. Therefore, though in ordinary cases the instructions of a Legislature may be imperative, (I will not determine that question) I conclude that they cannot be so when they require of a Senator to commit either a positive or implied breach of the constitution, or to vote in such a manner as to warrant such interpretation of the constitution as will deprive it of an essential attribute. Virginia has the physical force, but has she a moral right to violate the constitution of the United States? If she has it not, can she give it to her Legislature? If her Legislature possess it not, can they give it to a Senator? Can the Legislature give me a moral right to violate the constitution of the United States, which I have sworn to support? I believe not, sir, and that, in the situation in which I stand, their instructions ought to have no operation on the vote I am to give on the subject under consideration.

To illustrate this question more fully, let me inquire, if a State Legislature should instruct its Senators to vote for a law to take away the trial by jury in a criminal prosecution, would a Senator, thus instructed, who has sworn to support the constitution of the United States, consider himself conscientiously authorized to vote for such an unconstitutional measure? When a Senator is elected, he is entitled to hold his seat for six years. Suppose that, immediately after he is elected, the State from which he is sent, gets into a state of direct opposition to, and insurrection against, the General Government, and should continue so for the whole six years for which the Senator is elected; does this vacate his seat? Will he not still remain in the Senate of the United States, and, if he does his duty, vote for all measures that may be necessary to restrain the unconstitutional acts and insurrection committed by his State? Either instructions on constitutional questions to a Senator are imperative or they are not. We admit that a Senator retains his seat in the Senate even while his State is engaged in actual insurrection and rebellion, and, consequently, in the continued violation of the constitution of the United States. While a Senator engages in the deliberations of this the highest

council of the nation, is he to obey the instructions of a State Legislature, who are in the daily violation of the constitution of the United States, and are endeavoring wholly to destroy it by open and declared insurrection, and which Legislature will consequently instruct their Senators to pursue such a course as will best accomplish the object it has in view? In this dilemma, if instructions are imperative, which, if obeyed, violate the constitution, a Senator will retain his seat in the Senate of the United States for the express purpose of using every means in his power to destroy that constitution which he has sworn to support. Can it be imagined that it was intended, in any state of things, that a Senator should hold his seat in the Senate of the United States, for the sole purpose of doing all he could to overthrow the constitution? Since so absurd, monstrous, and dangerous a principle would result, from admitting the maudatory influence of instructions, when they touch constitutional questions, I deem it my duty not to give my acquiescence to, or, by my example, sanction, a doctrine so hostile to the general spirit, and so unfavorable to the preservation of the constitution of the United States.

Much, therefore, as I respect the sentiments of the Legislature of Virginia, and much as it distresses me to go in opposition to them, I believe I shall do so on the present occasion. With respect to the alarm expressed by some gentlemen, from the large States coming forward and instructing Congress, I am satisfied that no such insidious motives are justly attributable to the Legislature of the State which I have the honor to represent. I am satisfied that its motives were honorable, pure, and patriotic; and this measure is a testimony of the consistency of character of the State. When the charter of the Bank of the United States was first granted, the general sentiment of Virginia was, that this law was contrary to the constitution of the United States. Under a different state of things, and under the domination of a different political party, than at the present time rules the affairs of this country, she preserves a consistency of character. Believing the bank to be unconstitutional then, she now entertains the same sentiment as when in the minority; and, with an honorable consistency of character and anxiety to preserve the constitution inviolate, she has sent forward instructions to her Senators in Congress. Whilst, therefore, I appreciate the motive which gave existence to these instructions, and highly respect the source whence they come, and the high consideration to which they are entitled generally, I do not, on the present occasion, consider them obligatory as to the vote I am about to give.

In considering this question, I will take it in a three-fold view:

1st. Whether, on the first promulgation of the constitution of the United States, a right did appertain to Congress to establish a bank?

2dly. As respects the constitutional question, whether, on an adjudged case, and one long practised on, it has the same weight as if original?

3d. Whether, admitting that, at first, the bank was improper, because not necessary, it be not now proper, if it can be proved almost indispensably necessary?

The first question, whether the General Government, when it first came into operation, did not possess the power of creating a national bank, is the primary object of investigation. In objection to this, it has been said, that, to carry into effect an enumerated power, is one thing, and the right to incorporate a bank is a distinct power. Those who take this ground say, that the creation of a national bank is an original, independent, and substantive power. It is not sufficient, say they, to show that it is a convenient instrument to carry into effect an enumerated power, because it is an independent authority of itself, and the genius of our Government prohibits the derivation of any powers by implication, with scrupulous limitation. It is true, sir, that our Government, being an emanation from the existing State Governments, the rational construction is, that all power not given away is retained to them or to the People. If that construction does not result, then a positive amendment, which has been made to the constitution, has infused this principle into it. I, therefore, admit, in its fullest latitude, the construction, that all powers, not given away, are still retained; yet, I still contend, that, even in a go-



vernment constituted like ours, there are some resulting powers. Or, by what right do we create a military school? We have a right to raise armies; but we can have an army without a military school. Yet it is constitutional to create such an institution, because every given power implies rights inferior, appertaining to the powers granted. We lay an embargo—is there any clause in the constitution authorizing us to lay embargoes? No, sir; we have a right to regulate trade, and we have a right to lay embargoes to protect it. We have a right to provide for arming and disciplining the militia. Under this authority we build armories. Is there any provision in the constitution directing it? We have erected forges, and even purchased ore banks. These are inferior powers, necessarily resulting from the greater powers granted. But here gentlemen find the great difficulty. The creation of a corporation, say they, is an act of sovereignty; it cannot be used as a mean, because it is a sovereign act. Why, sir, every law passed is, *quo ad hoc*, a sovereign act. A law incorporating a military school, is as much an act of sovereignty, as to the particular subject to which it relates, as an act incorporating a bank. We create a military school—for what purpose? Because the sovereign authority has power to establish an army, and the power to create a military school is inseparably connected with, and necessarily appertains to, it. We establish a navy; we also establish a marine corps. There is no clause in the constitution giving that power, but we take it, as inseparable from the power to create a navy; because the exercise of the greatest implies every subordinate power necessarily connected with it. The great stumbling block, however, is, that this is one of those independent, original, and substantive powers, which cannot be given by implication. Blackstone says, “municipal law, thus understood, is properly defined to be a rule of civil conduct prescribed by the supreme power in a State, commanding what is right, and prohibiting what is wrong.” Agreeably to this definition, every law passed by a deliberative body is an act of sovereignty as to the subject to which it relates. The establishment of a marine corps is as much an act of sovereignty as an act incorporating the Bank of the United States. The only question is, whether it be necessarily incident to the enumerated power given to the General Government. Those who criticise most accurately on the constitution, and most unwillingly concede resulting powers, will admit them to a certain extent, even in our Government. The only question is the immediate and necessary connexion of the means used with the object intended to be attained.

In inquiring, then, sir, whether or not, at the first promulgation of the constitution, when it came into existence, it was intended that Congress should possess the power of incorporating the Bank of the United States, let us inquire whether there was any possibility of carrying into effect, with any tolerable convenience and advantage, the several provisions of the constitution, unless this power exists. It is said that you do not possess the power, because it is attempted to be derived, by different gentlemen, from so many different parts of the constitution. Now, Mr. President, I have never before understood that a capacity to derive a title from several different sources, gives you less title than if derived from one source alone. I derive the power from the whole context of the constitution, although gentlemen seem to think that the title is invalidated in proportion to the number of sections in the constitution from whence we derive it. In order to avoid confusion of argument in examining this question, I will derive it from only one source, at present, though I believe others equally give it, by a necessary construction. At the time the constitution came into existence, I believe there were but three banks in the United States; none south of Philadelphia, and all of very limited capital. The constitution of the United States gives the power to levy and collect taxes. Is it possible to imagine any system so convenient for the collection of this revenue, and sending it to the seat of Government, as that of the agency of banks? I am not inquiring whether the State banks can do it; but I say that the framers of the constitution must have had under consideration, the state of things at the time when the constitution came into existence. At that time there was not one bank south of Philadelphia; and the banks which

existed were very limited in their capital, and their paper of limited circulation. Congress, in such a state of things, then, has the power of levying and collecting taxes conferred on it, and yet Congress has not the power to create banks to aid in the collection of its taxes, notwithstanding a clause, to make all laws necessary and proper for that purpose, is contained in the constitution. No gentleman will say that the agency of banks is not necessary, in some way or other, in collecting the revenue. I admit, without them you could have carried on our fiscal arrangements in an awkward and cumbrous form; but was that the intention of the constitution? When the power to collect taxes was given, it was intended to give all the means necessary to carry this power into execution. It was not to execute this power in a cumbrous form, but with the greatest facility with which the power is susceptible of being wielded. Now, is it possible that the constitution contemplated that the revenue should be collected and transmitted here, subject to all the risks, and accidents, and inconveniences, that attend the transportation of specie? It is impossible. But all this doubt has arisen from its being a separate and independent power, although it is no more of that character than any other law passed to execute the enumerated powers of Congress.

In a word, Mr. President, it is admitted by all who have spoken on this question, whether for or against the bill under consideration, that the agency of a bank or banks affords the greatest facility and security of any mean that can be devised for the collection of a revenue and for its transmission to your treasury.

It is admitted that no bank or banks, of a capital, or of sufficient circulating paper, throughout the United States, adequate to this object, did exist, when the constitution was first formed, promulgated, or adopted. It is admitted that, to levy and collect taxes, is one of the enumerated powers of Congress. It is admitted that Congress has all power necessary and convenient to carry its enumerated powers into execution.

It is admitted there is no express clause in the constitution prohibiting the establishment of a national bank.

If these principles and facts are admitted, does it not demonstrate, beyond the possibility of doubt, this unquestionable result, to wit: That, as Congress is to levy and collect revenue; that, as the agency of banks affords the most certain, speedy, and convenient means by which a revenue can be collected; that, as neither at the period when the constitution was made, promulgated, or adopted, banks of sufficient capital or with paper of sufficient circulation existed for the collection of the revenue and its transmission to your treasury; that, as there was no positive clause prohibiting a National Bank in the constitution; that, as Congress was to have all power necessary to carry its enumerated powers into execution; that, as the convention who framed and the People who adopted the constitution, must have had in view our—the existing institutions and the then general state of society; it was the intention of the convention who formed the constitution, and the People who adopted it, to give to Congress the power of establishing a national bank. If, at the time of adopting the constitution, it was necessary and proper that Congress should possess it for the exercise of any of its enumerated powers; if the foregoing result is undeniable, and I think it is; I would interrogate, if Congress, on the adoption of the constitution, possessed a power to establish a national bank, what has since deprived that body of the power? I, Mr. President, can discover nothing which has. One argument, much confided in by gentlemen who have opposed the present bill, is not that banks are not necessary to the collection of the revenue, but, that State banks will answer. In return, I insist that no State banks did exist when the constitution was first formed, therefore, the power to create a national bank, is necessarily given in the power to levy and collect taxes. To this it is replied, that, to create a national bank, is to legislate by implication; it is a separate, substantive, and independent power; to levy a tax is one thing, to make a bank, another. I answer, to levy a tax is one thing, to create an officer for its collection, another. By this kind of chop-logic, we may prove any thing unconstitutional. I ask, when you

levy a tax, if you do not provide officers for collecting it? I levy a tax, and create a bank, through whose instrumentality I mean to collect it; from the same authority by which I appoint a collector, I have a right to create a bank, through whose instrumentality I mean to receive and transmit it. There is no clause in the constitution, saying you may appoint officers for the collection of the revenue, specifically; but the right to appoint officers to collect revenue, is derived from the power of levying a tax, from which, also, may be derived the power of establishing a bank, if it be the best mode of collecting the revenue. It is said, you may collect this tax by means of the State banks. Very well, sir; I say you may collect the revenue by means of State officers; and, upon the principle that you cannot establish a bank to collect the revenue, because the State banks can collect it, I say that the State officers can collect our taxes; and if your argument is just, you cannot appoint any other officers. The constitution authorizes the President to appoint persons to fill all offices established by law, but says not a word about appointing officers to collect the tax you levy, specifically. Upon the construction gentlemen contend for, they might say, because no power is expressly given to appoint officers of the customs or for your taxes, and it is possible to collect the revenue by the agency of the State Governments, and nothing should be done by the United States' authorities which can be done by the States, therefore, these collectors of the customs or revenue, should be such as are appointed by the States, for State purposes. This kind of reasoning, sir, cannot be admissible, and is in hostility with a most manifest principle of the constitution; as it is evidently a prominent feature of that instrument that the General Government should have within itself, all those powers necessary and convenient for the execution of its enumerated trusts, entirely free and independent of the interference and agency of the States, their officers, or ministers.

It has been triumphantly demanded by some, whether we could create a trading company. I have not a doubt on the subject. If it can be demonstrated to me, that commerce would be benefitted by the incorporation of a mercantile company; that it is indispensably necessary to do it, to regulate trade to advantage; under such circumstances, I have no doubt, we can create a company: for the creation of a company is no more the exercise of a separate independent authority, than any law which we make when legislating under our enumerated powers. If it be inquired, whether or no we could incorporate a company to cut canals through the States, I answer, that there is, in the constitution, a clause authorizing Congress to regulate trade between the States, and, under this clause, we could do it *with the consent of the States*. We could not do it without. And I derive this construction from the constitution itself. It is a fair mode of construction, laid down by professional men, that, where there is intricacy or difficulty in the construction of any legal instrument, you must take the context together; one part of the instrument must be used to elucidate another; the different parts must be compared, and the true construction thereby obtained. In the 8th section of the first article, a power is given to Congress "to exercise exclusive legislation, &c. over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." I discover here, that the constitution, in order to preserve the sovereignty of the State Governments, has been exceedingly vigilant in guarding their territorial rights. Therefore, where a power is given to the General Government, interfering with the territorial rights of the States, there is a clause in the constitution saving territorial rights, and requiring the consent of the States to its exercise. If, therefore, Government, in the exercise of its enumerated powers, is restrained from acting, where their acts affect State territory, unless with the consent of the States, I infer that we have not a right to incorporate canal companies without the consent of the States through which the canal is to go. With this limitation, I have little hesitation in saying that we have a right to incorporate canal companies.

It is said, that the corporation which it is proposed to re-charter, independent of the facility it affords to Government in the collection of the revenue, has, also, particular advantages given to it; that it is a monopoly. And what right, it is asked, has Congress to grant a monopoly? I will ask, in return, when an officer is appointed to collect the customs, has he not a salary and emoluments? Is not every office in law called a franchise or a particular privilege? If the officer, who has these emoluments, privileges, or franchises, (call them what you will) receives these in consideration for his services, have you not the power to hold out inducements to associated bodies of men to form an institution from which the public may derive benefit, not with a view exclusively to their monopoly and benefit, but on account of the advantages to be derived from it by the public?

If it is urged that, instead of this incorporated company, you might appoint officers in the different parts of the States in which the greatest duties are collected, and issue notes, or bills of credit, which are made current, without creating a bank authorized to make discounts, I admit we might; but, if we believe it not so convenient and safe a way of collecting our revenue, as through the agency of a bank, we have the right to associate men in a banking company for this purpose, and give them particular privileges, upon the same principles that we give privileges or franchises to every officer we appoint; and, although we thus confer, in both instances, privileges, it is done for the public good, because the object to be effected can be accomplished by no other means so effectually. If you want an association of men in a particular manner, to make them subservient to some political use, you have authority to give to those associating men whatever privilege may be sufficient to induce them to associate for this purpose. You do not give them this privilege for their own individual advantage, but as the lure, the bonus for association, by which association the public object is effected. I would ask, whether Congress could not, to-morrow, pass a law authorizing the President to open a negotiation with Hope & Co., saying, we have full confidence in you, and you shall be the United States' bankers? This may be said to be a monopoly; but, if Congress were convinced that this was the safest means of collecting the revenue, I ask, where is the clause of the constitution which, in substance, or words, prohibits Congress from adopting such a measure? If there be no clause to prohibit this, there is no prohibition to the passage of a law for incorporating individuals in an association from which the greatest possible facility in the collection of the revenue is expected. In a word, sir, it appears to me that the only rule, in an instance of this kind, is, to take care that the means used have a necessary reference to the object of the power. When legislating on the enumerated powers of Congress, the only limitation is, an inquiry whether the means we are about to use, necessarily relate to the effectuation of the object in view. For instance, I should consider it a violation of the constitution, if Congress, under the power "to make rules for the government of the land and naval forces," should pass a law regulating military testamentary devises; because the incident is too remote, it is too great a stretch of power, the constitutionality or unconstitutionality being regulated by the relation of the means to the object to be effected. If this reasoning be just, then this question is not soluble by the mere determination of the question, whether or not this is the best system by which our revenue can be collected; we must, to ensure its rejection on constitutional grounds, prove that the power of establishing a bank is so remote from the object of collecting the revenue, as to have no connexion with it. Admit that a better system of collecting the revenue can be devised, than by the establishment of a bank; it does not follow that the bank is unconstitutional. The only question is, whether it is so remote as that, by no satisfactory process of reasoning, you can prove its analogy to the collection of the revenue. If it be shown that a better system could be adopted, it only proves that this is inexpedient, not that it is unconstitutional; and, sir, it has been a matter of astonishment to me, that, notwithstanding it was so universally believed, some time since, that the agency of the bank was excessively conducive to the

prompt and regular collection of the revenue, it is now discovered that its agency is unnecessary. The gentlemen who are now of this opinion, thought otherwise formerly, and the Secretary of the Treasury, who is best enabled to decide the question, is of a different opinion from them.

In answer to those, sir, who say that State banks afford the facility necessary to the collection of the revenue, I would ask, is the General Government to be dependent on the State banks for the collection of the revenue? Or, do gentlemen believe they would be as secure and responsible as the Bank of the United States? As to the remark, that, in those States where there are no banks, the revenue is collected with as much facility as where there are banks, I would reply, that, where there are no banks, there is, nevertheless, bank currency in circulation. Where the States have no banks of their own, the notes of the Bank of the United States are in circulation, and the customs paid in those notes. A national bank, I am under a strong conviction, is, if not indispensable, highly conducive to a convenient collection of the revenue; and if this bank be put down to day, before a long interval of time we shall have another bank. In my estimation, there ought to be a bank, whose paper circulates freely throughout the States; other paper will not answer the same purpose. I recollect to have been travelling where I had in my pocket book, five hundred dollars in good bank notes; and yet I was compelled to trespass on another gentleman, in company with me, to bear my expenses. If the notes I had with me had been notes of the Bank of the United States, they would have circulated freely, because the merchants gladly receive them from the planters, for the purpose of remittance, &c. But it always will be otherwise with State banks; from their nature they cannot give that general circulation which is derived from a general bank.

The honorable gentleman from Kentucky, (Mr. CLAY) with his usual ingenuity, spoke of the enormous evil, and the danger to our liberties, that is to be anticipated from giving the power to erect corporations, which, he says, is an original power, and has given being to institutions which have swelled to an enormous magnitude. The example of the East India Company and the South Sea Company were spoken of in an alarming, impressive, and ingenious manner. But, I ask, sir, if the State Governments do not possess this gigantic power? I see nothing to restrain them, more than the General Government. I see that the only supervisors, as to the State Governments, are the People themselves, who are, also, the supervisors of Congress, who have, also, the invidious, jealous eyes of the State Governments constantly upon them, as is illustrated in the conduct of some of the States on this very question, and who, combined, would guard this power from abuse by the General Government, much more than the People alone will guard against abuses by the States. It is a visionary mode of reasoning, to argue against the possession of power from the abuse of it. The gentleman may as well tell us that we may raise armies to so monstrous an extent as to crush our liberties, *and therefore*, we ought not, on any emergency, to raise an army. He may as well say, the creation of a military school, which is as much, and no more, a resulting power than the one in question, is giving to Congress a great substantive independent power to create a vast engine, under the name of a military school, which may swell to such immense importance as to make it an instrument to swallow all the liberties of the country. So, as respects sites for forts and armories, and ore banks—powers exercised by implication. The gentleman, from the unlimited indulgence he gives to a gloomy and foreboding imagination, may say you may purchase the territorial rights of the States, until you destroy their sovereignty. There is no end to the extent of such reasoning. We must rely, in some degree, on ourselves, on the vigilance of the State Governments, and on the discretion of the People. When the whole body politic is so corrupt that there are no eyes on our rulers, to see when they transcend the powers of the constitution, all is lost, and no paper reiterations can save us.

From this reasoning, sir, I again reiterate, that I conclude that, when the constitution was formed and promulgated, it was the intention of the framers

of the constitution, and of those who adopted it, in the powers they gave to the Congress of the United States, to include that power, and establish a bank, if such an institution was considered convenient, necessary, and proper, to carry into execution any one of the enumerated powers conceded to the General Government; and, if it was constitutional then, it was equally so now.

In the course of the very elaborate and able speech delivered by my colleague a few days past, on this subject, he stated these two positions: that a right to grant charters of incorporation is not of a description of character similar to, and has no analogy with, any of the enumerated powers of Congress.

2d. That the right to grant charters of incorporation was a distinct and sovereign power, equal in itself to any of the enumerated powers granted to Congress.

As to the first position, that the right of creating corporations, or banks, has no analogy to the enumerated powers of Congress, permit me to observe, this is begging the question, or, rather, entirely evading it. If it is admitted by every one (and this has been admitted) that banks afford the greatest facility of collecting your revenue, and you have a right to avail yourself of the best means to carry into execution your enumerated powers, the right to create banks has an immediate connexion with, and grows out of, the power to levy and collect taxes, which brings this merely to a question of expediency.

His second position was, that the right to create corporations, or banks, was a distinct and sovereign power, equal, in itself, to any other of the enumerated powers of Congress; that it wants that connexion, affiliation, and subserviency, to some enumerated power, which is necessary to give a power by implication. I know not that a law, granting a charter of incorporation, is more an act of sovereignty, than a law passed on any other subject. That it is a power original, independent, and of itself equal to any one of the enumerated powers, cannot be admitted, because it has not been contended by any that Congress possess the power of creating corporations at all times, and in all instances. It is only contended to be proper, and constitutional, when it is used in subserviency to the enumerated powers of Congress, as the means best calculated to carry any enumerated power into execution. The right of creating incorporations for this purpose only, and under this limitation, can never make it a power equal, in character and magnitude, to any one of our enumerated powers, because, if it is used as a mere subservient instrument to them, in that point of view—if it can be demonstrated that they are a convenient means to effect a legitimate object—my colleague must admit their constitutionality, because he has emphatically dwelt on that clause of the constitution which gives to Congress the power to make all laws necessary and proper; and to those who apprehend that this power may be abused, and Congress may attempt to exercise it in instances not within the pale of their legitimate authority, I answer, they may also abuse any other power they possess. The only preservation is the virtue of our Legislature, and the vigilance of our People.

The next point which remains to be investigated is, whether the constitutionality of the bill under consideration receives any support from its principles having been sanctioned by any former laws and measures of the Government.

Mr. President, I am ready to admit that, where a measure obtains, that inflicts a violation on our constitution, that is unquestionable, palpable, and notorious, however frequently and however solemnly this measure had been sanctioned, however long it had been submitted to and endured, would not be considerations with me of any importance, or create one moment of doubt. Error, however repeated and submitted to, is error still, and every occasion should be sought to get rid of it; but, on an occasion, in the origin of which the constitutional question was doubtful, when men of the purest integrity and most illumined intelligence might pause, and differ, and doubt, I should imagine that such case, once acted on, should never again be touched, unless considerations of irresistible importance lead to such a measure; and I imagine



that every man of candor and intelligence, who weighs with due deliberation the question under consideration, will at least admit, if the measure is not certainly constitutional, it is at least of that description of character I have last mentioned. In such an instance as this, will it be said that, after this measure has been sanctioned by Congress, on full deliberation and debate; after the bill establishing this bank had received the approbation of the President, who reserved his signature to it till the last moment permitted by the constitution; and after he had viewed the question with all its bearings in every attitude it could be presented; after full consultation with his cabinet ministers, and others of high intellectual character; after the law, thus sanctioned by the Legislature and the President, has been acquiesced in and practised on for the space of twenty years; when it has been considered inviolable, and corroborating laws passed during the administration and legislation of different dominant political parties; when those laws have been sanctioned by the solemn adjudication of all our judges, both of the General and State Governments; to suppose that all these considerations are to have no influence as to putting to rest a constitutional question, which was doubtful in its origin, is to be sceptical and scrupulous beyond all reasonable bounds. If Congress have no right to incorporate a bank, was it not an act of usurpation in the President and Congress to pass laws punishing individuals for the forgery of its paper? Nay, more, Mr. President, when we inflict death for the support of institutions Congress had no right to create, and for the violation of laws the constitution prohibits that body from enacting, (and under the denomination of each of the political sects into which this country is divided, agreeable to the principles now contended for by gentlemen, such laws have been passed) are not the Executive which sanctions, the Congress which passed, and the whole body of our judiciary, both of the General and State Governments, which enforce such unconstitutional measures, and under their surreptitious authority inflict death upon our citizens, worse than usurpers? Are they not murderers? Yes, Mr. President, I reiterate, are they not murderers? And are we prepared to pronounce so heavy a denunciation on our predecessors, on ourselves, and the great departments of our Government? Are we ready to inform the American People that this body, and all their constituted authorities, have sported with the lives and illegally shed the blood of our citizens? My colleague was foreman of the jury that pronounced sentence or that found a verdict on the famous or rather infamous Logwood, for forgery of the paper of the Bank of the United States. This verdict was confirmed by the judge of the court, and the criminal punished agreeably to the judgment. Is a measure of such weighty and awful import, so solemnly and deliberately acted on and decided, and multifarious other decisions of the same description, to have no influence on the decision we are about to give respecting the constitutionality of establishing a national bank? If they are not, then gentlemen view the subject through a very different medium than that through which it is presented to my vision. Then, in my judgment, Mr. President, our situation is alarming indeed.

This vibrating constitutional doctrine, to day one thing, tomorrow another, as the domination of one party or the other or the passions of the moment shall prevail, will reduce our constitution to nothing, or render it a mere instrument for depraved men, if such should get into power, to accomplish their wicked purposes, and to destroy the liberties, and oppress the virtuous People, of this country. It is a wise maxim of our municipal law, that, in novelty, there is danger, but antiquity of law sanctifies error. If this principle is just, as it respects municipal law, (and of this, in my judgment, there can be no doubt) it is infinitely more so when applied to fundamental and constitutional principles, which, when once fixed, on all questions of a doubtful nature, should never again be agitated. The influence which the decision of the judiciary may have on settling the constitutionality of the law incorporating the Bank of the United States is not intended to be urged by me as an argument, which, in my judgment, ought to be relied on, because I conceive it the duty of the judiciary merely to expound what is the law of Congress; and to determine between a law and the constitution is assuming to the judiciary a power not ap-

pertaining to it—a power inconsistent with the genius of our constitution, and such a one as, if exercised by any judiciary, under a popular Government, will ultimately destroy the Government itself. The inference, therefore, which is derived from the reasoning above insisted on, from the decisions of the judiciary, is intended for those who insist that your federal judiciary have a right to decide on the constitutionality of any law passed by Congress which comes under its cognizance. The aid I myself derive from the source of precedent, to support the constitutionality of this measure, is solely from the reiterated acts of different Congresses, and the approbation of different Presidents, and the concurrence, under them, for the space of more than twenty years, during the prevalence of different political parties. An attempt has been made, by the honorable member from Tennessee, and others, to invalidate the accuracy of the inference drawn from this principle of precedence, by insisting that the bank law was in the nature of a contract with individuals, by which private rights became vested, and therefore the Government was bound to carry it into effect. The gentleman from Tennessee imagines that, during the period of the republican administration and majority in Congress, which acted upon this bank law, it was considered in the nature of a contract, and as such, Government determined to carry it into effect with good faith, and with that view passed the several corroborating laws which have been from time to time enacted. But this reasoning, sir, of the gentleman from Tennessee, has been so fully refuted by my honorable colleague, in the very able speech he delivered on this question, some days past, as to obviate the necessity of further commenting on it. I will only repeat one remark that was made by my colleague. If the bank law was unconstitutional at first, it could not give any legal corporate existence to any body of men to form a legal contract in a corporate character which had no such existence. Therefore there existed no legal contract; the faith of Government was not pledged; it was like a contract with a married woman or an idiot; it was, *ipso facto*, void.

To recapitulate, I derive the power to create a national bank, when this constitution came into existence, from the situation of society, and our legal institutions at that time, and the difficulty, as things existed, that the revenue could be collected with advantage, in any other way than by the agency of a bank. If this reasoning be deemed erroneous, I insist that the constitutional power of Congress to create a bank was, in the first instance, doubtful, and the principle having been recognised, and having received every sanction the Government could give, and practised on for more than twenty years, is not now to be called in question.

Admitting that, on both these points, my views are erroneous; say that the establishment of the bank at its commencement was improper, still, if it be demonstrated that the existence or re-chartering of the bank is indispensable, or highly expedient, at present, to the due exercise of enumerated rights of Congress, that which was improper, or even, perhaps, unconstitutional, at first, because it was not necessary, becomes constitutional and proper, because now expedient or essential. Congress are clothed by the constitution with a variety of delegated rights. Now, admitting that the establishment of a bank, in the first instance, was not necessary for the due exercise of the legislative rights bestowed in any one of these enumerated powers, if our predecessors in office, by the creation of a bank, which, at best, was an improper institution, because not necessary, have placed our fiscal concerns in such a situation that it cannot be put down without great injury to the revenue, which Congress is bound to levy and collect—without injuring our commerce, without impairing our public credit, without lessening the public welfare, all of which Congress is bound to provide for and protect—if this can be demonstrated to be the probable result of pulling down the bank at this period, I would ask, whether that institution which was improper at first, because not necessary, does not become proper, because almost indispensable at present?

In construing the constitution of the United States, when legislating on the enumerated powers of Congress, I lay down this rule of construction: that the only limitation to the power of Congress is, either some positive or implied

prohibition in the constitution itself, or the exercise of an honest and sober discretion. If, therefore, there is any reason to believe, at the present period, and existing state of things, that, by putting down the bank, your revenue will be greatly impaired, your commerce will be injured, the public credit lessened—all of which Congress is to protect—does not such a state of things make it proper that that bank, which ought not to have been created, because not necessary, now ought to be continued, because indispensable? It may here be said that I am varying the constitution, if I say that a thing is proper to day, which was not proper five and twenty years ago; that this vibration will always keep the constitution in an uncertain state. I say no. My doctrine is subject to no such accusation; the principles of the constitution are uniform and unalterable. It is an uniform and unalterable principle, that Congress have the power to lay and collect taxes; they have the same positive unchangeable right to exercise all the enumerated powers, the only rule of construction relating to them being, that the means you use have a necessary relation to the power on which you legislate. If the means be not enumerated, you exercise discretion as to the means, having a regard to the existing state of things when you legislate concerning them. The same means may be necessary and proper now which would not have been twenty years ago; you change the means to attain the end, but the end itself, the enumerated power in the constitution, remains unchanged. As long as the constitution exists, you must select the means most proper for executing the enumerated rights, at the precise moment at which you legislate respecting them. If this be the true construction of the constitution respecting the re-chartering of the bank, the question merely resolves itself into an inquiry how far such a measure is, at present, expedient. To determine, at this moment, whether or not it be constitutional, or, in other words, expedient, to incorporate the Bank of the United States, I am to say whether, under existing circumstances, in the present state of society, situation of trade and revenue, the preservation and continuance of this institution is essentially necessary. If it be essentially necessary, we have a right to re-charter the bank. I have been precise in stating this view of the subject, because it has not before been taken by any other gentleman.

With respect to the expediency of re-chartering this institution, I am somewhat surprised that any doubt should be entertained. It appears to me that gentlemen have become incredulous, beyond all possible bounds. I believe, sir, it was a wise saying of the sage Plato, that incredulity is the fountain of knowledge. But, even to this maxim, there must be some limit, as seems to be illustrated on the present occasion, when incredulity has been carried beyond all reasonable bounds. When general distress is in view; when all around us is proof of the fact; when men in the best credit, men who have heretofore had the greatest command of money, now feel the want of it; when there is a general cry of distress from your large towns; when our table is loaded with petitions from all orders of people in our country, depicting, in the most vivid colors, their present sufferings and gloomy anticipations; when the surrounding banks are curtailing one-half of their accommodations; when our whole commerce is paralyzed by the various aggressions it has experienced, and by the shock which the agitation of this question has already given it;—for gentlemen to shut their eyes to the effects of the dissolution of this institution, is, to me, astonishing. In another point of view, how can it be questioned? The honorable gentleman from Maryland, whose knowledge we have all benefited by, and acknowledged on various occasions, has said, what is most unquestionably true, that money is like any other article of trade, valuable in proportion to its abundance or rarity. Then, if you strike out of circulation the increased capital circulated by the Bank of the United States, is not a relative scarcity to be expected? But, it is not merely to the extent of the increased capital circulated by the Bank of the United States, that money will be driven out of circulation. Those gentlemen who tell you that the State banks, in this period of calamity and distress, can afford sufficient accommodation, are, in my estimation, infinitely mistaken. The State banks will, in

the first instance, frequently tend to increase the evil. The same men who have accommodation in the Bank of the United States, very frequently have it, also, in the State banks. The Bank of the United States, finding it necessary to settle its accounts, is anxiously employed in drawing into its vaults all the money it can, to settle its affairs. The State banks, knowing there will be a run upon them, are also drawing in the money due them by the very individuals whom it is imagined they can accommodate by extended loans. Those State banks, which were to relieve the merchants, &c. will join in the pressure; in order to secure themselves, they must produce the same curtailment to their customers which is used by the Bank of the United States. So, that, not only will the amount of the capital circulated by the Bank of the United States be driven out of circulation, but much, also, for a time, of that paper which the State banks were in the habit of issuing to individuals. It is impossible to say to what extent the circulating medium will be diminished; that it will be to a great extent, for a short time, there can be no sort of doubt. And the depression of the price of flour, at this period, is proof that the present apprehensions have already produced this effect: for, although I would yield much to the superiority of information of the gentleman from Maryland on mercantile affairs, as on most others, yet, in this instance, his information is not, in my estimation, correct. It is a notorious fact, that flour is now in as great demand as ever it has been, in Cadiz, Lisbon, and Gibraltar. It is not long since I saw an account of flour having sold at twenty dollars, at Gibraltar. Now, sir, if a merchant here knew he could get this price there, of from eighteen to twenty dollars, as is unquestionably the fact, would a temporary depression of the prices at Liverpool, as has been imagined by the gentleman from Maryland, have any effect here? None at all. If our merchants could get eighteen or twenty dollars at Lisbon, the depression of price at Liverpool would not have the least operation here; it is an unquestioned fact, that the price in the ports I have mentioned is constantly kept up; and yet the price did fall, at the moment the bank question was thought to be decided; I think it fell two dollars immediately; and it was, no doubt, from the difficulty of obtaining money, which, it was supposed, would result from the dissolution of the Bank of the United States, that this article fell. When you diminish the quantity of money which is to represent the articles of trade brought to market, I do not want the gentleman's mercantile knowledge to inform me. It is a plain proposition, that such a measure goes to depress the price of the article brought to sale. That the destruction of the Bank of the United States, as it will lessen the circulating currency, for a time, must go to depress the price of produce, is unquestionable, and will also diminish, for a time, the circulation of the notes of other banks, because they must reduce their discounts. This effect may be but temporary, but will exist to a certain extent.

The gentleman from Maryland has observed, that no apprehensions are entertained by the people of Baltimore, on account of the dissolution of the United States' Bank. I think I have been informed that one of the most wealthy men in that town has said he had a vessel to load, and knew where he could send her, so as to clear six dollars per barrel on flour; for that flour, at this period, could be purchased here, at eight dollars, and might be sold abroad for eighteen; but, in consequence of the entire impossibility of obtaining money from the banks at present, from the fear entertained respecting the dissolution of the Bank of the United States, it was not in his power to load his vessel. Such, sir, I have been advised, is the situation of one of the wealthiest men of that town. The Bank of Columbia has, at one stroke, lessened its discounts fifty per cent. in consequence of the apprehension entertained respecting the dissolution of the Bank of the United States. What has the gentleman from Massachusetts told you? That \$400,000 dollars are loaned to the people of this District, by the Bank of the United States. What will be the effect, in this little District, of drawing three or four hundred thousand dollars out of circulation? Sir, to tell me that the reduction of circulating medium will not produce (it may be but for a short time) a correspondent reduction of the prices of produce, is to tell me that I cannot see the noon-

day sun. How long this reduction of the circulating medium, and the consequent depression of prices, may last, it is difficult to say.

When the numerous late failures and bankruptcies are spoken of, what is the reply? That they do not proceed from a want of bank accommodation, but from the protesting of bills abroad; that our merchants have much property abroad, but the difficulty of obtaining returns for it, has been such as to embarrass our strongest houses. Is this a reason why we should accumulate difficulties on our merchants? Fifteen or twenty millions are said to be tied up in foreign countries, more especially in England, and such is the situation of England, that we cannot get remittances from there. This is an admirable reason, sir, indeed, for selecting this particular moment for calling on the merchants to make an immediate payment, to the amount of fourteen millions, which they owe this institution, and which, if put down, it is reasonable to believe, will require immediate payment.

This is regulating trade with a witness. By the annihilation of the Bank of the United States, a considerable portion of our circulating medium is destroyed. At the same period, our merchants are called on to pay their debt to the United States' Bank, to the amount of fourteen millions, and their revenue bonds amount to about twelve millions. This, too, at a period when the funds of our merchants, to a great extent, are in England, and cannot be withdrawn.

To me it appears that the situation of the country, as respects commerce, and every thing else, makes it important, at this crisis, above all others, that this institution should be preserved.

But gentlemen, and very intelligent gentlemen, tell us, this is a mere momentary pressure; that the money in the Bank of the United States, and the revenue, as collected, will be deposited in other banks, who will issue paper or specie, in proportion to the additional capital in their banks; that there will be a mere temporary vacuum, which will soon be filled. If I am to be placed in an apartment, from which all respirable air is exhausted, and for a very short time to remain there, but till all vitality is extinguished, it will truly be a delightful consolation, previously, to advise me that this vacuum is temporary, and, after I am destroyed, the equilibrium will be restored, and fresh air admitted. Precisely of this nature is the consolation afforded to your ruined merchants and others. What avails it, if the cause be momentary, but the effect, as to them, be permanent? This awful moment will bring permanent destruction to thousands. And, for what purpose do we produce this destruction? To get rid of the foreign influence produced by the stock held by foreigners. Yet, sir, this foreign capital is one of the most beneficial consequences attending the bank institution.

In a new country, constantly developing new resources of every description, an increasing population, increasing commerce, agriculture, manufactures, and multiplied objects on which capital can be employed to great advantage, to develop the wonderfully increasing energies and resources of our young country, we can afford to pay foreigners good interest for the use of their capital. This is one of the great reasons, with me, in favor of the bank. We are admonished, that this foreign capital gives to foreigners a dreadful political influence. Admit the assertion; which, however, is not true. Who invited it here? The Government itself. We, ourselves, sold this stock to foreigners. Our Secretary of the Treasury, with the knowledge and consent of the Government, bargained and transferred great part of it. Is this good faith, is it honorable and just? After we have received a bonus for the transfer of the stock to individuals, under the idea that the charter was inviolable and secure, to destroy the institution to get rid of this foreign capital, which we ourselves had invited here? If these moneyed banking institutions are those horrid engines of political influence and corruption some have contended for, the only way to obtain any good they afford, and yet avoid their deleterious effects, is to get foreigners to send their money here, and invest it in our funds. We get the benefit of their money, while we are so far removed from them that they can have no operation on us: for, sir, it is notorious to

those who are informed on the subject, that we feel less inconvenience or political influence from foreigners who hold stock, than from natives who possess it. This inference must be obvious, when I state, that foreigners who hold stock, have no vote in the choice of directors.

Again, sir, is not the critical situation in which we stand in respect to our foreign relations, a particular reason why we should not, at this time, make experiments which may injure the public revenue? If we enforce our non-intercourse law, and England attempts to resist it, and force her imports into our country by Florida, and our southern frontiers on one side, and Canada and Nova Scotia on the other, it is at least questionable, whether our revenue will not be greatly diminished. In our present unsettled situation, with our merchants staggering under the weight of the non-intercourse, embargo, and foreign spoliation; is this a moment to try experiments, that may have the effect of reducing our revenue, by crippling our mercantile enterprise, and forcing our merchants to withdraw their funds from commerce, in order to pay their bonded duties and bank debts? But, will the destruction of this bank rid us of the dreaded influence of foreign capital? No, you get in its stead an influence infinitely worse; you encourage speculation, which will produce an evil of an infinitely more pestiferous kind. If this bank be put down, another, ere long, I have no doubt, will be created: for, that another bank must and will be created, is avowed by many who vote against continuing this; and whenever this takes place, a scene of stockjobbing will ensue, to an extent which cannot be now calculated. When a new bank and a new stock is created, although by prohibiting foreigners to be subscribers in the first instance, it will at first be taken up by our own citizens, yet, if the European capitalist finds it to his advantage to have money here, he comes and purchases our stock; our citizens, in the subscription to the new stock, engage in a scene of the most debasing speculation; our citizens afterwards sell this stock to foreigners, whose foreign influence we wish to avoid; and after having gone this vicious circle, we arrive precisely at the point where we started. The same foreigners who now have so much of this bank stock, will re-invest their money in the stock of the new bank to be created. This dissolution of the bank, then, is trying wild visionary experiments, possibly, in its consequences, convulsing society to its centre, sporting with the feelings and happiness of the country, impairing mercantile credit and enterprise, injuring the tranquillity of many of our most meritorious citizens, who see ruin hovering over them from the measure we seem like to adopt; and, after all this is done, we come round to the precise point from which we commenced.

It has either suggested itself to my mind, upon reflection on the subject, or it is an idea suggested by some political writer, (and I think the latter is the case) either Hume, or Smith, or both, that a gradual, silent, and almost imperceptible increase of money, or circulating medium, has the happiest effects on society, and operates as the most saluary stimulus to the exertions and industry of a nation, because it operates as a gradual, though, perhaps, nominal premium to industry, by increasing the price of every article that is brought into market; and the influence which the discovery of the mines of South America had on the European world, by bringing into circulation an increased quantity of the precious metals, is instanced, as well as I recollect, by some of the economists, as an illustration of this observation: for the increase of industry, of the arts, and of all social comforts, which soon followed this event, has been remarked by several political writers. If this invisible increase of the circulating currency of a nation is, from the causes above-mentioned, productive of such happy effects, will not the immediate extinguishment of a great national bank, and the consequent diminution of the circulating currency of your country, have an immediate opposite and baneful operation upon society? Will it not produce a temporary depression of prices of many of the necessaries and luxuries of life, and, to a certain extent, lessen and benumb the vigor and exertions of our citizens? It is true, this effect may be temporary, because new banks will remove the evil; but is there any reason to produce this evil even for a moment? or, in other words, should we pro-



duce this deleterious effect, for one moment, by the destruction of one bank, that we, or the States, by the erection of new banks, may remove the evil we ourselves have created? This seems to be producing a calamity, that we may either remove, or mitigate it.

The bank, it has been objected, has been used as an instrument of improper political influence.

Let it be remembered, Mr. President, that I am not advocating the mere renewal of the charter of the Bank of the United States. I am only for re-chartering it on certain conditions, or, in other words, with a view that it may subscribe to the amount of its capital to a newly created bank, on different principles, of larger extent of capital, and with a portion of the directors appointed by the Government. This, sir, will effectually prevent the directors from using the bank as a political engine against the Government itself, and obviates every objection on this head. Witness the Bank of Virginia; how effectually is such an operation guarded against, there, by such a provision.

I have no sympathy for the directors of this bank, who are said to have improperly exercised this political influence; all my sympathies are in opposition to them. It is not for the benefit of, or tenderness for, these directors, that I advocate the bill on your table. I know none of them, nor care any thing about them, further than not to do them injustice. They may have conducted themselves exceedingly improperly—I believe they have done so, many years past, on some occasions—but this is not the way to seek redress for their misconduct. Sir, I have heard of a man, who, when irritated, in order to obtain satisfaction, would seat himself on a chafing dish of hot coals. The mode which is proposed to punish the directors for their real or supposed misconduct is equally wise in this instance. I would not injure the public welfare, and heap ruin on very many innocent men, for injuries long since committed, if at all, by these directors, and which never can be revived. Besides, this evil is gradually correcting itself. When there was only the Bank of the United States, or very few others, the consequence was, that it was a species of favoritism to get into the banks, and a privilege extended only to particular friends.

But, at the extent to which banks are carried at present, in the northern and middle States, to which the operation of the Bank of the United States is principally confined, it is not a species of favoritism to obtain bank accommodation. In the city of Philadelphia, before the late alarm, produced by agitating the question we are now discussing, every man, who could produce good paper, might get as much accommodation as he pleased; and to this extent banks should always be carried, if once commenced. This is a remedy for favoritism, and prevents the bank from being formidable as a political engine. If we go to banking at all, let it be so that all good paper can be accommodated. When the banks compete for paper, it is then not a system of favoritism. They rather seek for customers than select them. Such was the situation of Philadelphia. What is the consequence of a contrary system, in Richmond? In consequence of the erection of a bank there, with a little pitiful capital, the discounts got into the hands of a few favorites, and Richmond is stated by some to have almost become a nest of shavers. Those persons who are favorites, go into the bank, get accommodated with large discounts, on the strength of which they shave the paper of others; but, in Philadelphia, the situation is essentially different, from the redundancy of banking capital. Thus the evil of political oppression and intolerance, to which the Bank of the United States is said to be instrumental, is cured by the establishment of other banks; but it is possible that, to a certain extent, the undue influence of banks generally may be revived, by putting down the Bank of the United States, and creating a want of banking capital in the community. If there be a greater demand for discounts than can be met by the remaining banks, after that of the United States is destroyed, then you revive, with the remaining banks, that power of political influence and favoritism which you are so anxious to avoid, and increase the calamity you deprecate, by the very means you take to avoid it.

In a perfectly well regulated state of society it seems to me things should be so ordered, if it can be effected, that every individual of the community should obtain loans of money on reasonable interest, to any extent for which he can give ample security. In such a state of things an opportunity is afforded to bring into action and to develop all the resources of the nation, to improve its agriculture, its manufactures, its commerce, and all the social arts, to the greatest possible extent. Such was the state of Holland, such the state of England, before the present disturbances in Europe; and mark the result. Each country polished and improved like a garden, their commerce extending over the world, and all the discoveries and arts which enrich and adorn social life, carried almost to the utmost limits of perfection. This state of things can be effected in this country only by the agency of banks; as we are every day increasing our population, commerce, and agriculture, &c., and bringing into action an increased quantity of objects on which money can be advantageously employed, a proportionably increased quantity of circulating medium or of banking capital is necessary, to keep pace with the improvements and progress of society. If this reasoning is just, it is surely improper to destroy our greatest moneyed institution, and consequently banish from circulation a portion of the circulating medium, at a period when the state of the nation is capable of employing, to useful purposes, a larger capital than at a former period. If it is apprehended that, by affording this facility of borrowing money to the extent I have insisted on, to every individual who can give security, incautious men will ruin themselves, I answer, they will do this in any state of things. To argue against the use of an institution from the possible abuse of it, is not a just mode of reasoning. A sensualist may destroy himself by excesses in the enjoyment of the table; yet more temperate men will eat their dinner. That society should be deprived of the use of an institution from which its prudent members can obtain great advantage, because imprudent people will be ruined by it, is to tax the valuable members of the community for the benefit of the unworthy. I am informed, Mr. President, that, for some years past, in the State of Pennsylvania, any citizen of that State could obtain, on good security, from the banks, as much money as he wanted. Sir, what astonishing progress has she made in every kind of improvement and in every species of wealth. Look at the State which I have the honor to represent, whose apprehensions about banking institutions have made her averse to the extension of such establishments. The result has been, that, notwithstanding she is, perhaps, the greatest agricultural State in the Union, furnishing more copiously, (and the most valuable) articles of export, and possessed of all the materials of commerce, she is destitute, in a comparative degree, of commerce itself. When cargoes of wheat, flour, or tobacco, are wanted in Europe, a merchant of Philadelphia is applied to to furnish these articles, though they are to be purchased in Virginia. Wherefore? Because, having no banks in Virginia that are adequate to the wants of society, our merchants cannot afford to advance the money, purchase the cargo, and draw for the amount. On the contrary hand, the Philadelphia merchant can go into a bank, get as much money as he wishes to purchase a cargo with, send it on to Virginia and make the purchase, and, after the vessel is loaded, draw on the owner for the amount of the cargo and his commission. Comparatively speaking, all mercantile profit is drawn from us; our produce is exported and our imports imported by the merchants of other States, who derive all the profits of our commerce, which, in a different state of things, would remain with us, and constantly increase the wealth and resources of the State. I have been induced to enter into this train of reasoning and statement of facts, in order more clearly to illustrate this position, to wit: that, in order to prevent a banking institution or its directors from having a political or other improper influence, it was not necessary to destroy an institution which was in itself useful, but to correct its abuses by extending the banking principle till all good paper could be accommodated. I have stated that, in Pennsylvania, until the present alarm which this discussion has produced, any person deserving credit, could obtain it to any ex-

tent he wished. The banks, in such a situation, compete for customers, and, in such a state of things, their political influence is gone. In Virginia, on the contrary, in consequence of the limited capital of the bank being very inadequate to the demands of society, it is a matter of special favor to get into the bank. A banking capital, to this limited extent, is an injury to the community: for, in such a state, the bank not being able to accommodate all, must select its favorites, which gives to them particular advantages, which others do not possess, and enables them to apply to usurious purposes the money they get out of the bank, by lending it to others, who, if there was a sufficiency of banking capital, would themselves go into the bank and be accommodated with that very money for which they now pay an usurious interest. Such a bank is an evil, and in such a state of society, where there exists such a difficulty of loaning money, a man worth \$20,000 may have his fortune sacrificed to pay 5,000. This statement will clearly illustrate the object I have in view, which is to show that, by extending the banking system to the proper extent, if you once commence it, you destroy its political influence, and prevent it from being an instrument of either public or private oppression. Such is the situation of the Bank of the United States at present. Whatever may be the disposition of their directors, they are incompetent for all the purposes of influence.

[Mr. GILES said it was with regret he interrupted his friend; but he seemed to suppose that the banking capital at Richmond was so small as to convert that city into a society of shavers. This was not correct. He (Mr. G.) had a conversation with the president of the bank, from whom he understood that the bank could do more paper than was offered to it.]

Mr. BRENT said he had heard no positive information as to the fact he stated; but it was well known that men as good as any in the United States had not been able to get their paper accommodated. He knew the president of the bank, for whom he had a sincere veneration and affection; no blame attached to the bank. He said that the establishment of a bank any where, however pure, provided it was not adequate to the wants of society, would produce shaving.

Mr. B. said he had many other remarks which he wished to submit, but the hour was so far advanced he would not trespass further on the attention of the Senate at present. If a fit opportunity should hereafter occur, he might again take the liberty of making a few observations on this subject; but he would avail himself of this occasion to say, that he did not mean to make any reflection on the directors of the Bank of Virginia—they were not, in the smallest degree, censurable. He believed the affairs of the bank were ably and honorably conducted by them.

FEBRUARY 19, 1811.

Motion to strike out the first section.

Mr. TAYLOR.—Mr. President: Although much time has been consumed in the discussion of the subject before us, and the ground completely occupied by those who have gone before me, yet the importance of the subject, the immense magnitude of the unhappy consequences likely to result to the nation from the rejection of the bill on your table, compel me to offer to it all the support in my power. Indeed, sir, to this sense of duty to the nation is superadded a very sacred, and to me dear and indispensable duty—my duty to the State which I have the honor in part to represent—as well as another duty which, *from the course which the debate has taken*, is not to be disregarded—I mean, sir, the duty which I owe to myself.

I cannot, as other gentlemen have boasted they can, put my hand into my drawer, and pull out the instructions by which I am to be directed on this important subject.

The State of South Carolina is a very large stockholder in some of her State banks; and if a selfish policy, contracted to the narrow sphere of the unique advantage in dollars and cents of the Government of that State, in con-

tradition and disregard of the interests of the great body of her own citizens, and the citizens of the rest of the States in the Union, could have weighed a moment with her Legislature, I too might have been instructed. Let me not be understood, Mr. President, as drawing any comparison between the conduct of the State of South Carolina and the conduct of great and leading States, who have acted otherwise; but I must and will tell of the *things that I do know*. I rejoice, sir, that the State which I come from has, in this instance, been actuated by that magnanimity and patriotism which on all former occasions has distinguished her conduct; that neither selfishness nor party rage, nor a spirit of intolerance, has induced her to counteract or embarrass the National Legislature in its pursuit of the great object of its institution—the good of the whole.

I hope it will not be considered as *savoring* of egotism, when I say that my appointment to the very honorable station I now hold was unsolicited by me. That my sentiments on the subject now under consideration had been, by me, unequivocally expressed at the last session of Congress, and were well known to those who appointed me; nay, further, after my venerable and respected predecessor had resigned his seat here, and had declined also his appointment for the ensuing six years, *pending* the election of a successor to him, and when my name was held in nomination, a resolution was offered, similar to those which we have heard so much talk about, proposing to instruct the Senators of that State to oppose the renewal of the charter of the Bank of the United States. This resolution, as I am informed, lay on the Speaker's table when the election was gone into. I was elected; and the proposers of the resolution had not power or influence enough to raise it from the table on which it lay, and it died *still born* at the end of the session; and if I were to make an inference, at all, on these transactions, I should suppose I was tacitly instructed to vote for the renewal of the bank charter. But I seek not the avoidance of responsibility. It is *here*, sir, (in my own bosom) I have instructions paramount to all others; my beloved country has rested the matter here, and my gratitude is superadded to all other moral obligations operating on me to perform this trust and to execute this duty with faithfulness. I find the authority of Congress to grant this charter in the same sections of the constitution which the gentlemen who have gone before me have pointed out to you. In section 7th, clause 1st, *power is given to Congress "to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties shall be uniform throughout the United States."*

Clause 2d gives the power "to borrow money on the credit of the United States." And in the last clause of said section, power is also given to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, vested by this constitution in the Government of the United States, or any department or officer thereof.

Let us understand the meaning of the words necessary and proper, in the last quoted clause: for, upon a correct knowledge of these depends, in my opinion, the correctness of our conclusions on this subject. The word *necessary*, in its technical and legal sense, in the meaning affixed to it in common parlance, established by usage, custom, reason, and the common law of the land, is different and distinct from the signification of the same adjective derived from the substantive *necessity*, as used by Hobbs, Hutchinson, Hume, and the other metaphysicians of the last century. It is well known that they used the substantive necessity as synonymous to the word fate; and which necessity, according to the opinions of one party, controlled omnipotence itself. This necessity was supposed by them co-existent with the Deity itself—not prospective nor discretionary; bending in one way, and in one way only, all substance, all matter, and all spirit. This meaning of the word is only to be found with these metaphysicians and philosophers; but, in our law books, in the daily and hourly use of the word in common conversation, it has no such meaning. When the old Congress passed the conditional charter, (which I admit they had not a delegated power to grant) but which is fully in point, both as to the signifi-

tion of the word, and also of their opinion of the necessity, and even of the indispensableness of a bank for administering the fiscal concerns of the nation. In the conclusion of the preamble they say, that the exigencies of the United States render it indispensably necessary to pass the act, &c. ; and in the laws passed during that period, when this Government was in the habit of following the English custom of beginning the laws by a preamble, you find the word necessary used as synonymous to *expediency*, practical expediency, (see laws of the United States, vol. 1, page 247; idem, 276.) In fact, among frail mortals, with fallible judgments like ours—with any beings endued with less than omniscience—the word necessary must be only applicable to the honest judgment we can make up concerning the subject to which we apply it; in other words, it is resolvable into that sound discretion with which, as moral agents, we are, in the first *instance*, entrusted by our Maker, and, in the instance now before us, we are entrusted with by the constitution and by the citizens who have sent us here to transact their business. But the rigid *necessity* which our opponents wish to enforce on us, this metaphysical necessity, must, from its very nature, be immutable; it must be unique; and could not exist in a greater or less degree; and, therefore, the word joined to it in the constitution, *proper*, could have no meaning at all. The laws to be passed must be necessary, is the only way given, under heaven, by which you are to effect the end desired; in other words, the law *must be imposed by fate*. It is perfect nonsense to say that there is a latitude left with us to judge whether such a law is proper or improper. I have, I think, brought the meaning of the word *necessary* to the level, and within the comprehension of frail human intellect. The signification of the word *proper* I take to contain the description of the measure or law to which it is applied in the following respects: whether the law is in conformity to the letter, the spirit, and meaning, of the constitution; whether it will produce the good end desired, in the most ready, easy, and convenient mode, that we are acquainted with. Let us apply these definitions to the matter in hand.

Our opponents have admitted, that banks are necessary to receive and take care of the revenue of the nation. They have, by their statements, shown, that there is little more than one half of the amount of specie in the country which the national revenue rises to, annually; and the burthen of the song is, that State banks will do.

Banks are then necessary and proper for the collecting, transmitting, and safe keeping of the revenue. Banks are created by law. Congress, by the constitution, have the right of passing laws necessary and proper for the foregoing purposes. Banks are necessary and proper for these purposes; therefore Congress have the right of passing a law to make a bank or banks. But the power of granting charters and creating corporations is the exercise of the highest act of sovereignty, say our opponents. I know of no scale by which these acts of sovereignty are graduated; the power of legislation implies sovereignty; and the description of a high law and a low law is hardly to be found in any book I have yet met with. I will not dwell on this topic. The arguments of the gentleman from Virginia (Mr. BRENT) on this point, are unanswerable. It is curious to observe the extremes to which some of our statesmen carried their doctrine, twenty years ago, on this subject of charters and corporations; and I have recently met with some who deny that any government has the right to grant them. Our little town corporations, and our city corporation in the State I live in, have had to pass through the legal ordeal to satisfy the doubts of those who entertain this opinion. But now, all the States, undoubtedly, exercise it, or rather, they have continued to exercise it from their first existence. So have we, in legislating for this territory. If this power is derived from the broad terms of the grant to pass laws for this District, in all cases whatsoever; and if the unlimited, unrestricted grant, thus made, is supposed to *dub* us with the higher or quintessential sovereignty, I think it would not be a difficult matter to prove, that this broad grant is, in fact, as much limited and restricted, according to its nature, as the grant of power in the concluding clause of the 8th section which I have before cited.

Can Congress even pass a law respecting the territory of Columbia, which,

according to their opinions, shall not be necessary and proper? The well-being of its citizens or the well-being of the citizens of the whole nation, (for even legislating the territory into non-existence, if we could do so) these would be the motives; in fact, the Legislature must be *non compos mentis*, who could or would assign, as a general reason, for any of its acts, one opposite to this one of its being necessary and proper.

Great stress is laid on that amendment of the constitution, which says that all power, not expressly granted, shall be retained, &c. Either the general clause I have relied on gives power, or it does not; if it did not give power, why was this amendment made? And if it did, and this power was offensive, why was it not stricken out when the amendment was made? But if it expressly gave power, which I contend, its being suffered to remain is proof that it was not the design of the amendment to take away the power given. Could not the territory of Columbia have been governed without erecting a single corporation in it? I don't mean *well-governed*? But was there that fatal necessity, that command from Jove,

“Ye fates fulfil it and ye powers approve,”

To erect corporations. *This legislation* to erect corporations being, according to our opponents, *sui generis*, not of the ordinary kind, and only to be exercised where the express authority is given by the constitution, I ask gentlemen to shew the clause in the constitution which expressly gives us the power to perform this sublimated act of legislation in this territory, any more than in any other part of the United States; and yet, at this very session, we have sent an armful of these high acts. The shelves of the office of the Secretary groan under the pile of charters we have granted.

I said it was easy to prove that the broad grant given to Congress to legislate for this territory, in all cases whatsoever, was restricted and paled in by the constitution. Congress cannot make the duties here on imports less or greater than elsewhere in the United States—*imports and taxes must be equal*, &c.—nor deprive the citizens thereof of the right to a trial by jury, nor grant them titles of nobility; and yet the incidents here alluded to would come under the description, in the clause, “of all cases whatsoever.” In truth, sir, there is not a scintilla of the spirit, nor a single word or letter of the constitution, that loses its power and sanction upon our conduct in legislating in this particular. There is no more a power given us to legislate *ad libitum*, on *this territory*, nor to derive *therefor*, powers by implication, than is given us in the laws we pass for the whole nation; and if this power, *sui generis*, of creating corporations, is properly defined by our opponents, they ought to go back to the works of yesterday as well as to those of twenty years standing, in order to introduce their new order of things. I might here draw a comparison of the tried scheme of using the United States' Bank, and the untried scheme of using State banks, in aid of the operations of the national treasury; but I should only be saying with less force what has been so fully and so conclusively said by the gentlemen who have preceded me. Suffice it to say, that, for safe-keeping, for transmission and payment of the funds to any part of the nation, and for enforcing the punctual payment by the debtors to the customs, by addressing to those debtors the arguments to the sense of honor and shame, and also to their interest, to wit: by denying them credit in the bank, on failure of punctuality—all these have been afforded to the Government without its incurring therefor one cent's expense. Are we sure the State banks can or will do this?

I beg pardon of the Senate for detaining them on topics not new. As this is made a case of conscience, I deemed it necessary to be thus particular. I have no hesitation in saying, we have the right to act on this subject, inasmuch as I think the bank is both necessary and proper for the purposes above referred to.

To me it appears that this power is expressly granted—we derive it not by implication; but our opponents in fact are pressed to the necessity of using implication to come at the denial they set up against the exercise by Congress of this power.



I say, further, that this institution is necessary and proper for carrying into effect another general power, viz. the power to borrow money on the credit of the United States.

I am one of those, Mr. President, who have always thought a superabundant treasury was no national blessing. It is very easily to be demonstrated that, as to the effect of accumulating national wealth, one dollar in the pockets of our citizens would add twice as much to the common stock as the same sum taken from them and lodged in the strong box of the treasury. None but the nerve of a rigorous and miserly despot, such as was the father of Frederick the Great of Prussia, could ever keep it together after it was collected. I fear that we republicans are so generous in our natures, that, in some way or other, for some favorite project of a fortification or fortifications, whether by land or water, we should let it go, and think too we were doing the greatest possible good with it. For sudden emergencies, then, I conclude, while our Government lasts, we shall have to anticipate by loans, taking care, as I hope we always shall, and as we have done, to provide for the early release of the Government from such obligations, which the necessary or sudden emergencies are not to be suffered to accumulate. The Bank of the United States serves for effecting both objects—quick and reasonable loans. One clause of the bill compels the bank to loan to the United States the amount of half its capital; and the form of these loans, as heretofore practised by the Government, is by a mere entry in the bank books, and in the books of the treasury of the United States, of the money borrowed, and the interest stated which is payable thereon; in other words, there is no transferable stock delivered out, and which the Government cannot redeem whenever it pleases. I ask gentlemen, if the Government is not bound to provide the means necessary and proper of exercising this power of borrowing, and whether there can in any way be devised a more proper mode for the advantage of the nation than the plan proposed; and will not this ready *resource*, which we shall have for five, six, or seven millions of dollars, serve to keep off the pressure and the combination of individual rapacity and of individual concert and cabal, with which your efforts to borrow may be met by the large capitalists, and give to the Government time to borrow even from foreigners, if with them we can make a better bargain for the nation? I know some gentlemen talk largely of the vast sums of money which our citizens have ready to pour into the lap of the Government, if to them it should apply for a loan. The same boasting took place at the time this Government made its only experiment to borrow money from its citizens. Yes, sir, when there was a mighty rage against France, and the Government was urged into the expensive measures of that day, the experiment was made, and we had to give *usury*; sir, we had to give an interest of two per cent. more than the legal interest in the States where the loan was effected. The present crisis is an awful one. The system of non-importation is now in operation, which hermetically seals the lid of your treasury box to the admission of revenue. It is known we shall have to borrow money. And after you put down this bank, where is the loaning capital of the nation to be found? I'll tell you where; it is under the management of the State banks; and those State banks, at least in the largest money holding State in the Union, (Pennsylvania) are precluded from loaning to the United States, unless by consent of the Legislature. Will you go to those gentle and good souls, who give to the distressed the good bargains which the gentleman from Maryland (Gen. SMITH) told us of? Will you apply to the mercy, and kindness, and patriotism, of those ravenous sharks and shavers, who are even considered as acting very moderately when they take from the distressed their one and a half per cent. per month, or eighteen per cent. per year, for the use of their money? I don't expect much patriotic support from such men as these; they would spurn you with contempt, if you offered them your pitiful and beggarly *six per cent.* But the State banks are the *panacea* for all difficulties; they may lend you the money you want, provided you get the consent of the State which granted their charters. But all the States have not restricted their banks from lending money to the United States. I am contemplating this, not for a day only.

Do you believe that New York or Maryland, after experiencing the effect which this controlling power of the State, over the money of its citizens, shall have on the General Government, will act so unwisely as to forego the advantage of influence in the Union derived from their *dollars* and *eagles*, and act so unjustly to themselves as not to follow the example? Why, sir, not for *selfishness sake*, but for the sake of fair play, they ought and would do it. The *States* ought as little to *disparage* us, in the exercise of our legitimate functions, as we them; yet, by the operation of these State charters, millions of money are put out of our reach unless by their consent; when, by the constitution, we are undeniably permitted to borrow money. Are we come to this, that this meagre and *grim demon*, this Dr. Snatchaway, who not only denies the powers derived incidentally, (although we have exercised them thousands of times) but before whom withers and perishes the powers expressly granted—that this Devil Doctor is even now about to renew to us the distress of the honest Governor described by the inimitable Cervantes?

I beseech, gentlemen, not to bring on a premature old age in this our Government; I beseech them not to disfranchise the Government of the necessary powers for carrying it into effect; and not to throw away the experience and the acquiescence of the nation for twenty years' duration; and I most fervently beg that this power should not be surrendered to the great and leading States, because they have inconsiderately asked for it; that Congress will not, in imitation of the good old Lear, yield to the members of our family what is wholesome and necessary for supporting our own household. Soon, very soon, the eyes and ears of one or more of the members of our family may be offended at the sight of our committees, our mendicant missions lounging about the lobbies and galleries of the State Legislatures, as some of us have been offended at the presence of the missionaries lounging about our galleries. We, who are now supplicated, will then be supplicators. While we succumb to the views or prejudices, or State policy, of each particular State, from whence we implore the permission to borrow, we may succeed; but act independently, run counter to their local feelings, they will not lend you a doit. Think you, sir, that the State of Pennsylvania would have consented to your making a loan from its banks at the period at which General Bright was in battle array against your authority? Think you that Massachusetts would have treated your *beggars* kindly during the embargo ferment? Would the gentleman from Maryland, with his high standing in that State, the turn of whose *politics*, he says, may depend upon the continuing of this bank—could he, sir, with all his commercial knowledge and the eloquence he displays, have obtained the grant of a favor to the Government of the United States about two years ago? Ah! no, sir. When civil broils, when political intolerance and party rage, shall pervade a Legislature, they will act as other men; and if excited only to the height to which the newspapers seem anxious to excite them on the present occasion, there might be rashness enough found to induce them to use your messenger as was used the good old Kent, when supplicating in the cause of his houseless master. The gentleman from Virginia (Mr. GILES) has called the attention of the Senate to the 9th article of the amendments of the constitution, viz. "the enumeration in the constitution of certain rights shall not be construed to deny or disparage *others* retained by the People." Now Congress have the *power to borrow money*; and *from plain and necessary implication*, though not by express delegation, (such as is required by gentlemen: in the instance before us) we have the power to fix the rate of interest to be given; yet the State Legislatures have the power of fixing the rate of interest which their citizens lending money shall receive, and have fixed and established that rate, and enforced the provisions on this subject by severe penalties. I know not how Mr. Adams found the States so much asleep to their rights when he tempted their citizens to become usurers, and this, too, in denial and disparagement of State powers actually exercised. If the present vigilance had then been exerted, I should suppose he was very lucky that he was not as much harassed as were some of the victims under his sedition law. Carry this doctrine of rigid construction, in respect to this

instance of collision of State and United States' authorities, to the extent contended for by the opposers of the bill; enforce, to the fullest extent, according to its obvious meaning, the amendment last quoted; and we shall be surrounded with powers which we dare not use. We may borrow; but the citizens will not lend for the legal interest established by law. The States prohibit them lending at an usurer's interest, and impose heavy penalties if they do; or, to embarrass the General Government, the *States*, or *some of them*, holding the moneyed capital, may prohibit individuals, as they have prohibited the banks, from lending to us; and thus benumb all our energies. In fact, sir, the doctrines and notions I have heard enforced here, seem calculated to place us in the situation of the miserable Tantalus; the limpid and wholesome stream is within our reach, but we dare not reach out our hands to take up a drop to cool our tongues, destined to the sufferance of eternal thirst. Let me now inquire how the destruction of this bank is to operate on the nation at large. By the minute detail of the honorable Senator from Maryland, (General SMITH) of the mode and manner, and by what commercial operations, the foreign capital in this bank is to find its way out of the country, I take it to be one of his motives for putting down this bank, that the foreign capital should be drawn out of the country. Indeed, if this were not his object, I cannot see why his heaviest artillery was brought to bear upon the foreign influence, which he alleges this foreign capital brings into the country; and yet neither he, nor any one who has cried aloud against this *sin*, has produced a single instance of a foreign stockholder having exerted his influence against the Government of this country. [*Baring's* book, on American affairs, might be adduced as an instance of the opposite effect produced.]

The farthest that the assertions go, is, that our own citizens, federal bank directors, may have exerted their influence; and they and their money, which is not proposed to be annihilated by this bill, may, and probably will, be brought to bear against us again and again; and the only remedy I see would be to kill them and take their money. This would effectually destroy their influence. To return, sir, to the grand object of drawing out seven millions and upwards of foreign capital from this country. I know that some have asserted, with great confidence, that the section of the Union, north and east of this, is saturated with a *moneyed capital, domesticated*, sufficient for all the purposes of its citizens. I cannot prove that this is incorrect, but, from the anxiety shown by those People, (on the subject now before us) by the moderate 18 per cent. loans we have heard of, I should remain a perfect *Thomas* as to the correctness of this assertion. Let me speak of those States concerning which I am better informed: I begin with Virginia, because it is nearest. This State is indented with the finest bays and rivers in the world, her shores are bold, and her waters deep, affording ports and harbors in more abundance than are to be found in any State of the Union; look at the weight of tonnage employed in carrying to the old world the immense proceeds of this productive country; their citizens equal in intellect and enterprise to any in the world. What is the reason that they pay a transit duty, annually, to New York, Philadelphia, and Baltimore, to more than double the amount of their State bank stock, in profits to the shipping merchants in these cities, in freights coastwise of the produce, and in the freight, also coastwise, of European supplies? Does this evidence no want of commercial moneyed capital within the reach of the citizens? Travel through it, compare it with the Northern States; at every step you see apparent the disadvantages it labors under in this respect. Why, sir, the circumstance of the basin at Richmond, with a fall of nearly one hundred feet, remaining for ten years a stagnant pool within the heart of her capital city, *when*, with this power, more machinery than is to be found in half the manufacturing towns of England might be propelled—*tells the secret*.

It is a well known fact, that the trade of North Carolina, with the exception of a few vessels with naval stores and lumber, makes its humble attornment to the city of New York. South Carolina and Georgia have a small portion of their commerce direct with Europe; but the thousands of bags of

cotton shipped from the ports of Philadelphia, New York, and Boston, the circumstance of there being eleven packets constantly trading to New York, alone, from Savannah, and as many, or more, from Charleston, show plainly that this transit duty is paid by us also. The French emperor knows this as well as we do ourselves, and his provision for admitting cotton from New York is not because he did not know the article did not grow there, but because he knew the capital there acted like a loadstone, and drew the article from the States in which it grew. I do not mention these things invidiously; I wish prosperity to these cities as well as to the whole Union; but protract not the growth of other parts of the United States, by driving out the means from the country by which they have grown, and which, if let alone, might be extended to us also. No man who has attentively considered the rise, progress, and growth of these States, from their first colonization to the present period, can deny that foreign capital, ay, *British capital*, has been the pap on which we first fed; the strong aliment which supported and stimulated our exertions and industry, even to the present day; the Southern People, although they have received the goods, and sold their crops to British agents and British factors, whether in their own cities or those further North, are not the less republican, nor the less independent in their politics, nor the less free from foreign partialities. I will here mention a fact, which I happen to remember, which, among ten thousand other instances, might be mentioned, of the benefit derived to the country by the use of this detested foreign capital. In the progress of the digging of the Santee canal, the greatest work of the kind in America, the expense so far exceeded the calculations of the company who had undertaken it, that many of the stockholders, like all sanguine calculators, were straightened in paying up their instalments as they became due; these obtained accommodation at the bank; but, even then, it was found difficult to progress, and at length the company actually borrowed of the branch bank the funds to complete it; and, unless it has been very lately paid, the company still owes a very considerable sum to the Bank of the United States; and, but for this accommodation, it is more than probable that this great work, which is capable of facilitating, to a most convenient degree, the transportation of the products of nearly half the State of South Carolina, might never have been accomplished. We have heard much of parties and party spirit in this discussion. I'll tell you, sir, who will compose the parties in the immediate concussion about to be produced by the downfall of this bank—the withdrawal of fifteen millions of circulating medium, either in actual paper bills, or in bank credits, answering the full purpose of circulating medium, while the merchants are under distress from foreign aggression, and while the Government has commenced its restrictive system on mercantile operations; while it will make the money more scarce, will make it more dear, and of course will make property more cheap; produce will fall; it has fallen in consequence of the anticipations on this subject—the small trader, and the young industrious and enterprising mechanic and manufacturer, whose stock (and it is the best stock in the world) is his honesty and fair reputation, and on which the banks have advanced him money, *must pay off* at any and every loss, or perhaps buy his money at the moderate premium of one and a half, two, or three per cent. a month. These men, such as the worthy supplicants from Philadelphia represent, will be delivered over to be devoured by the sharks and shavers, who are now prowling for their prey, among the distresses and calamities you are about to inflict on that class of citizens, the most worthy the care of a wise government. The parties are the rich-cash-in-hand men on the one side, and the great agricultural and manufacturing interest, and the small traders on the other. If I had only heard and not seen the gentleman from Tennessee, (Mr. ANDERSON) when delivering his oration in praise of republican simplicity, I should have thought we had another Diogenes preaching from his tub; but there needs no oratory to convince the mission in your gallery, and their friends behind them, that, after the big fish have eaten the little ones, they will neither have motives or means for departing from the chaste frugality and republican simplicity of manners, recom-

mended by *the words* of the gentleman; it will be only those who have fattened upon the spoil who can indulge in the simple style and plain and humble habiliments of our modern Diogenes.

I have said I rejoice in the prosperity of every part of our Union. But, either the gentleman or I have proceeded together upon very mistaken grounds. I thought the seizing of West Florida was, among other objects, to answer the purpose of giving an outlet for the products of Tennessee and the other Western States; I thought, too, the purchase of Louisiana, at fifteen millions, to be paid by the whole nation, was for this object also; and I cannot suppose that the effecting of this object would tend to make the People poor, or preserve among them this republican simplicity of manners; on the contrary, I do hope and expect, that it will tend to promote the industry and enterprise of the citizens, and develop the vast resources of wealth, profit, and strength, of our Western brethren. Perhaps the resolution on our tables for imposing additional duties on hemp and hempen manufactures is also designed to promote the wise project of keeping our Western brethren from growing too rich, and thereby preserving our republican simplicity.

I have not yet done treating this as a party subject. I did not, it is true, come here to legislate for a party, or for any particular administration; but where I think a measure is subversive of the interest of the nation, and subversive of the party to which I am attached, it is not unfair to take this latter aspect into view also. Let it be recollected that the present administration have not a single leading (for they arrogate the term as well as the States) paper, republican or federal, in the nation, except the paper edited here, (which is mild in its tone, and not, as yet, disposed to rush into the fire to defend the powers that be)—I say let it be recollected that there is none of these irresponsible dictators to public opinion, who lift a quill in our cause. The constant theme is the baseness and tergiversation of the tenth and eleventh Congress, and the wickedness and corruption of the servants of the public, and *ever and anon* their lash reaches beyond our shoulders, and strikes the Executive also. But more is coming yet from them; they *have shown their teeth*. It is true we may follow those calling themselves republican in the vote which we are now about to give. But, do you think, for this act, that they will come back to your aid—that they will take us for better for worse? No, sir; when the evils which will be produced by the rejection of this bill; when private distress and public embarrassment shall raise the outcry; they will ride on the winds, and direct the storm, and will be the first to cry out there is no energy in us, and to join any intrigue to hurl us from our seats. It is easily to be demonstrated that, by the details of the bill on your table, if its friends were suffered to perfect it, it would produce, say in the bonus, one and a fourth millions at least, perhaps two millions of dollars; premium on the five millions of stock to be created two and a half millions; in the whole, at the lowest calculation, three and three-fourths millions of dollars, which will be given up, lost, and abandoned, by us. Will gentlemen recollect that only half of this sum, taken from the People by the direct tax, hurried Mr. Adams and his friends to their political death? And the People are not such fools as not to see that what is taken away from the treasury is taken from their pockets; you may disguise it as you will, by procrastinating loans, it will not escape their detection.

And for whom is this mighty sacrifice to be made? If the ministering to the treasury of the United States is worth to the Bank of the United States so much that it will accept the terms abovementioned, and you resolve to employ others to do the same thing, *is this office*, worth so much to the Bank of the United States, worth less to them? *This is the lever*. Here the real parties are apparent. The nation—the great agricultural interest, the solid yeomanry of the country, on one side; and the city influence, the London and Paris influence, on the other. The advantage palpable of nearly four millions of dollars, wrested from the Government, and of course from the People, and sent to whom? To the great capitalists, monopolists of State banks, to the *Leaden Hall Street* gentry, whose insatiate maws could not be glutted by the

plundering of an empire. Do you believe, sir, that the great body of the People, who are actuated by the impulse of feeling, and who may not indulge in the nice distinctions we have drawn here about the constitution, but who have experienced the convenience of a circulating medium, current over the whole extent of the Union, and who have witnessed your numberless acquiescences to the legality of this institution, and read your laws for punishing those evading its rights, and your numerous laws for trusting, trading, borrowing, and receiving favors from this bank—will this your recent discovery of its unconstitutionality be an excuse for giving away twenty per cent. on all their produce, and for the giving away double the amount of that tax, for the imposing of which they condemned your predecessors? I fear for the safety of the constitution itself. It has been denounced by those who have denounced us. The feeling is quickly transferred from the ministers under the constitution to the constitution itself. The clamor has gone forth that we want energy; that the constitution wants energy; and a vast remedy has already been proposed by *the Aurora itself*: to give Congress the power to lay an export duty upon the productions of the country—*more of your London and Paris influence*; to lay the agricultural interest under the ban of the empire. Consolidation is the watchword. Preserve your constitution without abandoning its legitimate powers, such as you have prospered in the exercise of, and I fear not this hobgoblin; but weaken it, place it to lean upon or *revolve* round any local State policy, and to obey the beck and call of any one or of all the leading States, and the rights and interests of the State I represent, and all the other smaller States in the Union, could not be very much affected by any change.

It is acknowledged on all hands that there is not specie enough in the nation, if applied solely to that purpose, to pay our annual impost. The operations of the Bank of Columbia in transferring the revenue derived from a part of Virginia (and of the land funds from the westward) and of the Manhattan Bank, in performing the same office in respect to the collections in Connecticut, have been dwelt upon by the honorable Senator from Maryland, (Gen. SMITH.) His arguments, drawn from the facts, would have been more conclusive, if he could have instanced the same facilities afforded to the Government between banks disconnected by the effect of that neighborhood circulation and of that course of trade very apparent in the instances he has produced. But it is not conclusive at any rate. There is a neighborhood medium of circulation (the State bank paper) and there is a national medium (the United States' paper.) The latter, under the present state of things, corrects the operations of distant banks, and renders their transfers easy; but, deprived of this, would any of them, situated at four or five hundred miles, or at 1000 miles distance, agree to make these transfers for the Government free of expense? Could they, for instance, transfer the solid bullion, belonging to the U. States, from Orleans, to Boston or Philadelphia, without our affording compensation for freight, insurance, &c. I have witnessed the advantages of this national medium in the State I live in; and in the months of autumn, when strangers are fearful of venturing to Charleston, our Western friends, rather than carry the hard dollars, are in the habit of giving two or three per cent. for bills of the Bank of the United States. Destroy this national medium, you insulate the State banks, which are so far asunder as not to be within the influence of the neighborhood medium of circulation. The stroke of our dreadful wand disconnects the ligament by which they are bound together in their distant operations.

Gentlemen tell us we must use the State banks, and of consequence the State bank notes. Some of these notes happen to be worth nothing; Gloucester bank notes for instance; and they are graduated in different parts of the continent, from par, down to twenty or twenty-five per cent. below par, and the market value is, in some instances, perpetually changing; our treasurer must, if he can, separate the sheep from the goats; and this is to be perpetual labor. Even good notes, *at par*, when received, may be useless to the public creditor, who is to receive them. A Portland bill, for instance, would not get me a meal's victuals from this, *home*, and an Augusta, or Savannah, or New Or-



leans bank bill, would not have its value understood in New England. Indeed, Mr. President, this chaos, this confusion, about to be introduced in our treasury, and the legitimate exercise of our constitutional powers as a government, is likely, too likely, again to exhibit to the world the distraction, and, perhaps, dispersion, (which God forbid) which the seed of Noah experienced at the Tower of Babel.

I have given, candidly, my honest views of the subject before us, meaning no uncharitableness to those honorable gentlemen in the Senate who differ with me, and, infinitely rather would I, that, after the trial, and after long experience to come, all that I have said should be discovered to be founded in error—the effect of a heated imagination—than that my country should suffer a single pang, though in fulfilment of the things I have this day uttered.

FEBRUARY 20, 1811.

Motion to strike out the first section of the bill.

Mr. PICKERING.—Mr. President: Having received, from the House of Representatives of Massachusetts, an instruction, in the form of a request, “to oppose the renewal of the charter of the Bank of the United States,” and some other members of the Senate having received, from their respective States, instructions to the same effect, I will make a few observations on the subject of instructions.

I was pleased to hear the gentleman from Virginia, over against me, (Mr. GILES) after reading his instructions from that State, express his opinion decisively, that instructions from constituents were not binding on their legislative Representatives. Concurring entirely in this opinion, I will offer some reasons, to show that they are *erroneous in principle*, that they *infringe the rightful independence of Representatives*, and, in respect to members of Congress, that they *violate the constitution of the United States*.

In a small community, where all its members can meet together and consult on the measures necessary and proper to promote their common interests, their decisions are the result of deliberation, of reasoning, and of the interchange of sentiments. When the members become too numerous, or are too widely extended to admit of their personal attendance in a general assembly, it seems to be a very natural provision to select a convenient number of them to meet together to manage their common concerns, in the same manner they were before conducted by the whole community. And thus, from the very nature of this institution, it becomes the duty of the persons composing the representative body, to consult, deliberate, and mutually communicate their reasons and opinions, and, thereupon, finally to decide on the measures requisite to be adopted for the welfare of the community. Hence, it follows, that all peremptory instructions, or naked requests, designed to control or influence the votes of the Representatives, are subversive of the fundamental principle of a representative government.

Such instructions, or requests, addressed to members of Congress, do, also, violate the constitution of the United States. The first sentence in that constitution is in these words: “All legislative powers, herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.” Now, therefore, if State Legislatures undertake to dictate, by their instructions, or by requests which are intended to operate equally with instructions, what votes shall be given on any question, by their Representatives in Congress, they so far assume the powers vested, by the constitution, exclusively in Congress. And if their instructions, or requests, are obeyed, then the State Legislatures, and not Congress, enact laws for the United States.

If, indeed, a State Legislature should, in the form of instructions or requests, enter into a train of reasoning, and present arguments which should convince my understanding that any measure under consideration in Congress, was, or was not, consistent with the constitution, and exhibit facts

which proved its utility, or injurious effects, then I should yield obedience accordingly; but to what? To *instructions* or *requests*? No; but to REASON and to TRUTH.

In another respect, such instructions and requests violate the constitution, in regard to the members of *this body*. Senators are chosen for six years. This was intended, by the framers of the constitution, to give them that independence which should secure freedom in thinking and acting. But, if Senators were bound to obey the instructions of their respective State Legislatures, that independence would be wholly destroyed. Indeed, it would put Senators as absolutely in the power of their constituents, as if the State Legislatures had the right to recall and dismiss them at pleasure.

I will now, Mr. President, make some observations on the main question under consideration—whether Congress have the power, by the constitution, to renew the charter of the Bank of the United States.

It has been said that the power to incorporate a bank for the United States, is a substantive and original, and not a derivate or implied power. This has been repeated; but I have heard no arguments in support of the position; it is a naked assertion.

It has, also, been called “an act of sovereignty;” as if to alarm and deter us by its awful magnitude. But, sir, the sovereign power of Congress is sometimes exercised on subjects of comparatively little moment. A few days since we passed a bill to authorize the erection of a bridge; and another to change the name of an individual, to enable him to inherit an estate. The power of Congress is sovereign to all the purposes of the constitution. They can lay and collect taxes, duties, imposts, and excises; borrow money; regulate commerce; and make all needful rules and regulations respecting the territory and other property of the United States. And they have power to make all laws *necessary* and *proper* to carry the foregoing, and all other constitutional powers, into execution. When proposing to exercise this *general power*, in any case not *expressly mentioned*, we have to consider whether it be “*necessary* and *proper*.” It has been said that “*necessary*” here means *indispensable*; something without which a particular power, expressly granted, cannot be carried into execution. But, sir, I see no ground for this interpretation. In the affairs of a nation or other community, *whatever the public good requires to be done*, is *necessary* and *proper* to be done. It is a *moral*, not an *absolute* necessity. It is necessary for me to be here, in my place, because it is my duty to be here. *Necessary* and *proper* are opposed to *unnecessary* and *improper*. Congress should do no act unnecessary and improper; but, like State Legislatures, do whatever is *necessary* and *proper* to attain the objects for which they are respectively constituted.

In determining whether any proposed measure be *necessary* and *proper* to carry into execution any power expressly given to Congress, we have to consider whether that measure has a just or useful relation to the end. For instance, the constitution having prescribed no mode of collecting the revenues, it rested in the decision of Congress to adopt such a mode or such modes as should appear to them best adapted to that object. Instead of appointing custom house officers in the large commercial cities and towns, where a banking establishment could be supported, Congress might there have erected banks—the most certain, punctual, and cheap mode of collection. Suitable officers of a bank might have performed all the duties of entering and clearing vessels, and all other duties pertaining to the custom house, without any charge to the public; the deposits of the public moneys, so collected in those banks, upon which the usual banking operations might be carried on, yielding an adequate compensation for all the services so performed.

The public revenues, when collected, must also be safely kept. And experience has demonstrated, that, of all depositories, banks are the safest. And the same experience has shown, that, as the public moneys are required to be frequently transferred, for the public expenditures, from one State to another, the Bank of the United States, with its branches, has furnished the best mode

of transfer; it being effected with despatch, with certainty, and without any risk or expense to the United States.

The gentleman from Kentucky (Mr. CLAY) asked, if banks *are* necessary for collecting the public revenues, why give them any other power? The answer is, that it is the essential nature of banks which renders them so peculiarly fit to collect the revenues. The merchants, whose bonds are lodged in the banks for collection, are also borrowers of money from the banks; and if they fail of paying their bonds as they become due, their credit will fail; they can obtain no more loans until their bonds are paid. This has been presented to our view, in the most striking manner, by my colleague.

"To borrow money," is another of the great powers expressly vested in Congress. And in this, as in the power first considered, no mode of borrowing being prescribed in the constitution, Congress are to devise and provide the means in their judgment most sure, expeditious, and ample, to obtain loans. And this was one of the great objects for which the Bank of the United States was originally incorporated. The gentleman from Virginia, near me, (Mr. BRENT) and the gentleman from South Carolina, (Mr. TAYLOR) have, in very forcible language, displayed the impolicy of depending on State banks, or individuals, for loans, in public emergencies. At such times, these banks and individuals may be most hardly pressed by their usual customers. To suffer the Bank of the United States to dissolve, and to have recourse to State banks, will be so far going back to the condition of the United States under the articles of confederation; when our Union was but a rope of sand. When the pressure of the Revolutionary war was over, indeed, while that pressure remained, Congress in vain made requisitions on the individual States; no money, or none in any measure adequate to the public exigencies, could be obtained. After the war, when the public treasury was empty, Congress importuned, implored the States, individually, to grant the power to raise a revenue from commerce, to defray the current expenses of the General Government, and to fulfil the public obligations; but the power could not be obtained. States, deriving large revenues from commerce, chose to retain them for their own treasuries.

It was this helpless, forlorn condition of our country, which forcibly convinced the nation of the necessity of forming a new system of Government; and our present Government was the fruit of that necessity.

"To regulate commerce," is a third great power vested in Congress. And it is conceived, that the exercise of any power well adapted to give safety, facility, and prosperity, to commerce, must be comprised in the power to regulate it. Hence the erecting of light houses has been mentioned as an instance in which an implied power, incidental to the regulating of commerce, has been exercised. But it has been said, that this power is expressly given, in another part of the constitution; *that* by which Congress is vested with exclusive legislation over the district which is the seat of Government, and over places ceded to the United States, "for the erection of forts, magazines, arsenals, dock yards, and other needful buildings." But if we had no commerce, no navigation, light houses would not be "needful buildings;" they would be of no use whatever. Hence, it is clear, that they have a direct relation to commerce, and to nothing else; and, therefore, the erecting of them is properly adduced as an instance of the exercise of a power implied in the general express power to regulate commerce.

The safety and facility of commercial operations, was also greatly to be promoted, by means of a general currency, which should have equal credit throughout the Union. This has been accomplished by the notes issued from the Bank of the United States, under the authority of Congress, exercising the power incidental to that of regulating commerce.

A fourth great power which I mentioned to have been vested in Congress, is that of "making all needful rules and regulations respecting the territory and other property of the United States." This "other property" consists partly of money. And, as Congress have power to make any regulations concerning it which are needful, that is, which may, in their opinion, best pro-

mote the general welfare; this money may be (as some of it has been) vested in bank stock; and, with the truest regard to its safety and good management, in the stock of a bank erected by Congress, of which they may have a suitable inspection; and where it may safely deposit the public revenues, there to await the public demand; and, in the mean time, usefully aid those banking operations which give facility to commerce and to public loans.

But, as an evidence that the constitutionality of the act to incorporate the Bank of the United States was at least doubtful, we have been told by the gentleman from Maryland, (Mr. SMITH) that President Washington doubted; that his mind was in suspense to the last moment, when the act was to be approved or disapproved. That, while the then Secretary of the Treasury, (Mr. Hamilton) a very great man, maintained the constitutional power of Congress to erect that bank, another man, (Mr. Jefferson) equally great, then Secretary of State, and the Attorney General, (Mr. Randolph) a distinguished lawyer, maintained the contrary doctrine, that Congress had not that power. It is true, sir, that Washington, cautious and circumspect beyond any man I ever knew, did suspend his decision to the last day allowed him by the constitution. The confidence with which the Secretary of State and Attorney General supported their opinions on this question, was sufficient to excite in the President the greatest caution. Both were lawyers, and they raised many legal objections. The written opinions of these gentlemen were (as I have been well informed) put into the hands of the Secretary of the Treasury, two days before it was necessary for the President to decide. And the reasoning of Mr. Hamilton, in his written argument, enabled the President to decide with satisfaction, with a full conviction of the constitutionality of the act.

The following are some of the objections offered by the Secretary of State: He said "that the proposed incorporation (of the bank) undertakes to create certain capacities, properties, or attributes, which are against the laws of alienage, descents, *escheat* and *forfeiture*, distribution and *monopoly*. And that nothing but a *necessity*, invincible by other means, can justify such a prostration of laws, which constitute the pillars of our whole system of jurisprudence, and are the foundation laws of the State Governments." Washington, sir, was not a lawyer. And who can wonder that his fair mind was alarmed by such a solemn declaration? That it was kept in suspense by the assertion, that the act for establishing the bank would overturn the pillars of our whole system of jurisprudence, and the foundation laws of the State Governments? But, sir, it required only the knowledge of a lawyer, at once to overturn these objections. The following are some of the remarks of the Secretary of the Treasury: "If (says he) these are truly the foundation laws of the several States, then have most of them subverted their own foundations. For there is scarcely one of them which has not, since the establishment of its particular constitution, made material alterations in some of those branches of its jurisprudence, especially the law of descents. But it is not conceived how any thing can be called the fundamental law of a State Government, which is not established in its constitution, unalterable by its ordinary Legislature.

"To erect a corporation, is to substitute a legal or *artificial* for a *natural* person; and, where a *number* are concerned, to give them *individually*. To that legal or *artificial* person, once created, the common law of every State, of itself *annexes* all those incidents and attributes which are represented as a prostration of the main pillars of their jurisprudence. It is certainly not accurate to say, that the erection of a corporation is *against* those different *heads* of the State laws; because it is rather to create a kind of person, or entity, to which they are inapplicable, and to which the general rule of those laws assigns a different regimen. The laws of alienage cannot apply to an artificial person, because it can have no country. Those of descent cannot apply to it, because it can have no heirs. Those of escheat are foreign from it, for the same reason. Those of forfeiture, because it cannot commit a crime. Those of distribution, because, though it may be dissolved, it cannot die."

Sir, I beg leave to add a few explanations. By the laws of most, perhaps of all the States, aliens are not permitted to hold real estate; but, in all, they are free to hold personal property of every kind, and particularly bank stock. The law of escheat relates to the property of a citizen who dies without heirs, near or remote, and without a will. In such case, his property falls to the State. But instances of escheat do not occur perhaps twice in a century, in any State; and consequently, is of trifling moment. Although a corporation cannot commit a crime, it may violate the rules prescribed in the law for its establishment; and thus incur an immediate forfeiture of its charter. Or, if, for such a violation of its fundamental law, or any mismanagement of the institution to the public injury, its charter be not forthwith taken away, the State may refuse to renew it. As to the law of distribution, that operates when a person dies intestate. But, though a corporation cannot die, yet the individuals to whom its property belongs, will die; and their bank property, equally with their other property, becomes liable to the law of distribution.

One gentleman has imagined, that, if Congress have, and exercise the power of erecting corporations, it will operate as a *monopoly*; and may, in the end, destroy all the powers belonging to the individual States. But there is here no ground for alarm. The act of Congress which established the Bank of the United States, did not, and could not affect the rights of the States to erect banks. Accordingly, we have seen, after the Bank of the United States had been erected, and the profitable operations of banks to their proprietors were known, that State banks sprang up in abundance.

It has been said, by more than one gentleman, that the greater portion (as far at least as seven-tenths of the whole) of the stock of the United States' Bank being owned by foreigners, and these chiefly Englishmen, there is danger of a foreign influence in the country, and that such an influence has been manifest. This, sir, appears to be an extraordinary remark. In what has this influence been manifested? Has the Government, have individuals, been in any degree restrained in the expression of their resentments against Great Britain? Or, in adopting any measure deemed advisable towards that country?

One of the injurious consequences of destroying the Bank of the United States, has been stated to be, the withdrawing of seven millions of dollars from the active capital of the United States, and transmitting it to Europe, where that portion of the bank stock is owned. To this, it has been answered by the opposers of the bank, that these millions will not be withdrawn, but transferred from the United States' Bank, to banks of the several States. How, then, sir, shall we get rid of that dangerous influence of foreign stockholders, which the same gentlemen urge as a reason for not renewing the charter of the Bank of the United States? Sir, it is well known, that money in Europe is less valuable than in the United States; that moneyed men there, are glad to loan their money at an interest of five per cent., or less; while in these States, the legal interest is six per cent. And a multitude of our citizens find their account in employing that foreign capital, paying an interest of six per cent., by which, in the course of trade, they gain ten, fifteen, or twenty per cent.; that foreign capital, in the hands of our merchants, has resembled the five and the ten talents, wherewith they have gained other five and other ten talents.

The distresses which will follow the dissolution of the Bank of the United States, especially in the great commercial cities, have been forcibly described in the plain testimonies of the committee of mechanics and manufacturers from Philadelphia—a committee selected wholly from the democratic party; distresses which were sufficient to move a heart of stone. And why should this bank be dissolved? It has been said that the State banks are competent to all the necessary operations of the general bank. If the contrary had not been shown, it might be answered, that the Bank of the United States was incorporated when there were only three banks in the United States, one in Philadelphia, one in New York, and one in Boston. These were inadequate to the necessities and accommodation of the General Government, and of the citizens. To supply this deficiency, it was necessary to erect the national

bank; and the dignity, honor, good faith, and credit of the United States, stand pledged for the renewal of its charter. The institution having been well conducted, and found in the highest degree useful and beneficial to Government, and to the citizens at large, it ought to be continued. Individual citizens and foreigners became stockholders, on a well grounded expectation of the stability of the Government. It was in this just expectation that foreigners, Englishmen, purchased of our Government itself, its remaining shares of the public stock in the Bank of the United States, and at an advance of forty-five per cent. so that for every hundred dollars laid out by the Government in the purchase of bank shares, the United States received of these foreigners one hundred and forty-five dollars. And how was it possible for these foreigners to conceive the Government capable of destroying the work of its own hands, and of reducing their property to one hundred dollars a share, for which, but eight years before, they had paid the same Government one hundred and forty-five dollars?

In limiting the duration of the charters of banks to twenty years, no wise Government ever contemplated their destruction at the end of that term. Known to be useful institutions, the proprietors have well founded claims to their continuance; which the public good also requires. But, in the course of twenty years, some inconveniences may be experienced, which ought to be remedied, and some improvements discovered which ought to be adopted. Besides, being profitable to the proprietors, they can well afford, once in 20 years, to give to the Government considerable sums of money in acknowledgment for the benefits derived from the acts of incorporation.

But, sir, in respect to the English stockholders in the Bank of the United States (and the foreign stockholders are chiefly Englishmen) we are under special obligations, by the treaty with Great Britain, in 1794. The tenth article being permanent, is still in force, and in these words:

“Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor moneys which they may have in the public funds, or in public or private banks, shall ever, in any event of war or national differences, be sequestered, or confiscated, it being unjust and impolitic that debts and engagements contracted and made by individuals, having confidence in each other and in their respective Governments, should ever be destroyed or impaired by national authority, on account of national differences and discontents.”

Sir, this is the very time when the *equitable* obligation of this treaty (and as a matter entitled to consideration in *equity* I introduce it) applies with force. We now have national differences with Great Britain, and a stock of discontents sufficiently strong and extensive. By “destroying” the Bank of the United States (and to refuse to renew its charter is to destroy it) we essentially “impair” the “engagements,” not of individuals only, of the one nation with individuals of the other, but the “engagements” of *our Government itself* with some of those individuals. When the Barings purchased of our Government two thousand and two hundred and twenty shares of stock in the Bank of the United States, for which they paid one million two hundred and eighty-seven thousand and six hundred dollars, would they have made the purchase if the Government intimated its intention to destroy the bank in eight years? No sir. By the dissolution of the bank, the stock so purchased being reduced from 145 to 100 dollars in value for each share, a difference is made to the Barings of three hundred and ninety-nine thousand and six hundred dollars, which they lose.

Sir, I have no personal interest in the Bank of the United States. I am no stockholder. I have not the means of being one. Nor is the branch at Boston of equal import to the citizens of Massachusetts, with the bank itself and its branches to the inhabitants and commercial cities of other States; although the withdrawing of seven or eight hundred thousand dollars from the banking capital at Boston, would undoubtedly produce some serious inconveniences.

But, sir, I consider the Bank of the United States, with its branches, of immense importance to the citizens of the United States, and a necessary in-



strument in the hands of the Government, in the management of our great national concerns. I shall, therefore, give my vote for the renewal of its charter.

Mr. BRENT.—Mr. President: Having been prevented from finishing the remarks which I had intended to make, on the subject under discussion, when I last had the honor to address this body, from the late hour of the day to which it was detained, I will avail myself of this opportunity to make a few desultory observations, which the want of time prevented me from heretofore submitting to your consideration. I formerly remarked that many gentlemen had avowed that the principal cause that induced them to vote against this bill was the large portion of the stock of the Bank of the United States which was held by foreigners, which caused a foreign influence to exist in this country, which was incompatible with its safety, and that, after the termination of this bank, they were willing to join in the creation of another, in which our own citizens only would be interested. I insisted that, if it was desirable to get rid of foreign stockholders, (which I did not believe) this could not be effected by the destruction of that bank, for the reasons I then had the honor to suggest. I will here add one or more additional reasons why I entertain this opinion. If foreigners can employ their capital here to greater advantage than in their own country, it will be impossible to prevent them from subscribing to the shares of the new bank you create. If you propose to do so by prohibiting them from being stockholders, the law will be avoided by the subscription being made in the name of our own citizens, who will hold it for foreigners, or even if the shares should be wholly taken by our citizens they would afterwards sell to foreigners—so that the same foreign influence exists, (if such is the effect of stock being held by foreigners.) Nor, sir, is this apprehended foreign influence in any degree diminished if this bank is destroyed and a new bank should not be created. In such a state of things those foreigners, who, if there existed a Bank of the United States, would have invested their money in its stock, now invest the same quantity of money in the State banks. Of course the same extent of foreign influence (as far as foreigners holding our stock produces this result) in either state of things exists. This reasoning, Mr. President, is addressed to those only who are so very apprehensive of the dangerous influence which the investment of foreign capital here produces. For myself I entertain no such fears; and for the reasons I have heretofore had the honor of stating, do very much question whether it is not most advantageous that foreigners should hold extensively the stock of our banks.

Some gentlemen are anxious for the dissolution of the bank, because they are of opinion that banks of every kind, and under every modification, are injurious. Perhaps they may be so. But does the destruction of this bank remove or diminish the evil society is to suffer from the existence of banks? If this bank is dissolved, the State banks will exist, and new ones be created to fill up the vacuum of bank circulating paper which is produced by the dissolution of this bank. If the community is to be oppressed with such institutions as banks, to the same extent, whether or not there exists a national bank, is it not better to have a national bank than to put the Government to the necessity of carrying on its fiscal arrangements by the co-operation of State banks, which are in no respect under its control?

Among other reasons urged by the honorable gentleman from Maryland why there would be no inconvenience attending the dissolution of the Bank of the United States—indeed why there would almost be an advantage from such a measure—he insists there is at this time about 20,000,000 of dollars due our merchants from those of England; and such was the deranged state of the commercial resources in that country, that our merchants could not now obtain payment of their British debts; but that, on the dissolution of the Bank of the United States, this seven millions of stock, which was held by foreigners, would be applied in part payment to our merchants, of the debt due to them from the British; so that this money would not go out of the country, but

would be immediately paid to our merchants and go to that extent in the increase of their resources.

Now, Mr. President, it appears to me, notwithstanding the high respect I entertain for the honorable gentleman's mercantile and political knowledge, that, in this instance, his opinion is not accurate. Either the British merchants that are indebted to ours are solvent, or otherwise. If the first, they can pay our merchants the \$20,000,000 they owe them, in the present state of things; if they are not solvent, is it to be believed that the stockholders, after receiving money from the bank to the amount of their stock, will, with this money, purchase bills which will be protested for non-payment? For such must be the result, if the British merchant is not, at present, able to pay his debts to our merchant. To me it seems most probable that, on the dissolution of the bank, one of two events will take place. Either the seven millions, the amount of foreign stock, will be invested in our State banks, or it will be remitted to Europe in actual specie. If it should be invested in our State banks, the same extent of foreign influence remains in our country which we are so anxious to get rid of; and, so far as relates to this difficulty, the dissolution of the present bank has no operation. If these seven millions are not invested in State bank stock, and good bills cannot be obtained to transmit it, as is clearly deducible from the statement of the gentleman from Maryland, then it must go in actual specie. An honorable gentleman from Massachusetts, of great and unquestionable mercantile information, has supposed there is not in the United States more than ten millions of dollars in specie. If, by the dissolution of the bank, seven of these ten millions are to be exported from our country, will it not be attended with serious consequences, more especially, since it has already been discovered that the quantity of the precious metals in the United States has, for some years past, been diminishing, to such an extent, that it has been thought by several, important that Congress should take some steps to guard against the continuance of this evil? Another reason which might induce the holders of this stock, when the amount is paid off, to transport the specie instead of purchasing bills, is the great and increasing difference in value between the actual value of the same nominal amount of paper and specie in England. In the remarks which I heretofore had the honor to submit to the Senate, I suggested that it was more than probable that the dissolution of the Bank of the United States might seriously affect our revenue. In addition to the reasons then insisted on as leading to this conclusion, permit me, Mr. President, to remark, that if, at the same moment you diminish the circulating medium of the nation, (which, to a certain extent, is effected by destroying the Bank of the United States) and call upon your merchants immediately to pay fourteen millions of dollars, the amount of the debt they owe the banks, and, at the same time, to pay twelve millions to the Government, which is the amount of the bonded revenue, at a period when our commerce has been struggling for many years with the accumulated difficulties produced by spoliations, by embargo, and non-intercourse laws—I say, Mr. President, under such circumstances, is it unreasonable to entertain some apprehension that our merchants, finding themselves unable to surmount all the difficulties with which they are surrounded, will, in their choice of difficulties, pursue the common dictates of prudence, and choose the least? Is it not probable that they will, in the first instance, take every step to secure their bank endorsers, by settling their debts with the bank, and leave the Government to bring suit on their revenue bonds? Such an event is the more to be deprecated, as this is, of all others, a period when we should be cautious about adopting any measure which would diminish the receipts of our treasury, already much curtailed by our late embargo, and which will be considerably affected by our non-importation law.

The remark I made some days past, in relation to a supposed incapacity of the Bank of Virginia to the wants of the country, was, that it had been suggested to me that it had produced in Richmond a great deal of usury, or, as it is commonly called, money shaving. In making this observation, Mr. President, it was not my intention to reflect, in the most distant manner, on the

president, or any of the directors of that bank. I know not the name of any one gentleman in the direction. For all that I know or have heard, the affairs of that bank are as ably and as honorably conducted as those of any bank in the United States, or elsewhere. The fact which I stated was one which I suppose to be an unavoidable result when you go into the banking system, and do not create a banking capital adequate to the wants of society. If you establish a bank with an adequate capital, favorites go into the bank, get the money out of it, and apply it to usurious purposes; it is no reflection on a bank, to say that it has its favorites. When more applications are made, or more good paper offered than can be accommodated, a selection must be made, and some applicants remain unaccommodated, who will be compelled to give usurious interest to those who have been accommodated for the very money which this accommodation has supplied them with. My honorable colleague is of opinion that the bank of Richmond has a capital of sufficient extent, and that all who deserve accommodations there can obtain them. I can only say that I have repeatedly heard a very different statement, in Richmond and elsewhere. Another fact, too, I beg leave to mention. I am well acquainted with a very intelligent officer of the branch bank at Petersburg, who has informed me that, almost always, more good paper is offered to the board of directors than could be accommodated, from the limited extent of their banking capital; and it would seem an extraordinary phenomenon, that, when Richmond and Petersburg are only twenty-five miles distant, there should be a redundancy of banking capital at the former, and such a deficiency at this latter.

I now, Mr. President, approach the discussion of a question which excites with me more sensibility than is produced by any considerations connected with the subject now deliberated on. It is principally with a view to investigate this delicate and interesting question that I have been induced at the present hour to solicit the attention of this honorable body. We are told that this question concerning the re-chartering of the Bank of the United States is a party question, and, from the vociferous and earnest reiteration of this assertion, it is evident that this invidious inference is intended to be derived from it, to wit: that, at the first establishment of the Bank of the United States, it was contested on constitutional grounds; and that its favorers or its opposers marked the federal or republican character, and designated the individuals who formed the body of these two great political sects; that the same characteristic adheres to the bill now before us, and that such of those who have heretofore been considered as appertaining to the republican party, as give their sanction to this bill, must hereafter be considered as apostatizing from that political sect with which they have heretofore been arranged. I will first inquire into the justice of this assertion, as it relates to the matter of fact, at the first establishment of the Bank of the United States; and next, as to the honorable and generous inference which these magnanimous asserters attempt to derive from it. [Mr. SMITH wholly denied that he had ever called this a party question, or viewed it in this light.]

Mr. BRENT said that he had never heard the honorable gentleman make such an assertion, but he had been informed it was attributed to him. The honorable gentleman's declaration is, however, perfectly satisfactory to me; I am satisfied that he is incapable of making so invidious and unfounded an accusation. I am too well acquainted with that honorable gentleman's good sense and liberality. He will therefore be so good as not to consider any remarks I shall make on the particular question that I am now investigating as applying to him, but to others who act with him, as to the general and ultimate fate of the bill under consideration. That, among the great mass of the People in some sections of the Union, particularly the State I represent, this measure establishing the Bank of the United States, was taken up as a party question, may be admitted; but that it was viewed in this light in either House of that Congress which passed the law; that the votes which were given, either affirmatively or otherwise, were the test to ascertain who was of the republican and who of the federal party, is an assertion destitute of all foundation: for whoever will examine the yeas and nays of both Houses of Congress, will find some of our most distinguished republican patriots voting for the bill.

while others, equally eminent and zealous in the federal ranks, will be found in hostility to it. Sir, the journals of Congress, testimony derived from solemn and unquestionable records—a species of evidence which the laws of our country, and the practice of our courts, in the gradation of the different species of testimony, places in the highest station, and considers as of the most imposing authority—demonstrate that the assertion, that the question concerning the establishment of the Bank of the United States, in the first instance, was entirely a party question, is destitute of all foundation. That an assertion so susceptible of refutation, by testimony so irresistible, should have been made, is evidence to me of the unjustifiable length to which some gentlemen will permit their zeal to transport them. Nay, Mr. President, let me call your attention to the only member, as I believe, of this honorable body, who was a member of Congress when the law establishing a Bank of the United States took place, (I mean the honorable Mr. GILMAN.) This gentleman is known to be a republican; yet the journals will assure us, that he voted for the bill establishing the bank.

If the opinion of the constitutionality or otherwise of the Bank of the United States is the criterion by which the estimate is to be made of the political sect to which each individual belongs, what shall we say of Mr. Jefferson, and the majorities of the two Houses of Congress during his administration, who, by repeated acts, recognised the legality and constitutionality of this institution? Shall we say that he and they have apostatized from the republican cause? Do the presumptuous and daring asserters pretend to impose upon us a belief that, during a period which we have hitherto supposed was the proudest triumph of republicanism, those of the dominant party had apostatized from the republican cause? Are we to believe that, during the administration of Mr. Jefferson, the great apostle of republicanism—one with whose name republicanism has been supposed to be identified—are we to believe that he has apostatized from his political party? Are there any so presumptuous as to imagine they can impose upon the public mind or upon this honorable body so monstrous, so absurd a belief? Can you be induced to select that moment which has hitherto been imagined most auspicious to republican principles, as the one when, above all others, there was a total apostacy from them? No, sir, every effort is vain which is made to impose upon us so irrational a belief. On the contrary hand, we will account for the conduct of Mr. Jefferson, and the republican majorities in Congress, during his administration, when they sanctioned, by repeated laws, the constitutionality of the Bank of the United States, by the considerations I proceed to enumerate. Whatever might have been the abstract opinion of Mr. Jefferson respecting the constitutionality of the bank, on its first institution, it is now immaterial to inquire. He saw, when he came into the Presidency, that this was, in its origin, not a party question; but that the journals of Congress would evince that, on the vote which first gave a sanction to this measure, all party distinction was confounded; that it was one of those questions, which, when first agitated, was calculated to produce a diversity of opinion among men of the purest intentions and of the most luminous understandings; that it was one of those doubtful questions which, when once settled by precedent, should never again be agitated; that this measure had been sanctioned, after the fullest deliberation had been bestowed upon it; and that we had so incorporated this bank establishment with our fiscal and other governmental arrangements, that it could not, at that time, be put down without impairing the public credit, and without being like (in various other points of view) to be productive of very serious and numerous calamities to the community. From all those various considerations, Mr. Jefferson, when he came into the administration, as also a majority of Congress during that period, considered the question respecting the Bank of the United States as a settled and adjudicated one, which was now to be acquiesced in, and pursued a system of policy in conformity with this sentiment. On any other principle, the conduct of Mr. Jefferson and of Congress would not only not be justifiable, but would be criminal in the highest sense. If they had considered this a party question—a measure which the federal party, dur-

ing its ascendancy, had established, contrary to the manifest and unquestionable principles of the constitution, (as some gentlemen now contend) every step that was taken to sanction this unconstitutional measure was inflicting a new wound on the constitution, and a violation of the sacred oaths they had taken to support it. To say that it was done for the support of public faith, because the law incorporating the bank had made a contract with individuals, is irrational and fallacious, because no unconstitutional law can pledge the faith of Government. An unconstitutional law incorporating a body of men can give them no legal existence which can be binding on a subsequent legislature. It is, as was well observed by my colleague, to enter into a contract with an idiot or married woman. The contract is, *ipso facto*, void. If an unconstitutional law cannot pledge the faith of Government or a subsequent legislature—nay, more, if it is incumbent on a subsequent legislature to repeal such unconstitutional law—then the law establishing the Bank of the United States, if it is of this description, (that is, evidently unconstitutional) imposed no other obligation on Mr. Jefferson and his republican majority, than immediately to repeal it, and to restore to its original purity that constitution they had sworn to support; but when the very opposite conduct is pursued, we must presume it was done from an idea that the constitutionality of the bank, in its origin, was one of those questionable principles which might create doubt between individuals of all parties, and on which men of the best understanding might pause and hesitate; but being once determined on, was to be considered as an adjudicated case, which the repose of society made it proper should never again be drawn into discussion. This, sir, I think, is a justifiable inference. Are we not then warranted in saying, that the assertion that this is a party question, with all the bearings it is intended to have, is destitute of all foundation? That the law concerning the Bank of the United States was not, in its origin, a party question, is demonstrated by the journals of Congress. Whenever this measure was agitated, during the administration of Mr. Jefferson, it was not taken up as a party question, because all parties gave it their concurrent support. It remains to be inquired whether, on the present occasion, the bill under your consideration is to be viewed as a party question. In order to ascertain the character of a question, that is, whether it is a party one or not, it is first necessary to ascertain who are the different individuals that constitute the different parties, and how these individuals stand in relation to the question to be decided on. If all, or almost all of each political sect are arranged, one for, the other against, the measure, then it may be deemed a party question; but if a very large portion of one of your political parties, carrying with it some of your most distinguished members, is found opposed to another portion of its own party, you can no longer call this a party question. Each portion of this divided party may claim its exclusive identification with the party itself, and upbraid the other with the epithet of apostate; but their pretensions will not be admitted unless supported by higher authority than that which is derived from the arrogance of one section of this divided party.

When I view the journals of the House of Representatives, and cast my eyes over the yeas and nays on this question, as decided there some days past, and find some of the most zealous and distinguished republicans in the affirmative; when I reflect on the number and great weight of character of the republican members of this honorable body, who concur with me in opinion that it is proper the reincorporation of the bank should prevail; I consider it as the height of arrogance, and the most baseless of all unfounded pretensions, in those of the republican party who are opposed to this measure, to call this a party question; to identify themselves exclusively with the republican party; and to insinuate that such republicans as vote for this bill have abandoned their political principles. By what authority can those republican gentlemen, who oppose this bill, appropriate exclusively to themselves the character of republicans? Are there not, among those of the republicans who are in favor of this measure, men of as great weight of character as those who are opposed to them? Men, who can offer as distinguished and as proud and elevated pre-

tensions for the zeal, the diligence, the fidelity, and the fortitude they displayed in the republican cause, during the period of its adversity, as any this country contains? Who, sir, in the hour of difficulty, at that period which tried men's souls—when republicanism meant more than a name, and its advocates were stigmatised as factious demagogues, and upraided with every odious epithet—who, sir, at this inauspicious moment, occupied a more eminent and distinguished station in the republican ranks, than the present Secretary of the Treasury, who is the first to recommend this measure? And is Albert Gallatin, one of those who pre-eminently contributed to form the Atlas, on whose shoulders the fate of republicanism rested, at the moment when it was surrounded with such numerous and ferocious assailants—is he not a republican? Nay, Mr. President, are there none in this body of the veteran politicians who contributed to form that Spartan band who so nobly defended the republican cause when it exposed its advocates to every species of obloquy and political persecution—are there none of that description in this body that mean to vote for this bill? It will with justice not be denied. Mr. President, who are the characters who have proclaimed this to be a party question? Does my colleague, who was inferior in zeal and efficiency to no one in the councils of our country, at the awful crisis I have been speaking of—does he call this a party question? Does the honorable gentleman from Maryland, who also bore his share in the honorable conflict for republican principles—does he call this a party question? No, sir; they each know the reverse, and are too honorable and just to make such an insinuation. It is not, sir, from those political veterans, whose standing might justify them for making some pretension, that this exclusive claim to republicanism is insisted on, both within and without our doors. It is made by characters, that, at the period of republican adversity, were not known in the councils of our nation, or were, perhaps, in most instances, boys at school. And are these unfledged, fair-weather politicians, in these halcyon days of republicanism, to attribute to themselves the exclusive monopoly of republican principles, and stigmatize as apostates those veteran politicians to whose persecutions and exertions the triumph and preservation of republican principles can alone be attributed? These, sir, are modest pretensions, and the public will duly appreciate them when they learn the source from whence they come, and the characters to whom they are to be applied. If to be of an opinion that there is a constitutional power in the General Government to establish a national bank, is an apostacy from the republican cause, then Mr. Jefferson and the two houses of Congress during his administration, who considered this a settled and an adjudicated point, and, in repeated instances, legislated on this principle, and passed laws recognizing the constitutionality of such an institution—then, sir, I say, Mr. Jefferson, and the majority of the two houses of Congress, during his administration, have apostatized, as also has Albert Gallatin, who, relying on the score of precedent, has considered this as an adjudicated question, and, in his report, recommended its adoption—he also has apostatized from the republican party. Mr. President, I remember to have heard an instance mentioned, when a gloomy and ferocious fanatic was pronouncing eternal damnation on all who died without the pale of his church, that a more benevolent and liberal person, who heard him, in order to obviate such monstrous doctrine, enumerated a great many of the most amiable of their common acquaintance, and even relatives, whom the hand of death had taken from them, that were not of the same religious tenets with this fanatic, and interrogated him what had become of each of these amiable and dear friends and relations? The fanatic replied, they were all in hell; to which the interrogator rejoined, that he also would go to hell, for he was sure, if the information he had just received was true, he should find better company there than in any other region he could repair to. With the same desire to get into good company, if Mr. Jefferson, and the majorities of Congress during his administration, and Albert Gallatin, have apostatized from the republican party, I also am content to be an apostate. I am sure I know of no political sect that have manifested opinions so congenial with my own as they have done, and with them I wish to be associated.



Mr. President, I will beg leave to remind these new-born, unknown, self-created, exclusive republicans, who hurl apostacy and other denunciation with such liberality against all that will vote for this bill, that many of their own party—many of those who vote with them—avow a belief, that Congress has the power to create a bank, but they do not think it expedient at present to recharter this bank. I understand the honorable member from Maryland has candidly and honorably avowed this opinion; many others are known to entertain the same sentiments (though they will not acknowledge them with the same candor) who have and will vote against this bill. To those who entertain this sentiment, how can this be a party question? The only incident which gives it the character of a party question is, the opinion that such a law is constitutional or otherwise; and a determination to vote in the affirmative or negative, as that opinion shall dictate. Now, to such gentlemen as believe the law constitutional, and yet vote against it, it cannot be a party question. Those who are in this situation, and endeavor to overthrow the bill by the prejudices they may create against it, by affecting to call it a party question, though secretly, and in their own minds, they entertain no such belief—such gentlemen, Mr. President, as act in this manner, fight under false colors.

Mr. President, it is painful for any gentleman, when addressing this House, to speak of himself, and to make his past political conduct the theme of his observations; but, in an instance like this, when insinuations are made, so calculated to excite the most poignant sensibility; when a charge of inconsistency and dereliction of former political principles is made; it is pardonable to take a review of our past political conduct, for the purpose of repelling charges which create emotions proportioned to the ardor and fidelity with which we are conscious of cherishing those principles which we are accused of having abandoned. During the most arduous conflicts of the republican party, at a time when it was borne down by domineering and tyrannical majorities, although I occupied no prominent station, it certainly was not my fortune to repose upon a bed of roses. It was at this most inauspicious period, as it respected the fortune of the party to which I was attached, that I first acquired a seat in the other branch of the National Legislature. The four years during which I retained it may be considered as the very time when, above any other, party intolerance was carried to the greatest excess; when a republican was almost hunted down in the streets of Philadelphia, where Congress then sat; when the republican members were reduced, in Congress, on great and critical questions which served most precisely to designate the two parties, to a very inconsiderable body; when, to be called a republican, was, in the estimation of the dominant party, to promulgate outlawry against you in the code of humanity, and to cut you off from almost all the charities of life. At this period, sir, it was my fortune to represent the only federal district in the State of Virginia (and to be the only republican representative that this district, either before or after, elected to Congress.) It was my fortune to receive, during this adverse and tempestuous period, almost innumerable addresses from my constituents, which I was made the organ to present to the President of the United States, stigmatizing with the severest animadversions my political conduct, and that of the party with which I thought and acted. Let the journals of the House of Representatives, during this alarming and eventful crisis, be examined, and let the recorded votes of that body be resorted to, in order to ascertain whether I was inferior in promptitude, fidelity, and ardor, for the republican cause, to any member of that republican party. During the whole of this period, I was suffering under the most painful state of ill health; yet, such was my anxiety to show my disapprobation of the ruinous measures pursued by the then dominant and infatuated party, that I occupied my seat in Congress in very many instances when, if I had attended to my own ease and health, I should have confined myself to the bed; and I challenge the most minute and accurate investigator to point out one instance where any measures were taken in Congress, calculated to interest party feeling, when I was absent from my post, or failed to attest, by my vote, the sincerity of my devotion to the republican cause. Under these circumstances, I had flattered

myself that I had some humble pretensions to the public confidence, when I professed my early and continued devotion to the principles of republicanism; but I discover that I am mistaken, and that a new order of fortunate politicians have come into existence, in the present propitious hours of republicanism, and have so exclusively engrossed the whole of this precious commodity, that they will not permit their elder order of political men, to whose exertions it is indebted for its very existence, to have one particle of it. If this new created order of patriots will banish me, and all who think with me on this occasion, from the republican ranks, they cannot deprive us of this consolation, that, in the state of exile and denunciation, they place us in company at least as respectable as that from which we are driven. If, to be associated in the same political class with the late President, with the majorities of Congress during his administration, and with the Secretary of the Treasury, in contradistinction to this new order of exclusive republicans, is the result of these denunciations, I am willing to encounter their consequences.

Mr. President, if I, and those of the republican party who act with me, on the present occasion, have apostatized from our former political principles, I can say with truth, so far as the charge respects myself, that the motive by which I am actuated, must not only be disinterested, but very different from that which generally operates on the human mind. In the most gloomy hour of republican adversity, during the severest denunciations and persecutions which it experienced at an hour when our political hemisphere was pregnant with a tempest which threatened destruction to all its votaries; when I represented the only federal district in the State of Virginia, and my constituents were constantly sending on loyal addresses, in the most pointed manner, animadverting on the party with whom I was associated; under all these adverse circumstances, I was not inferior to any one, in fidelity and zeal for the republican cause. But at this period of republican triumph, when, to be associated with that party, is the best passport to all the honors and offices of our country, when I am elected to a seat in this very elevated and honorable body by the vote of a republican Legislature, of one of the most uniformly and unanimously republican States in the Union; in such a crisis, and in such a state of things, I have abandoned the republican party! If the charge be just, I can only repeat, that I must be actuated by motives very different from those which generally operate on the human bosom. No consideration of pecuniary aggrandizement could have had any operation on me in relation to the subject under consideration; any other than a wish to advance the general happiness of society: for, I never had a bank share in any bank whatever, nor have I ever had any negotiation with, or requested or obtained a loan for one penny from, the Bank of the United States, or any of its branches. I must here remark, if this abandonment and tergiversation of political principles is justly attributable to me, I am not conscious of the motive which produced it. Whether I shall be considered faithful to republican principles, my country must determine—and to this tribunal I cheerfully appeal; but whether, in the vote I am about to give, I shall evince uniformity of political principles, is not a question that I will submit as a matter of doubt, for the decision of any one. It is a matter of fact, susceptible of immediate and conclusive demonstration. The first time I was a candidate for a seat in the House of Representatives, a gentleman who was a competitor with me for that station, published a lengthy address to the freeholders of the district, which we each wished to represent, which was, in some measure, a profession of political faith, and seemed to call on me to make public a similar exposition of my political sentiments. The question concerning the Bank of the United States was then a topic more generally adverted to than it has been for some years past; it was of course dilated on in the address of my competitor, which imposed an obligation on me to express my sentiments on this subject, in the answer which I published to this address. I have no copy of my answer in my possession, nor have I seen it for several years; but I have no doubt but some copies of it are to be found, and, if they can be found, it will be seen that I therein waive all considerations respecting the original constitutionality of the bank,

and, after making some remarks respecting it, which I do not now recollect, conclude with observing, that, however inexpedient at first, it cannot now be touched without impairing public credit, and shaking our constitution to its *base*. These, I think, are the very words used in my answer. Thus, sir, recorded evidence may be produced, that, in the very first act of my political life, (as relates to the General Government) on the first promulgation of my political sentiments, when I was a very young man, I avowed the sentiments I now profess, and in conformity with which, I now act. If I was a republican at the time I published this answer; if the sentiments it contained conigned me in the public estimation to the republican party; if I acted, and shall act, in my political career, in conformity to these sentiments; I have some latent suspicions that I should have some pretensions to the character of a republican, if it were not discovered that a new order of patriots has lately arisen, which has exclusively appropriated to itself every republican attribute, and will not permit any of its benign influence to animate the bosoms of those who have preceded them in the theatre of public life, though it is exclusively owing to the exertions of the latter that its genial and hallowed flame has not been entirely extinguished. From the exposition I have just made, whatever may be the political sect with which I and many others of my more illustrious political associates are arrayed, I hope it will at least be admitted, that I have acted with consistency, and in conformity with my earliest professions. I am conscious of possessing but little political merit, and my anxiety to have credit for what little I do possess, is augmented from my consciousness of the scantiness of the general stock. When we possess but little, that little is our all, and its value is proportionally enhanced from this consideration. Consistency of political opinion, and steady adherence to those tenets with which I had commenced my political life, was one of those humble recommendations for public confidence, to which I flattered myself I could make some just pretensions; nor will the review I have just taken of the commencement and progress of my political life, diminish these pretensions. Whether this new order of exclusive republicans, who have made their appearance upon the theatre of public life more recently than it was my fortune to do, shall succeed in excluding from the republican ranks the late President of the United States, and the majority of Congress during his administration, as also the Secretary of the Treasury, and all the republican members of Congress who vote for the bill under consideration—I say, Mr. President, whether this is effected or not, in either case, the charge of apostacy or dereliction of political principles cannot apply to me, because I now act in strict conformity with the profession of political faith which I made at the commencement of my public life, (in relation to the Government of the United States.) With whatever political sect I may be associated, in consequence of the affirmative vote I shall give to the bill now deliberated on, from the considerations already enumerated, I shall at least stand absolved from all imputations of inconsistency, insincerity, or apostacy. My candor cannot be impeached; I cannot be accused with advocating now a doctrine I once reprobated; nor of vibrating in my political opinions, with a vibrating state of things. Nor has any one a right to question the sincerity of the solemn declaration I now make, that I every day cherish with a fonder affection my attachment to those just and leading political principles to which I was attached, and which I professed at the commencement of my political life, because every passing day's experience serves more firmly to convince me of their accuracy and superlative excellence; and that the preservation of those principles, in their utmost purity, is best calculated to preserve the liberty, and promote the general welfare of the nation.

Mr. CRAWFORD said he regretted extremely, that, at so late an hour, he was constrained to throw himself upon the indulgence of the Senate, especially as the subject was so much exhausted, by the able and animated discussions which had for so many days attracted their attention. Before I enter upon the few remarks which I feel it my duty to make, in reply to the numerous

comments which have been made upon the observations which I had the honor to submit to the consideration of the Senate, at the commencement of this discussion, permit me, sir, to acknowledge the liberality and indulgence with which those observations have been generally treated. In the course of the few observations to which I intend to confine myself, it shall be my endeavor to exercise that indulgence towards others, which has been extended to me. The gentleman from Kentucky (Mr. CLAY) complains of the committee, because they have listened to the representations of two delegations from the city of Philadelphia, who presented memorials to the Senate, who referred them to the committee; and, because the committee have, in his opinion, given adventitious importance to their representations, by the minuteness, and by the pomp and parade, with which they have been detailed to the Senate. It will be recollected that the committee did not seek the post which has been assigned them by the Senate, nor did they desert it, after it was assigned to them. The object of referring petitions to committees is to collect that information which the Senate ought to have, before it acts, and which, in its collective capacity, it cannot obtain. It has always been the practice of committees to permit the petitioners to be present at their meetings, to make such explanations, and to give such information, touching the subject of their petition, as they think connected with it. It is the duty of committees to detail to the Senate, the information which they collect, to enable the members to take a full view of the subject upon which they are called upon to act. The committee, in the present case, has done all this, and it has done nothing more. Had it pursued a different course, it would have justly subjected itself to the animadversions of the Senate. To the information collected by the committee, from these delegations, and laid before the Senate, my friend from Maryland, (Mr. SMITH) has opposed a statement of facts, and his opinion, founded upon those facts. As the situation and talents of that gentleman entitle his statements and opinions to great weight; as it is more than probable that the votes of several members will ultimately rest upon the weight of his authority; my honorable friend from Maryland (Mr. SMITH) will pardon me if I should examine his observations rather according to the rules of evidence, than those of logic. In making this declaration, I wish to be explicitly understood as excluding every idea of charging that gentleman with having made statements which he did not believe, or with having given opinions he did not entertain. I have no doubt but that he sincerely believes in the correctness of his statements, and in the accuracy of his opinions; but if, in the course of my observations, I shall prove, incontestibly, that he is mistaken in some of his statements and opinions, it will teach the Senate the necessity of weighing the remainder of them with great circumspection. If I shall be able to shew that he is mistaken in a case, the evidence of which is matter of record, that circumstance alone will induce the Senate to reject all idea of receiving his statements and opinions, with implicit confidence. But, sir, before I proceed further in my observations, permit me to notice an expression which fell from the gentleman from Tennessee, on my right, (Mr. WHITESIDES.) I understood that gentleman to say, that those republicans who thought the law incorporating the bank was unconstitutional, had been guilty of apostasy. I hope I misunderstood the gentleman; if I am mistaken, it will afford me great pleasure to be corrected, because the declaration made a very strong impression upon my mind, and excited the most unpleasant sensations.

[Mr. W. explained. He said, an impression had been made upon his mind, that the bank charter was unconstitutional, but that he had never examined the subject minutely, until it had become his duty to do it. That that examination had convinced him that it was unconstitutional, and that those republicans who now supported the renewal must have apostatized.]

Then, sir, I say that this is language which no gentleman ought to use towards any member of this honorable body; and, sir, it is language which no gentleman shall, without the walls of the Senate, use to me, with impunity.

[Mr. W. explained, by saying, that he did not say that gentlemen had apostatized, but that he had only said, in his opinion they had apostatized.]

I wish the gentleman had been able to make a satisfactory explanation of his unwarrantable declaration. What right has he to make his opinion of the constitution the test of other men's republicanism? By what authority does he erect his opinion as the standard of republican orthodoxy? As the standard by which the republicanism of other gentlemen is to be tried? The gentleman has mistaken his standing in the republican party. I disclaim all authority, in a case of this kind, and more especially the authority of the gentleman from Tennessee.

Mr. President, the honorable gentleman from Maryland has declared, that the act incorporating the Bank of the United States was, in its origin, a party question.

[Mr. SMITH explained. He did not say it was a party question, but that it had given rise to party.]

If I have mistaken what fell from the honorable gentleman from Maryland, I am not in what fell from the gentleman from Tennessee, on my right, (Mr. WHITESIDES.) Sir, the assertion is not only without proof, but it is contradicted by matter of record. A reference to the yeas and nays upon the bill, in both Houses of Congress, will prove that many of our most distinguished republicans voted for our bill, and some of the most respectable federal members voted against it. In the observations which I made, when I had the honor of addressing the Senate, at the opening of this discussion, I attempted to show, that the idea of party, as now known, did not then exist in the United States. That the parties then known were those who were the friends of the federal constitution, and those who were opposed to it. Nothing which I have heard advanced upon this subject, in reply to my observations, has made the slightest impression upon my mind, against the correctness of the opinion which I then advanced. I understood the gentleman from Maryland to say, that the Congress which passed the bill to incorporate the bank, was capriciously apportioned, and consisted of sixty-five members; and that, of that number, only thirty-nine voted for it. That, if the members had been apportioned as the constitution directs, upon the principles of population, in his opinion the bill never would have been passed. Sir, let us examine the correctness of this opinion. Every member present but one, from the States of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and Delaware, voted for the bill, together with two from the State of Maryland, two from the State of North Carolina, and one from the State of South Carolina. The eight States who voted unanimously for the bank, one only excepted, upon the apportionment under the first enumeration, give a nett gain of twenty members, while the other few States, most of whom voted against the bank, give a nett gain of sixteen members. Thus, sir, if we may judge of the conduct of members in a geographical point of view, there can be no doubt that the friends of the bank would have been considerably increased by a correct apportionment. The vote in the House of Representatives, on the final passage of the bill, was thirty-nine to twenty. In the Senate, the yeas and nays were taken on two questions, during its pendency there. Upon the first, the yeas were sixteen; the nays six. Upon the motion to strike out the 12th section, which restrains the right of Congress to create any other bank during the existence of that about to be created, the yeas were five, and the nays eighteen. The opinion, then, is wholly incorrect, and yet the evidence upon which this opinion ought to have been formed was matter of record. Sir, the gentleman from Maryland has said that this bank has been mischievous in its consequences, and that, wherever it has established a branch, it has immediately produced a necessity for creating other banks. I would ask what has created the necessity of establishing banks in New Hampshire, Vermont, Rhode Island, Connecticut, New Jersey, Delaware, North Carolina, and the Western States? This bank has never established a branch bank in any one of these States, and yet they have, without, I believe, a sin-

gle exception, established banks; while the State of Georgia, where a branch bank has been long established, has not, until within a few months past, established a single bank. What cause is it that has influenced the Legislatures of Maryland, Pennsylvania, and several other States, to create so many banks within a few months past? Is it owing to the mischievous effects of the Bank of the United States? Sir, the facts I have stated show, conclusively, that the cause assigned by my honorable friend from Maryland cannot be the one which has produced this multiplication of banks. Some other cause must be sought for, and, in my opinion, a more rational one is ready at hand. The effects of the bank, and of its branches, wherever established, upon the prosperity of the People, and of the commerce of the place, removed the long rooted objections which existed against banks, and hence their great increase in all the States.

The gentleman from Maryland has stated several cases in which the State banks, and the banks of this territory, have accommodated the Government, where the United States had refused. The cases stated prove nothing, and ought to have no influence with this Government, in establishing a permanent system of revenue. If the State and territorial banks have, upon several occasions, received the bills of other State banks, to accommodate the Government, it was because it suited their convenience at the time. It was a mere temporary transaction, and forms an exception to the general rule. The charter of no bank in the United States compels them to take the paper of other banks; and whether they do receive it or not, will depend upon contingent circumstances, or upon whim and caprice. No reliance, therefore, ought to be placed upon the duration of any regulation which is not enforced by their charters. The gentleman from Maryland thinks that the United States will have the same influence over the State banks, that it has had, and will have, over that of the Bank of the United States. If he is correct as to the extent of that influence, his conclusion may be correctly drawn. But, sir, is it true that the National Government has no other influence over this bank than that which can be produced by withdrawing of its deposits? If it is so, then it must be admitted that the United States will have the same influence over the State banks that they will have over one of their own creation, because they can as easily withdraw their deposits from the one as the other. But, sir, the United States have an influence over the Bank of the United States, which is wholly independent of, and unconnected with, the right of withdrawing their deposits from its vaults. The bank is dependent on them for its existence. By renewing the charter for short periods of time, you create a state of dependency upon the Government, which will, at all times, make the bank completely subservient to all the legitimate objects for which it was created. How, sir, is it with the State banks? Upon whom are they dependent for legal existence, and for length of days? Upon the State Governments. Suppose the authority from which they derive their existence should place itself in opposition to the Government of the United States; and suppose that this state of hostility should happen a year or two before the time at which their charters were to expire, and the State Legislature should direct them to hold the deposit of public moneys against the demand of the National Government; what course would they pursue, under such circumstances? Sir, the case which I have stated is not a mere possible case. The history of several of the large influential States proves, that this state of hostility, which I have supposed, is not an imaginary one. Make yourselves dependent upon the State banks for the collection and transmission of your revenue, and that opposition, which has but seldom happened, will become more frequent. Their disposition to control the operations of the National Government will increase with every increase of the means of annoyance, which the folly and improvidence of Congress may throw into their hands. For whose benefit, sir, is the Government to strip itself of this right, so essential for the due administration of its finances? Is it for the benefit of the great mass of the American People? No; not one in an hundred of them have any interest in the State banks. They feel no interest in the question; their true interest is more effectually



subversed by the operations of the Bank of the United States, than it can possibly be by the State banks. This bank affords them a portable currency, which is of equal value in every part of the United States, while the credit and currency of the State bills is local.

Mr. President, the honorable gentleman from Maryland, (Mr. S.) says, that the Bank of the United States does not facilitate the collection of the revenue. If I understood the gentleman from Massachusetts (Mr. LLOYD) and the gentleman from Maryland correctly, human imagination cannot devise a system so peculiarly calculated to ensure the speedy collection of your revenue, as that which is furnished by banks. Sir, I know nothing of the details of the banking system; I never was inside of a bank, except two or three times in the branch bank which has been established in this city; but I understood the gentleman from Massachusetts to say, that when a revenue bond, even of \$50, was deposited in the bank for collection, if it was not discharged when due, that the obligor was refused all further accommodation in that bank, and that, if his accommodations amounted to 100,000 dollars, he was called upon to discharge his notes as they became due, the right to renew them being forfeited by this act of default. I understood the gentleman from Maryland to say, that, whenever any person was known to be in default at *any bank*, that *all the banks of the place* immediately refused him credit, and demanded the payment of his notes as they became due, by excluding him from the right of renewing them. [Both gentlemen assented to the correctness of the statement.] I have then understood both gentlemen correctly. This simple statement proves, beyond the possibility of doubt, that the bank is the most powerful engine in the collection of your revenue, which human ingenuity can devise. Credit is the true basis of commerce. By placing your revenue bonds in the bank, the want of punctuality in a single case, towards the Government, shuts the door of every bank to which the defaulter had, before, had access, and also of every other bank of the city in which his commercial transactions have been carried on. And yet, we are seriously told that the operations of the bank have no influence upon the prompt and secure collection of the national revenue. It is impossible to resist the conviction, that the prompt and secure collection of our revenue is principally owing to the influence of the bank. But, sir, the bank has another direct influence upon the collection of your revenue. By the rules established in the bank at Philadelphia, every person, whose bond to the Government is deposited there, has a right, upon getting an additional endorser, to claim a discount for half of the amount of his bond, and the part so discounted is immediately carried to the credit of the United States, and the bank takes upon itself the risk of the ultimate collection. In this way, sir, one half of the bond is collected at the sole risk of the bank, without any possibility of loss on the part of Government. And yet, sir, it is contended that the bank has nothing to do with the collection of the public revenue. The gentleman from Maryland says, that the scarcity of money, and the alarm and dismay which the delegation of mechanics had represented, as existing in Philadelphia, could not be the effect of the contraction of discounts by the Bank of the United States, because that bank, as well as the State banks, are going on with their ordinary discounts. This is true; but the gentleman from Maryland has forgotten, that this delegation stated that the bank, upon the rejection of their memorial by the House of Representatives, had contracted their discounts, and that a corresponding contraction had taken place in the discounts of the State banks, which had produced the pressure; and that that pressure had spread alarm and dismay through the city. That, before they left the city, the directors of the Bank of the United States had come to an understanding with the directors of the State banks, all of whom had determined to resume and continue their ordinary discounts until the last hour. Notwithstanding the banks had resumed their ordinary discounts, the panic which had been produced did not cease, and the scarcity of money, and the distrust which had taken place, still continued to exist in Philadelphia. The gentleman from Maryland admits, expressly, that the transmission of your public money for the payment of the ar-

my and navy must be effected through the agency of banks, but contends that that object can be effected as well by the State banks as by a Bank of the United States. My friend from Kentucky (Mr. POPE) said, that the great characteristic difference between the present Government and that which existed under the old articles of confederation, is, that the present Government has, within itself, the means of executing its own measures, without relying upon the State Governments; whereas the old Congress had to rely upon the States for the execution of the measures which it had previously devised and adopted.

This opinion is substantially correct: for the constitutional dependence of the present Government of the United States, upon those of the States, is confined to its organization, and not to the execution of its constitutional powers after it is organized. The gentleman from Tennessee (Mr. WHITESIDES) has said, that we argue this question as though Congress was wholly independent of the State Governments. When, sir, I had the honor of submitting my reasons to the Senate, upon a former day, I expressly stated the cases in which the National Government was dependent upon those of the States, and proved, by referring to the constitution itself, that, in every case of that kind, the constitution imposed upon the States the highest obligation to perform the acts for which the Government of the United States was dependent upon them. The constitution having defined the cases in which this Government shall be dependent upon the State Governments, I did not hesitate to declare it to be unwise and improvident to increase that dependence by legislative acts, when we were unable to impose any obligation on the States to perform the act. The same gentleman has said, that the objection to employ the State banks, was the result of a distrust in the State Governments, rather than in the State banks; and that this distrust was unreasonable, because the State Governments were composed of the same description of men who composed the National Government. If this be called argument, and is entitled to any weight, it is a two edged sword, which cuts both ways. It equally proves the unreasonableness of the distrust which is felt against the Government of the United States, in relation to the exercise of the right to incorporate a bank. But, sir, to all this, the most satisfactory answer is, that I will trust no man to do for me what I can do so much better for myself. Why trust any man, when there is no necessity or reason for trusting him?

The gentleman from Maryland, in speaking of the means which have been resorted to, to procure the renewal of the charter, says that *we* have not procured memorials to be presented to Congress, praying the charter might not be renewed; *we* have not procured pamphlets to be written, published, and laid upon the tables of members, proving the unconstitutionality and inutility of the bank; *we* have not imposed upon the credulity of honest mechanics and manufacturers, and by that means procured delegations to be sent to pray for the rejection of the bank memorial. Surely, sir, the gentleman did not, by these declarations, mean to insinuate that any one of those gentlemen who support the bill upon your table have had any agency in procuring any application to be made in favor of the bank. I know, that gentleman's respect for himself; his respect for the Senate; his respect for the individual members of this body, as well as his respect for the general rules of propriety, exclude the possibility of his making such an insinuation. [Mr. SMITH explained, by saying, I exclude every idea of such an insinuation.] Sir, I will tell the honorable gentleman from Maryland, what has been done by those who are opposed to the renewal of the charter. I do not mean the members of the Senate who are opposed to it, but those who have attempted to inflame public opinion upon this question. Letters, sir, have been written from this place, to induce the State Legislatures to instruct their members to oppose the renewal of the charter of the bank. I will ask the honorable gentleman from Maryland, whether he does not know that letters have been written for that purpose?

The gentleman from Maryland has said, and I am extremely sorry that he has, that the Bank of the United States had their agents in this city, for two

sessions, intriguing with members of Congress to obtain a renewal of their charter. I can assure that gentleman that I have had as little to do with the agents of the bank as he has had. If, sir, I was disposed to retort upon those who are opposed to the renewal of the charter, I would ask if they have not seen published in the democratic papers of Pennsylvania, Maryland, and Virginia, extracts of letters said to be written in the city of Washington, charging the members of Congress, who are in favor of it, with being bribed and corrupted, and with being disposed to sell the sovereignty of the nation to British capitalists? Have they not seen, in the same papers, conversations detailed with great minuteness, which, it is pretended, have passed between members of Congress, calculated to excite public odium and indignation against the friends of the bill now under consideration? Sir, I will not, for a moment, indulge an idea, that these letters have been written or these conversations detailed by any member of this body. The idea that such has been the fact, is too humiliating, too degrading, not only to this honorable body, but to human nature itself, to be entertained but for one moment. And yet, sir, the author of a charge, as base as it is false, against my honorable friend from Kentucky, (Mr. POPE) has, day after day, occupied a seat in a gallery of the Senate, to which no person has a right of access, but by an introduction of one of the members of this body.\* Sir, the highway robber, when compared with the infamous fabricator of this base attempt to assassinate the reputation of this honorable member, becomes a virtuous and estimable character. Such, sir, has been the warfare which has been waged against the renewal of the charter. Denunciations, and charges of political apostacy, are the measures by which we have been assailed from without and from within. Sir, I have shown that the bank question was no party question in its origin; that it was a question upon which an honest difference of opinion always has existed, and does now exist. And, shall I be charged with deserting the standard of the People, while I am treading in the foot steps of the great father of his country? Shall I tremble at the charge of apostacy which has been denounced against me by the gentleman from Tennessee, (Mr. WHITESIDES) while I am pursuing the course which has been approved by a Gerry, a Langdon, and a Washington—men whom the wise and virtuous have delighted to honor? No! While treading in the foot steps of these well tried patriots and enlightened statesmen, I will advance with a firm, undeviating step, unappalled by the howling of party rage, more terrific than the yell of the aboriginal savage.

The gentleman from Maryland (Mr. SMITH) has said that he has understood that a proposition was made in the Federal convention, to vest Congress with power to create corporations generally, and without limitation. Had I been a member of that convention, I should most certainly have voted against the proposition, because it would have been unreasonable. Why should such a power be delegated? Not certainly as necessary to execute the delegated powers, because they are very limited. A general power to create corporations would have enabled Congress to have created them *ad libitum*, where there was no possible relation between them and any one of the delegated powers. The vote upon the bill incorporating the bank proves, that, if such a proposition had been submitted, it must have been rejected, under a conviction that the power to create corporations is incident to such of the general powers as might require an act of incorporation completely to execute them, and fairly vested by the constitution in Congress; because ten of the members of that convention were in Congress, and voted for that bill; because General Washington signed that bill; because the only member of that convention, now in Congress, voted for the bill, and is now in favor of renewing the charter; and because there were but eight members in that convention, in Congress, who voted against it.

\*Mr. C. did not intend to intimate that General Smith, of Maryland, introduced the person alluded to, into that gallery, nor does he believe that he did introduce him.

Mr. President, I will now proceed to examine the objections which have been offered to the construction which I have given to several clauses of the constitution. In the observations which I made upon this part of the question, when I was up before, I endeavored to prove that every construction which had been given to this instrument, upon the idea of its being perfect, was likely to be erroneous. The gentleman from Virginia, (Mr. G.) and the gentleman from Tennessee, (Mr. W.) still view it as the model of perfection. They are certainly at liberty still to entertain that opinion. Every man has a right to erect his idol in this land of liberty, and to fall down and worship it, according to the dictates of his own conscience. I endeavored also to prove, that, if we applied the same rule of construction to that clause of the constitution from which we endeavor to derive the right to create a bank, which has been applied to that from which the power to erect a light house has been derived, the constitutional difficulty at once disappears. Until my friend from Virginia, (Mr. G.) and my friend from Tennessee, (Mr. ANDERSON) had otherwise declared, I had always understood the right to erect light houses had been exercised as incidental to the power to regulate commerce. It seems, however, that I am mistaken, and that this right is incidental to that clause which gives Congress the right to exercise exclusive legislation in certain places. The clause reads in the following words:

“ To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings,” &c.

Now, says my friend from Tennessee, this clause gives the right to erect dock yards; and, as dock yards must be on the sea coast, therefore, Congress has the right to erect light houses, because they must also be on the sea coast. This argument is extremely logical, nay, syllogistical, in form, but it is extremely illogical in substance. The conclusion drawn from the premises is as necessary as though I were to say that, because two and two make four, therefore five and five make twelve. The conclusion in the latter case is as necessary as in the former. But my honorable friend from Virginia (Mr. G.) derives it from the authority given in this clause, to erect other needful buildings. But the question recurs, needful for what? Why, certainly for the purposes before specified. What are they? Forts, magazines, arsenals, and dock yards. If this clause gives any authority to erect forts, magazines, arsenals, and dock yards, the other needful buildings spoken of must be needful for these specified purposes. I should suppose that no man, who spends only a few days in this city, can be at a loss to determine what is comprehended under the term, “ other needful buildings.” Let him go to the dock yard, nicknamed a navy yard, in this city, and he will there find a little town “ of other needful buildings,” in the words of the constitution. But, sir, I deny that this clause of the constitution expressly gives any right, but that of exercising exclusive legislation in the places to be accepted or purchased for the purposes therein specified. The right to erect forts, magazines, and arsenals, is fairly incidental to the right of declaring war, and of raising armies; and the right to erect dock yards is fairly incidental to the right of providing and maintaining a navy. But if, for the sake of argument, I should admit that the right to erect forts, &c. is given in this clause, how can it be proved that the right to erect a light house is also given? Forts, magazines, arsenals, and dock yards, are enumerated; and, as the constitution says that all powers, not expressly given, are retained, if the right to erect forts, magazines, &c. is given in this clause, most clearly the right to erect light houses is retained by the States, because it is not to be found in the enumeration contained in the clause. When I had the honor of addressing the Senate, before I questioned the authority of the State Governments to create banks, I then stated, and I again explicitly state, that it is with reluctance that I have felt it my duty to

make any inquiry into the constitutional right of the State Governments to incorporate banks. The State Legislatures ought to have recollected the Spanish proverb, which says, that those who live in glass houses ought not to throw stones. Before they undertook to question the constitutional authority of Congress, they ought to have thoroughly examined the foundation upon which their own right rested. The honorable gentleman from Virginia (Mr. GILES) says, that the construction which I have given to that part of the constitution which prohibits the States from emitting bills of credit, would apply equally to promissory notes given by one individual to another, under the laws of a State, as to a bank bill. Permit me to inquire of that gentleman, whether he ever saw a law authorizing one man to give another his promissory note? He may search the pandects of Justinian; he may turn over the leaves of the musty volumes written upon the common law, from the days of Bracton and Fleta, down to the present day, and his search will be in vain: for the right to make contracts, the right to give promissory notes, is antecedent to, and independent of, all municipal law. The gentleman will find laws and decisions in abundance, regulating the effect of endorsements, and other collateral circumstances, and prescribing the manner of enforcing the payment of promissory notes, but he will never find a law giving the right to execute a promissory note. But it is said that the bills of credit, which the States are prohibited from emitting, must be bills of credit emitted on the credit of the State. If this distinction should be well founded, many of the State banks are still subject to the charge of unconstitutionality; because, in many of them, the States are directly interested, and wherever that is the case, their bank bills are bills of credit emitted on the credit of the State. But the correctness of this distinction may well be denied, because the restriction is as general as it could possibly be made. But it is said that this restriction applies only to bills of credit which are made a legal tender in the payment of debts; that bills of credit, designated in the constitution, are, *ex vi termini*, a legal tender. For the correctness of this exposition, an appeal is made to the restriction which immediately follows it, which restrains the right of the States to make any thing but gold and silver a legal tender in the payment of debts. It appears to me that the latter restriction excludes, most emphatically, the construction contended for. If the States are prohibited from emitting bills of credit, it would have been, to say the least of it, wholly nugatory to say they should not make them a legal tender. If the bills are not emitted, it is impossible that they can be made a legal tender. To suppose that the restriction upon the right of the States to make any thing but gold or silver a legal tender has any connexion with, or influence upon, the restriction to emit bills of credit, is as absurd as to suppose that the decalogue, after having declared, that "thou shalt do no murder," should have added, but, if you will murder, you shall not rob and strike the dead. The construction of the restraint upon the right to make any thing but gold or silver a tender, is, that they shall not make specific articles, as tobacco or cotton, a tender, as was the case in some of the States.

But it is said that the history of the States will show that the bills of credit, specified in the constitution, were those only which were a legal tender in the payment of debts. Let us examine this point, according to the rule of construction applied to another clause in the constitution by a large majority of both Houses of Congress, during the present session. Another clause in the constitution gives Congress the power to admit new States into the Union, under two limitations. 1st. That no new State shall be formed within the limits of any State, without the consent of the State; and 2d. That no new State should be formed by the junction of two or more States, without the consent of such States, and also of Congress. These limitations prove that the formation of new States, within the limits of the United States, was in the view of the convention at the time that this clause was adopted; and the subsequent clause, which gives Congress the power to make rules for the government of its territories, proves that these territories were, at that moment, under consideration. In addition to these reasons, for believing that the

framers of the constitution had no idea of forming new States, beyond the limits of the United States, those who were opposed to the admission of Orleans as a State, contended that the history of the United States proves, that the power to erect new States, and admit them into the Union, was intended to be confined to new States within the limits of the United States at the formation of the constitution, and that a different construction would disparage the rights of the original States, and of course be a violation of the constitution. What reply did the majority of Congress give to this train of reasoning? They said that the right to admit new States cannot be subject to any other limitations or restrictions than those which are contained in the clause which gives the right; and as there is no restriction upon the right to erect new States without the then limits of the United States, Congress have an unlimited right to erect and admit them into the Union. Let us apply the same rule of construction to the restriction of the right of the States to emit bills of credit. The restriction is a general one; it has no exceptions; and every attempt to make exceptions ought to be repelled by the answer which was given to those who opposed the right of Congress to admit the territory of Orleans into the Union as a State. The construction I have contended for, gains additional weight when we consider the restriction which immediately precedes that under consideration. No State shall coin money, emit bills of credit, &c. Bills of credit are but the representatives of money. The constitution gives Congress the right to coin money, and to regulate its value. It takes from the States the right to coin money, and to emit bills of credit. Why give to Congress the right to coin money, and regulate its value? Because the interest of the nation requires, that the current coin of the nation should be uniform, both as to its species and value. If this is the true reason why the right of coining money, and fixing its value, was given to Congress, does not the right to issue that which is to be the representative of this coin; which in fact is to usurp its place; which is to be the real currency of the nation, necessarily belong to Congress? Does not the right to create a bank, which shall issue this representative of money, come within the same reason? I think it does.

My friend from Kentucky (Mr. CLAY) contends that the right to create a bank will prove destructive to the rights of the States, because, if Congress can incorporate a bank, it may, under some pretext or other, create other corporations, and authorize them to hold real and personal estate, which shall be exempt from the right of taxation by the States. That, if this is admitted, and he believes it generally is admitted, that the States cannot tax bank stock, in this way the States may be deprived of the power of taxation. Sir, I am one of those who do not admit the fact. [Mr. CLAY said that he did not admit it neither, though he had understood the bank held that doctrine.] I am extremely glad we think alike, at least, upon this collateral point. The right of the States to impose taxes is unlimited by the constitution of the United States; they, therefore, can tax every species of property, which is within their legislative jurisdiction. The unlimited power of the States to impose taxes is, in all probability, the true cause of giving to Congress the power of exclusive legislation over all places which should be selected for the erection of forts, magazines, arsenals, and dock yards, because public property, to a great amount, would necessarily be collected in these places, and but for vesting the right of legislation in Congress to the exclusion of the States, all this property would have been subject to taxation, which would have produced great embarrassment. It has been said, not indeed upon this floor, but by men for whose opinions I entertain a very high respect, that the right of the States to tax bank stock is inconsistent with the right of Congress to create a bank. That the right of taxation destroys the right to create, because the States, by immoderate taxation, could drive the bank out of their limits. All arguments drawn from the abuse of a right ought to be received with great caution; but if it is entitled to any weight in this case, it equally proves the unconstitutionality of the State banks, because the right of Congress to lay and collect taxes is subject to but two restrictions: that they shall be uniform,



and that direct taxes shall be according to representation. Suppose Congress was under a necessity of raising \$10,000,000 by direct tax, the whole or nearly the whole of this sum might be imposed upon bank stock, and by that means the State banks totally destroyed. The advocates of this doctrine are also advocates for State banks. If the right of taxation by the States, proves the unconstitutionality of the Bank of the United States, the right of Congress to tax, equally proves the unconstitutionality of the State banks.

To the fervid imagination of my friend from Kentucky, (Mr. CLAY) this power to create a bank appears to be more terrific than was the lever of Archimedes to the frightened imaginations of the Romans, when they beheld their galleys suddenly lifted up, and whirled about in the air, and in a moment plunged into the bosom of the ocean. Are these apprehensions founded in reason, or are they the chimeras of a fervid and perturbed imagination? What limitation does the constitution contain upon the power to lay and collect taxes, imposts, duties, and excises? None but that they shall be uniform; which is no limitation of the amount which they can lay and collect. What limitation does it contain upon the power to raise and support armies? None other than that appropriations shall not be made for a longer term than two years. What restriction is to be found in it, upon the right to provide and maintain a navy? None. What upon the right to declare war, and make peace? None; none. Thus the constitution gives to the Government of the United States unlimited power over your purses; unlimited power to raise armies and provide navies; unlimited power to make war and peace; and you are alarmed, you are terrified at the power to create a bank to aid it in the management of its fiscal operations. Sir, nothing short of my most profound respect for honorable gentlemen, who have frightened themselves with this bugbear, could induce me to treat the subject seriously. Gentlemen have said, that they are alarmed at the exercise of this power, and I am bound to believe them. Sir, after giving Congress the right to make war and peace; the right to impose taxes, impost, duties, and excises, *ad libitum*; the right to raise and support armies, without restriction as to number or term of service; the right to provide and maintain a navy without limitation; I cannot bring myself to tremble at the exercise of a power incidental to only one of these tremendous grants of power. The gentleman from Kentucky (Mr. CLAY) contends, that we have attempted to give a degree of weight and force to what we are pleased to call precedents, to which they would not be entitled in those tribunals from which we derive all of our ideas of precedents. I am happy to find that my friend from Virginia (Mr. G.) agrees with me in opinion upon this subject. Indeed, the principal difference between that gentleman and myself is confined to the question of expedience. He thinks that the construction which has been given to the constitution ought to be considered as conclusive; and that great inconvenience will be produced by unsettling what ought to be considered as finally settled and adjudged.

I agree, also, with the gentleman from Kentucky, that a precedent, to have weight, must be in point; that the issue upon which the decision is made must be the same as that in which it is adduced as authority. To this, I most heartily agree, and will rely upon it to show that the cases which we urged as precedents are entitled to the greatest weight. In all cases between individuals, they are supposed to understand their own interests, and their own cases. The plaintiff is supposed to understand the point upon which the decision of his case must depend. The defendant is supposed to understand the ground of his defence. They make up an issue, either of fact or of law. It is this issue which is to be tried. Any declaration or expression of the judge, which is not confined to the issue, is of course entitled to no weight. Well, sir, what is the nature of the precedents upon which we rely? First, that a republican Congress, in the year 1804, passed a law extending the operations of this unconstitutional institution, as they contend, into territories, to which they had no right to extend them by their charter. In the year 1807, they pass a law punishing the forging of their bills. Now, sir, my friend from Tennessee (Mr. ANDERSON) says that those who passed the bank

bill were afraid to venture that far—they were afraid to pass a law to punish the counterfeiting of their bills; but, in the year 1798, in the plenitude of federal domination, they passed a law to punish counterfeiting the bills of the bank. It is certainly true, that the federal party did pass this bill in that year; but it is equally true, that the republican party, in the plenitude of their power, did pass a bill of the same kind in the year 1807. Well, sir, what is the issue which is tendered in the passage of every bill by the Congress of the United States? First, That the constitution gives them the right to pass the bill; and second, That it is expedient. The first, sir, is the most important issue, made up between the National Legislature and the People of the United States, in passing bills by which their rights are to be protected or violated. How, then, are we told that these laws passed *sub silentio*? That the constitutional right of Congress to pass such a law never was discussed, or even thought of? Sir, suppose the gentleman from Kentucky had constituted me his attorney to do a particular act for him, and I had performed an act, under that power, which had no connexion with the one which he had authorized me to perform, and when charged with this violation of my trust, I should gravely say, really I never examined the power, but took it for granted that I had the right—that in fact I had done it *sub silentio*—what would my friend from Kentucky say to such a reply? But, suppose I had taken an oath to discharge the trust with fidelity and skill, and that I would, in all things touching [the trust, confine myself to the power delegated to me. Suppose, I say, under these circumstances, I should violate this trust—should transcend the authority given, and perform an act clearly not delegated? What would the gentleman say to me, when I gravely told him that I had not particularly examined the authority under which I had acted—that I had done it *sub silentio*? Sir, this way of disposing of these formal voluntary acts of the Government, sanctioning the legality and constitutionality of the bank charter, will not be accepted. Some more happy expedient must be devised. But, sir, we are told that, because the constitution contains within itself the principles of amendment, that if any doubts existed on this subject, it ought to have been amended. Whenever the States have conceived their rights to have been affected by any construction which has been given to the constitution, they have shown that they know how to obtain relief. When the Supreme Court of the United States undertook to support the doctrine that an individual could sue a State, they did not hesitate to interfere, and the constitution was amended. When an embargo was laid, in the year 1807, those States who were most inimical to that measure did not hesitate to offer an amendment to the constitution. Whenever a construction is given to the constitution by a legitimate and competent authority, those who are opposed to that construction ought to propose amendments, and not those who are satisfied with it. If the construction given to the constitution, by the creation of the bank, was thought by the republican party to be vicious, then, indeed, have they been guilty of the grossest act of negligence. It was in their power, and most assuredly it was their duty, to have amended the constitution, either by expressly giving or taking away the power. It was their duty to have settled the question forever. Suppose, sir, you now decide that it is unconstitutional for Congress to incorporate a bank; this will not settle the constitutional question. It will unsettle and render uncertain what has been settled for twenty years. You say you have not the right to incorporate a bank. Ten years hence other men come into power, and say they have the right, and exercise that right for twenty years. The bank, then, will have been constitutional for twenty years, unconstitutional for ten years, and constitutional for twenty more. Are we to go on in this unsettled, miserable, halting manner? God forbid.

Sir, I have closed the observations which I thought it my duty to make, in reply to the comments which have been made upon the remarks which I had previously submitted to the consideration of this honorable body. If, sir, I preferred my political standing in the State which I have the honor to represent (and, sir, I do not profess to have any out of it) to the public wel-

fare, I should rejoice at the success of the motion which has been made by the honorable gentleman from Tennessee, (Mr. ANDERSON.) But, sir, as I believe the public welfare infinitely more important than any fleeting popularity which an individual like myself can expect to enjoy, I shall most sincerely regret the success of that motion. Sir, I have said but little about the degree of distress which will flow from the dissolution of the bank, because I have not that kind of evidence which would enable me to judge of it with any degree of accuracy. The convulsed state of the European nations—the immense losses which our commerce has sustained by the operation of the decrees and orders of the tyrants of the land and the ocean, imperiously admonish us to beware of making untried and dangerous experiments. By supporting this institution, the tottering credit of the commercial class of your citizens may be upheld, until the storm shall have passed over. By overturning this great moneyed institution, at the present crisis, you may draw down to undistinguished ruin thousands of your unfortunate and unoffending fellow-citizens.

The question was then taken on the motion to strike out, and was decided as follows: Yeas 17, Nays 17.

Those who voted in the affirmative, were,

Messrs. Anderson, Campbell, Clay, Cutts, Franklin, Gaillard, German, Giles, Gregg, Lambert, Leib, Mathewson, Reed, Robinson, Smith, of Maryland, Whiteside, and Worthington.

Those who voted in the negative, are,

Messrs. Bayard, Bradley, Brent, Champlin, Condict, Crawford, Dana, Gilman, Goodrich, Horsey, Lloyd, Pickering, Pope, Smith, of New York, Tait, Taylor, and Turner.

The Senate being equally divided, the President (GEORGE CLINTON) determined the question in the affirmative, first submitting to the Senate the following prefatory remarks:

GENTLEMEN: As the subject on which I am called upon to decide, has excited great sensibility, I must solicit the indulgence of the Senate whilst I briefly state the reasons which influence my judgment.

Permit me to observe, that the question to be decided does not depend simply upon the right of Congress to establish, under any modification, a bank, but upon their power to establish a national bank, as contemplated by this bill. In other words, can they create a body politic and corporate, not constituting a part of the Government, nor otherwise responsible to it but by forfeiture of charter, and bestow on its members privileges, immunities, and exemptions, not recognised by the laws of the States nor enjoyed by the citizens generally?

It cannot be doubted that Congress may pass all necessary and proper laws for carrying into execution the powers specifically granted to the Government or to any department or officer thereof; but, in doing so, the means must be suited and subordinate to the end. The power to create corporations is not expressly granted; it is a high attribute of sovereignty, and in its nature not accessorial or derivative by implication, but primary and independent.

I cannot believe that this interpretation of the constitution will, in any degree, defeat the purposes for which it was formed; on the contrary, it does appear to me that the opposite exposition has an inevitable tendency to consolidation, and affords just and serious cause of alarm.

In the course of a long life, I have found that Government is not to be strengthened by an assumption of doubtful powers; but by a wise and energetic execution of those which are incontestible; the former never fails to produce suspicion and distrust, whilst the latter inspires respect and confidence.

If, however, after a fair experiment, the powers vested in the Government shall be found incompetent to the attainment of the objects for which it was instituted, the constitution happily furnishes the mean for remedying the evil by amendment, and I have no doubt that, in such event, on an appeal to the patriotism and good sense of the community, it will be wisely applied.

I will not trespass upon the patience of the Senate any longer than to say, from the best examination I have been able to give the subject, I am constrained, by a sense of duty, to decide in the affirmative; that is, that the first section of the bill be stricken out.

FEBRUARY 21, 1811.

On motion of Mr. LEIB,

*Ordered*, That the further consideration of this bill be postponed to the 1st Monday in December next.

FEBRUARY 22, 1811.

Mr. SMITH, of Maryland, asked and obtained leave to bring in a bill to repeal the 10th section of the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" which bill, on the 3d of March, on motion of Mr. SMITH, was postponed to the 1st Monday in December next.

The said 10th section is as follows:

"SEC. 10. The said corporation may sell any part of the public debt, whereof its stock shall be composed, but shall not be at liberty to purchase any public debt whatsoever; nor shall, directly or indirectly, deal or trade in any thing, except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent, and not redeemed in due time; or of goods which shall be the produce of its lands. Neither shall the said corporation take more than at the rate of six per centum per annum for or upon its loans or discounts."

This bill eventually became a law, and was approved by the President on the 19th March, 1812.

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#### PROCEEDINGS AFTER THE REJECTION OF THE BILL.

After the final rejection of the bill to renew the charter, the bank applied for a temporary continuation of their powers, for the purpose of enabling them to close up their affairs. It is believed that two years was the time solicited. The memorial of the bank was presented simultaneously in the House and in the Senate, but appears not to have been favorably received in either. The following are the proceedings which took place, and the reports that were made on this subject, in the two Houses.

#### IN SENATE.

FEBRUARY 25, 1811.

Mr. LEIB presented the memorial of the Stockholders of the Bank of the United States, praying an extension of their charter so far as to enable them to settle the accounts of the bank, for reasons therein stated. The memorial was read, and, on motion of Mr. LEIB,

*Resolved*, That it be referred to a select committee, to consist of five members, to consider and report thereon.

*Ordered*, That Messrs. Clay, Franklin, Leib, Anderson, and Bayard, be the committee.

MARCH 2, 1811.

Mr. CLAY, from the said committee, made the following report:

That your committee have duly weighed the contents of the memorial, and deliberately attended to such explanations of the views of the memorialists as they have thought proper to present, through their agents: That, holding the opinion, (as a majority of the committee do,) that the constitution did not authorize Congress, originally, to grant the charter, it follows, as a necessary consequence of that opinion, that an extension of it, even under the restrictions contemplated by the stockholders, is equally repugnant to the constitution. But, if it were possible to surmount this fundamental objection, and if that rule which forbids, during the same session of the Senate, the re-agitation of a proposition once decided, were disregarded, your committee would still be at a loss to find any sufficient reasons for prolonging the political existence of the corporation, for the purpose of winding up its affairs: for,

As it respects the body itself, it is believed that the existing laws, through the instrumentality of a trust, properly constituted, afford as ample means as a qualified continuance of the charter would, for the liquidation of its accounts, and the collection and final distribution of its funds. But, should any inconvenience be experienced on this subject, the committee are persuaded it will be very partial, and such as the State authorities, upon proper application, would not fail to provide a competent remedy for. And,

In relation to the community, if the corporation, stripped of its banking powers, were to fulfil, bona fide, the duty of closing its affairs, your committee cannot see that any material advantage would be derived. Whilst, on the contrary, if it should not so act, but should avail itself of the temporary prolongation, in order to effect a more durable extension of its charter, it might, in its operations, become a serious scourge.

Your committee are happy to say, that they learn, from a satisfactory source, that the apprehensions which were indulged, as to the distress resulting from a non-renewal of the charter, are far from being realised in Philadelphia, to which their information has been confined. It was, long since, obvious, that the vacuum in the circulation of the country, which was to be produced by the withdrawal of the paper of the Bank of the United States, would be filled by paper issuing from other banks. This operation is now actually going on; the paper of the Bank of the United States is rapidly returning, and that of other banks is taking its place. The ability to enlarge their accommodations is proportionately enhanced; and when it shall be further increased by a removal into their vaults of those deposits which are in the possession of the Bank of the United States, the injurious effects of a dissolution of the corporation will be found to consist in an accelerated disclosure of the actual condition of those who have been supported by the credit of others, but whose insolvent or tottering situation, known to the bank, has been concealed from the public at large.

Your committee beg leave to present the following resolution:

*Resolved*, That the prayer of the memorialists ought not to be granted.

## HOUSE OF REPRESENTATIVES.

A like memorial was, also, on the same day, presented to the House, and ordered to be referred to a select committee, to consist of Mr. P. B. Porter, Mr. Eppes, Mr. Macon, Mr. Davenport, Mr. Wilson, Mr. Shaw, Mr. Whitehill, Mr. Desha, and Mr. Ringgold.

MARCH 2, 1811.

Mr. P. B. PORTER, from the said committee, made the following report:

The committee, to whom was referred the memorial of the Stockholders of the Bank of the United States, report:

That they have carefully examined the various matters set forth in the said memorial, and attentively listened to the representations of the gentlemen who have appeared in behalf of the said petitioners. The object of the memorialists is to obtain an extension of their corporate powers, beyond the period limited for the expiration of their charter, so as to enable them to prosecute for their debts, and to arrange, liquidate, and close, the various concerns of the company.

The committee are of opinion that a law of Congress, granting the powers prayed for, would facilitate the final adjustment of the affairs of the bank, although they do not think such a law indispensable to that object. But, believing, as your committee do, that, in granting the original charter to the stockholders, Congress transcended the legitimate powers of the constitution, the same objection now presents itself to the extension of any of their corporate capacities.

If the committee had time to go into the investigation, and to present to the House the various reasons which have conduced to this opinion, it would be more than useless to divert its attention from the important concerns of the nation, at this late period of the session, to a subject, which, but a few days since, was so fully and elaborately discussed.

They, therefore, beg leave to recommend the following resolution:

*Resolved*, That the prayer of the memorialists ought not to be granted.

## DEBATE IN THE HOUSE OF REPRESENTATIVES, IN 1810.

*On the reference of the Memorial of the Stockholders, and on the Bill reported by Mr. Taylor, of South Carolina.\**

HOUSE OF REPRESENTATIVES, March 29, 1810.

Mr. TAYLOR said it would be recollected that several projects on the subject of the Bank of the United States had been offered during the present session; some to this House and one to the Senate, in the form of a bill now laid on the tables of members. Some days ago, said Mr. T. one of the plans for constituting or raising a Bank of the United States, which had been committed to a committee of the whole House, was, by the original proposer, removed from the committee of the whole House, and referred to a select committee.

\* The reader is requested to excuse the omission of this debate in its proper place: it should have appeared at pages 122 and 134 *ante*. By reference to those pages, it will be seen that, on the 13th of April, 1810, the House went into a Committee of the Whole on the bill, and, on rising, were refused permission to sit again. This debate took place in Committee of the Whole.



He said he believed it all important to the nation, that the project which should be most advantageous should be presented to the decision of the House. Other projects were now, perhaps, in a train for being offered in detail; and it would probably be found that the renewal of the charter of the Bank of the United States would be the most advantageous course. He would not now express an opinion one way or the other, but rose for the purpose of advocating fair play, by giving the House a choice of plans. With that view, and to give all the proposed plans an equal chance, he moved that the committee of the whole should be discharged from the further consideration of the report of the committee on the memorial of the stockholders of the Bank of the United States, and refer it to a select committee, with a view to report a bill.

The question on discharging the committee of the whole from the report, was carried without a division.

On the question of referring the report to a select committee,

Mr. LOVE said he should support the motion, because he felt convinced the House would, with difficulty, if ever, come to a decision on a plan, if the discussion commenced on a resolution, and was afterwards to be repeated on a bill.

Mr. BASSETT was opposed to the reference. He thought the House ought to try the question on principle, before they entered into any details.

Mr. TAYLOR said, his only object was fair play. The Senate would, with their bill, anticipate the House; and though their plan might not be deemed the best, the regular troops had, before now, defeated the militia, and might again. He only asked the same indulgence as had been accorded to the proposition of the gentleman from Virginia (Mr. LOVE) a few days ago.

Mr. GHOLSON thought this reference would operate as a delay: for, if a discussion on any bill on the subject of a bank was pressed, the House would be told, the subject was yet before a committee, and that they ought to wait for its report.

Mr. QUINCY spoke in favor of a commitment.

Mr. LOVE said he had moved the reference of his proposition to a select committee, because he believed it would be practicable to report a bill which would not conflict with any constitutional provision. He did not agree, however, that the proposition to commit this, was precisely of a similar nature with that which was agreed to in relation to his. The difference was in this, that, in the present case, a constitutional difficulty occurred on the face of the proposition, and which would be decided without seeing the details of a bill, while the same objection could not apply to a general proposition for a national bank: for, till its features were presented in detail, the objections to it could not be known.

Mr. PITKIN was for commitment. He wished to see the conditions on which the charter was to be continued. He did not say what all the conditions should be, but one must be, in his opinion, that the individuals should pay a handsome sum into the public treasury; that the United States should have the benefit of the renewal, and that it should not be put into the pockets of individuals. His vote might be governed by the sum to be given, and therefore he wished to see the plan in detail.

Mr. DANA said, he had rather that the whole question, as respected both propositions, should have been agitated in committee of the Whole. If those whose business it was to administer the affairs of the Government, said that the business of the Government could be conducted without a bank, and that they would undertake to do without it, Mr. D. said, he was willing to let the

whole go. He thought there was an incongruity in having the subject of banks referred to two distinct committees, as they would probably be continually carrying on war on the frontiers of each other's territories.

Mr. GOLD expatiated on the inconveniences that would result from a double discussion, first on a resolution and then on a bill. He did not conceive, with Mr. LOVE, that the question would be on a simple renewal of the present charter of the Bank of the United States, but that an extensive revision and modification of the former system was contemplated. It was indispensable that the subject should be presented as much in detail as possible. The House would not at all commit itself by voting for this motion.

Mr. MACON said it was but fair to give both projects the same course. He had no fear of collision between the two committees. He recollected, indeed, once a contest between the military and naval committees, to which of the two the gun boats belonged; but the same subject was often before two different committees, without producing difficulties; as, for instance, the two convoy bills were reported, during this session, by different committees. It was perfectly fair, he thought, to refer to one committee, the question whether the charter of the Bank of the United States should be renewed, and to another, the question whether a bank should be established on a plan altogether new.

The motion for reference to a select committee was carried.

APRIL 13, 1810. See p  
134

In committee of the whole House, Mr. LOVE, of Virginia, moved to strike out the first section of the bill.

On this motion a debate arose, in which Mr. LOVE, Mr. TAYLOR, and Mr. FINDLEY, participated. Their speeches are given as follows:

Mr. LOVE.—He lamented that he was compelled to come to a decision on the question without having obtained the information he had solicited a few days before; and assured the committee he had not called for information, as to the names of the stockholders, from any view to weaken the support the measure proposed would have, from a disclosure of the names of those members who were stockholders in the Bank of the United States; on the contrary, he would not for a moment doubt, that all such would voluntarily and from choice decline voting on the question, not only from their sense of propriety, but from a knowledge of the imperative rule of the House, which forbids a member from voting where his interest is concerned. He could not fear that any gentleman of that House would do an act to which might be attributed so improper a motive as that of advancing his particular property fifty per cent. in value, and making his share of bank stock, now worth 400 dollars, by his own vote, worth 600, or perhaps much more. But his principal ground for the general call of the names of the stockholders was to check the statement of foreign, by exhibiting the domestic stockholders. Mr. L. next adverted to the information which had been given to the Senate by the Secretary of the Treasury, in reply to an inquiry made relative to the capital distributed to the branches, and the dividends stated to be yielded by them; he said there was certainly a most gross misrepresentation in the statements of that report, relative to the profits divided at the principal bank in Philadelphia.

The portion of the capital assigned to the branches was stated in the report at 5,300,000 dollars; and those branches had discounted, by the last returns, to the amount of 11,964,000 dollars, yielding a gross profit of more than thirteen per cent. The capital retained in Philadelphia was to the amount of 4,700,000 dollars, granting, by the report, discounts to the amount of \$4,572,000 only. He remarked on the improbability of the correctness of the latter part of the report, because he said it was well known that bank capital had been used as profitably in Philadelphia as in any other town, and the State banks, unaided by the deposits of the Government of the United States, had

yielded so great a dividend as to make the stock of those banks worth from 35 to 50 per cent. which he adverted to in detail; and deduced from that circumstance the impossibility of the truth of the information on which the report was grounded. He therefore thought it at least fair to state the profits of the principal bank at the same which he believed the branch banks had honestly reported of themselves; and it will be found that, after the deduction for losses (that probably never happened) and contingencies never expected to take place, it would yield a nett dividend on the institution of more than 11 per cent. per annum, instead of 8 $\frac{1}{2}$ ths, as had been reported by the Secretary of the Treasury, on the statements of the officers of the bank.

Mr. L. said he would advert to other instances of attempts to deceive the Legislature of the United States, discovered in the memorial of the stockholders of the bank or their agents. They had stated themselves entitled to an honorable claim on the patronage of the Government, for several reasons: first, in having enriched the treasury, by the share the Government subscribed to the stock. In answer to this Mr. L. said, the Government composed originally a part of the company; that it had the right, like other stockholders, to sell out; it would have been hard to deprive it of that right, as it had no voice in the direction, as other stockholders had; but, as it was a part of the original plan, no party to it had a right to complain. As well might the United States claim from individual stockholders a part of their profits when they may have sold their stock; but admitting Government made 650,000 dollars, as we are told, by its stock, and that the other stockholders may charge this item fairly, the Government can certainly off-set it, by showing that the individual stockholders who held the six per cent. debt, as a part of the bank capital, have also sold at an advance, and out of the public made their sales at least to this amount.

Another honorable claim is said to be in having loaned Government great sums of money. Mr. L. said it might be true, and it was also true that they had received 6 per cent. for the loan, although a great part of the money loaned was actually borrowed by the bank, in Holland, at a rate of interest probably less than 4 per cent. This item of honorable claim, then, consisted of making about 2 per cent. clear money out of the Government; if this loan formed an honorable claim to the management of our money matters, France and Holland, it was certain, had much more honorable claims, as they loaned us money when our distresses were much greater, without a pledge of anticipated revenue for reimbursement, as this bank has had. But the truth was, that any bank could, if it chose, loan to Government for much less than to individuals, because, in case of a press for money, the debt due from the Government would always command specie in the market, either by pledges or otherwise; a bank could, therefore, discount to individuals on the credit of the very debt which was due them by Government, at all times, to the amount of one half of it, and would, therefore, lose nothing by loaning to the United States at three per cent.

Next, it was said, the bank had enabled the Government to collect its revenue. Mr. L. ridiculed this idea, and said, that the State banks would, very thankfully, take this trouble, as well as many others the United States complained of as very onerous. But, last of all, the idea of the branch banks having been a charge to the institution, is least capable of being supported, after the report to the Senate of the 3d instant, by which, it seems those banks have averaged a dividend of more than thirteen per cent., while the principal bank had not given six per cent. according to their own account. He said, he had mentioned those things only because they looked like an attempt to impose on a Legislature they might presume to be ignorant of its rights.

Mr. L. then said, he would consider the question of continuing the United States' Bank company's charter on two grounds, principally.

*First*, As to the necessity which existed for such a measure.

*Secondly*, As to the policy, if no real necessity existed.

And, as to the first, he said, it was easy to prove that, as it respected the interests of the community at large, there was no necessity for it; but, that a

benefit would result from its immediate dissolution. From the report of the Secretary of the Treasury it appeared they had \$5,000,000 of specie in their vaults dead and taken out of circulation; for which, they had, according to the report given us, a circulation in bank notes to the amount of 4,500,000 dollars. The public, then, lost a circulation of 500,000 dollars, besides exchange of specie for paper—500,000 dollars lay dead and buried in the vaults of this bank!

The public, it is said, are under the necessity to renew this charter, because the amount of stock held by foreigners would immediately be sent to them in specie. Mr. L. controverted the correctness of this position, and said it was contrary to the known state of facts; that foreigners would not withdraw a capital from this country when they could get six per cent. in our public debt for it, in order to carry it home and get three or four per cent, which was the most to be got in Europe; they would not, because they could no longer get double as much as in Europe, refuse to take half as much more; and this they might do by buying the public debt, which was to be had at two per cent. above par; and their holding that would produce no danger of their exercising an influence in our commercial towns, but, on the contrary, a safety, as they would have a stake in the stability of our Government, without the power of managing our revenues.

But, for argument sake, he would admit, that foreigners might be guilty of the folly of losing so much, because they could not gain a great deal more, and endeavor to show that, if they did, contrary to a sense of their own interests, withdraw this capital, it would produce infinitely less evil to this country than to continue their charter, even with its present capital. \$7,300,000 of the whole capital belonged to foreigners; \$2,300,000 of the whole capital consisted of the public debt of 6 per cent. Deduct this sum, say only one fifth, would leave to be settled for, in specie, to the whole number of stockholders, eight millions of dollars. Three-fourths of this, or \$6,000,000, belongs to foreigners; five millions of the whole capital they already have; it lies in their vaults, dead. They could only wind up with an additional three millions of specie. Three fourths of this three millions foreigners might withdraw, which is now in use in this country, to wit: the sum of \$2,250,000; it was all the community could feel the loss of. But continue the bank, and, according to the principles shown, relative to actual nett dividends, foreigners now get from us about \$1,000,000 per annum, and according to the rate of dividend admitted by the Secretary of the Treasury, foreigners get from us eight and three-eighths per cent. on three-fourths, or nearly, of ten millions, equal, at least, to the sum of about \$630,000 per annum; by which, in less than four years, a larger amount in specie would be remitted in interest, than the specie capital now to be lost: for the stockholders in Europe live upon the interest. As soon as the dividend is declared, it draws no more, and is remitted.

Mr. L. said there never was a time when this country could spare the specie, if it was to be taken away, better than the present, and he hoped there never would be a time; for it was a known fact, that the orders of the belligerents had so narrowed commercial pursuits, that a very small sum was employed in that way, and immense quantities of specie were now in the country; as a proof of it he referred the gentleman from South Carolina to his own State, in which a bank had lately been established, and in a few hours greatly over subscribed. So, too, in Baltimore, where several had been established, and in other mercantile towns of the United States. In addition to these proofs, the report from the mint informed us that, in the last year, near a million had been coined, and bullion remained on hand, more than they could work up. Another circumstance, worthy of notice, to prove that our situation was easy, and that the little trade we had did yield a balance in our favor, our merchants are not in want of remittances; bills of exchange on London are several per cent. below par.

Mr. L. next adverted to the evils which were said to be likely to arise to individuals from the dissolution of the charter, and contended that they were

not real; that much had been said, in and out of doors, to excite alarm on this subject. To prove them not real, take, said Mr. L. the discounts at any one of the branches, or the mother bank. At Boston, for instance, the loans were to the amount of about 1,000,000 on a capital of about 700,000 dollars. The agent of the bank has voluntarily stated (being admitted at his own request before a committee) that the discounts of the bank were to the amount of three fourths on real paper. Then, in Boston, 750,000 dollars is discounted on bills or notes, given for value between merchant and merchant, for sales and purchases, which are always paid at maturity, but for which the holders want the money sixty days before hand; this business could as well be done, every body knew, by private bankers, who would be very glad of it, or other banks will always give the preference to this sort of paper. It is no inconvenience to the moneyed interest to discount this, as they are sure of their capital again in sixty days, and they can, in the mean time, turn it over, if occasion requires.

There is left, then, 250,000 dollars due from what is called the standing customers. It is a well known fact that the United States' Bank has, from the advantages the deposits of revenue has given them, had their choice of customers; and give to any other bank in their vicinity their deposits, they will be very glad to take those customers off their hands, and to four times the amount of them if necessary.

New York has loaned on its capital the greatest proportion in amount of any of the branches. On \$1,800,000 it has loaned \$4,175,000. This has been done, the report of the bank, sanctioned by the Secretary of the Treasury, to the contrary notwithstanding, on the amount of deposits there; the immense deposits of revenue collected there. Give them to the State banks, they will accommodate the constant customers, very gladly, to the amount of one-fourth, as has been stated; or, if necessary, no doubt can be entertained to the whole amount of the \$4,000,000.

So, said Mr. L., of the other branches in the other towns; but, taking the whole together, the debt to be continued to individuals would still be reduced; something was due by mortgage and bond; how much no one but the branch owners know, supposing one-fourth of the standing debt, which may be supposed, after twenty years operation, and the whole sum with which individuals would require to be accommodated, would be less than three millions in all the banks.

Having showed that there was no necessity, either of a public or private nature, which imposed the continuance of the charter of the United States' Bank, Mr. L. said he would endeavor to prove that it would be highly impolitic, and, he believed, dangerous to the safety of the country to do so. It was a principle which the old charter claimed, and which was again to be recognised by the bill before the House, that the Government of the United States should have no control or even superintendence over the institution. He was one of those who thought this power ought, in some degree, to be reserved by Government, as their share in the contract, where it was of much magnitude, and to operate so materially on the general interest, as well private as political, of the community. It was true, the Secretary of the Treasury had, in his report, seemed to suppose that the United States had a control over this institution, because it derived its charter from the National Legislature. He could not see the force of the observation, inasmuch as, after the grant was made, it was held independently, and he believed that the weekly returns of general accounts to the office of the Secretary, which was the only thing required to be done by the bank officers, could afford but a feeble check upon their transactions; it might amuse a gentleman fond of looking over statements of that kind, but what use could be made of them? Or how was it ascertained they were correct? It had been proved in the report made on them, of the third instant, that they were utterly fallacious, and could only lead to deception; and where was the remedy? You cannot penetrate into the *arcana*, the hidden springs of the money engine. It would not, perhaps, be correct that Government should have such an influence in the conduct of a bank as to control its operations, but he believed it to be correct that Government

should have a few directors, who would operate at least as a check, and through the medium of whom, some correct information might be got, when necessary, of the secret operations of a secret tribunal.

His next objection, on the ground of policy, was, to foreigners holding stock at all in a bank which is used for national purposes, and which particularly is contemplated to have the safe keeping of the revenues of the country. According to this charter and the proposed bill, there was nothing to prevent foreigners from holding the whole of the stock; and, indeed, it was most certain (Mr. L. said) that foreigners would very soon become the sole stockholders. In March, 1809, they had nearly three-fourths. Since that time the United States' bank stock in London had been several per cent. above the American market price for the article. It was, therefore, a profitable remittance, which he did not doubt had taken place at the time bills were high, and our produce subject to seizure in every European sea. The bill proposed the creation of twenty-five thousand shares, nearly equal to \$10,000,000, which could only be sold to a great profit in Europe, and there he supposed it would be sent for a market. Foreigners will then possess in our country a capital of nearly 20,000,000 of dollars, affording a circulation to three times the amount, if they choose, which must influence every part of society; nor would the United States be at all exempt from the injurious effects of this influence, from a false reliance on the discretion of her citizens. Those citizen directors would be elected by foreigners. King George the 3d or the Emperor Bonaparte, may send their men, the ostensible owners of the stock, who may easily find, among the citizens of the republic, the friends and advocates of crowned heads. The former, it is said, already owns a considerable portion of this bank, and the latter, should he ever design a vital injury to this country, could in no way so successfully effect it, as by taking the management of our money matters. To buy this engine would cost him but the sum of twenty or thirty millions of dollars—nothing to the man who has in his hands the resources of the continent of Europe. If gentlemen's fears, so often expressed on this floor, have not all been mere affectation, and intended to mislead us into dangerous alliances with England, let them reflect on this subject.

Besides the political point of ruin, there was yet another in which the impolicy of permitting foreigners to control such an engine among us was most glaring. Having the efficient power, and it being not improbable that foreigners might of necessity be compelled to exercise it, when all the stock shall have gone into foreign hands, they would easily manage to choose such a direction as would give the accommodations from the bank in such a way, as to favor and prevent any particular course of trade, most beneficial to themselves, and injurious to the United States; and this, independently of the political favoritism which it is said has already been pretty generally exercised. In order to make himself better understood, Mr. L. said he would suppose a case, and put it in such form as would not be repugnant to the feelings of any one in the House. Suppose Bonaparte was to make the French a great commercial nation; that they were to form connexions with very many of our American merchants in our own country; that the profits on their trade were to become identified, and their course of trade the same. That other great French merchants, who had not partners among us, should have their agents, not only to do their mercantile business, but also a sort of spies on our merchants, as well as our Government. Could any man doubt what would be the consequence of giving these foreign nations and foreign agents the encouragement of a specie fund of twenty millions? That it would have the direct effect of engrossing among them the principal means of carrying on our trade, and enabling them to cramp and destroy the American merchant, if such a character, under such circumstances, should be found among us.

In another and still more alarming point of view, the renewal of the charter, particularly with an increased capital, was objectionable. It repeated the indecency committed on the States, of authorizing twenty-five persons, under foreign influence, to send into them any portion of capital, under managers of



their own delegation, without consulting the State authorities. This was bad enough, when the stock was held by the United States, and citizens of it, and when the capital was only ten millions; but, increase it to twenty or thirty millions, as may be contemplated, it will not be borne by the States. They ought, and will refuse admittance to these foreign agents. Let it be remembered, that, when the branches were admitted under the present charter, it was not only under the recommending circumstances before mentioned, but it was at a time when the States had no banks of their own. They have all now institutions of this kind, and they will not suffer an intrusion so unreasonable, unless they participate in the advantages, and are made safe by some share in the control. Virginia, in 1795, permitted the introduction of a branch; she has since banks of her own, some of which have smarted under the lash of this bank. Increase the power of this foreign engine an hundred per cent., and Virginia would not consent to entertain it—he hoped she would not. Mr. L. declared that he did not believe that the stockholders in the United States had any right to make a contract for a renewal; a general meeting could only exercise powers within the grant of the charter. It required all, or at least a majority, to make a new contract.

Mr. L. next adverted to the particular section he had moved to strike out of the bill. He remarked on the first provision, which proposed a sale of this privilege to the United States' Bank Company for twenty years, for the price of \$1,250,000; that, although the establishment of a national bank, on proper principles, was presumed to be necessary to the proper management of the finances, to grant an exclusive privilege of such an institution, was unconstitutional; that the constitution had only authorized this kind of high prerogative grant to the authors of useful inventions, thereby intending to foster genius, and not rivet on the community the powers of a political or corporate body. No one would pretend that a bank was a new invention. The Bank of North America was older than the United States' Bank. For the purposes of finance, it was not necessary the right should be exclusive, but the contrary; and very great safety, as well as utility, might be found in competition. It was possible it might have been deemed necessary, on the first establishment of the bank, when its success might have been supposed doubtful. It could not now be advocated for that reason, or any other reconcilable with the principles of justice or common sense.

But, Mr. L. said, he could not account for the monstrous proposition contained in this provision. The bank company were to be authorized to sell 25,000 shares, equal to \$10,000,000 more of capital for their own emolument. This would probably be worth to them, twice or thrice as much as they were to give for the renewal of the charter. They would, he presumed, be sold also to foreigners, and thus there would be introduced an additional foreign bank capital, which would overwhelm all the little American institutions of the kind. Mr. L. said he was afraid he could not speak with temper on this subject; and asked if gentlemen thought it expedient to make this sale of their interests to foreigners. He could not deign to look at the paltry and inadequate consideration; but he believed it would be better for the United States, this moment, to be compelled to engage in a seven years' foreign war, than to consent to be subjugated in the manner this monstrous proposition would effect.

By the next provision they were not to be compelled to loan to the United States more than \$5,000,000, and a rate of interest seemed to be fixed for that at six per cent.: for, if the bank were unwilling to lend a cent, (and foreigners are not likely to aid our Government, particularly in times of difficulty) they need not do it, unless we give them six per cent, and then not exceeding five millions, when it is known, to any man who is capable of a moment's reflection, that a bank can always loan to Government for half the rate it can loan to an individual. At all events, a bank can loan to Government the amount of its capital, by partial calls, as the section provided, at a low rate of interest, as they have the greatest facility in their power of securing extra funds, but most particularly a bank whose paper is receivable in all payments to Government.

Mr. L. said he had, but the moment the subject was called up, had an opportunity of glancing at the bill, as he had been necessarily and involuntarily absent for several days, and had rode a considerable distance that morning to the House. He hoped he might have misapprehended the mischiefs of the proviso. He proceeded to the next paragraph, and said he found some difficulty in understanding it, from reading it in his place. It contemplated a contract with this institution, to have the deposits of our revenues, by agreeing to an interest of three per cent. when they exceeded a certain sum, and, if he understood the bill, there must be a sum of three millions in the bank for fourteen months before the United States would be entitled to draw any interest; and, after they notify their intention to draw interest, they must permit the whole of this sum to remain at least twelve months longer. These were hard terms, and nothing but an exclusive privilege could compel a submission to them: for the State banks would be glad to have our deposits on better terms, could we be left at liberty to offer them. It is said (said Mr. L.) that they should be ensured the use of our money for at least two years and two months; should get at least eight, he believed eleven, per cent. for it, and only give three! But, on more important grounds of consideration, can we submit that this institution shall, whether we will it or not, keep possession of our revenues for at least twelve months? Suppose, in times of peace, our revenues should accumulate to \$50,000,000 of deposits; Great Britain or France takes occasion suddenly to declare war against us; their subjects, then, have this sum at their command, for twelve months, while we may sue for five millions, on a loan of six per cent. and they have fifty millions of our money at three per cent. and, before the twelve months expire, may pay us with the cannon it has bought for them.

But the United States are, also, if a future law can be obtained in this House for the purpose, to have a right to subscribe for blank shares! How complete is the delusion here intended by the agents of this bank. They go first into market with their ten millions of stock; if a law afterwards can be got (and we know how difficult it is to get a law passed through both Houses on any subject) the United States may then go into market with their stock, provided they do not sell below a certain price, which, at least, may be presumed twenty-five per cent. The bank company are also in market, and they can make the \$1,250,000 they give for the extension of their charter, if they sell their \$10,000,000 at twelve and a half per cent.; if they sell at twenty-five per cent. they get \$2,500,000, and gain, *in numero*, by the bill before us, the clear sum of \$1,250,000, instead of paying that sum for it.

Mr. L. said nothing could be more partial than the provision with respect to the District of Columbia; reciprocity in contracts was a maxim of justice not to be dispensed with; but, this United States' Bank, as it is falsely called, might introduce its branches into the District, and establish such a capital here as to destroy the banks already here, and carry its foreign influence into the very heart of our country. Can it be the design of gentlemen to destroy the growing prosperity of this place? Mr. L. called on the western representation, and the Potomac interests, to oppose the bill. He enlarged on the propriety of fostering the interests of the District, as a great means of preserving the Union, and promoting the convenience of the Government.

Mr. L. further remarked, that the observations he had made were under the pressure of extreme fatigue, and hoped the committee would pardon him for detaining them, as he had done it only from a sense of duty to his country's interests; that, on another day, he should be better able, he hoped, to face the threatening danger: for, he was told—but he could not believe it—that a majority of the House had thought favorably of the bill. He declared it to be impossible! and said that, of all the unwise acts of the most unwise administrations of this country, none had ever equalled, in madness and folly, the present project.

Mr. TAYLOR said it almost always happened, when gentlemen rose and prefaced their remarks with a declaration that it was the first time they

had read the bill under discussion, that they made mistakes; and the allusion just now, of the gentleman from Virginia, to his (Mr. T's) listlessness to his arguments, proceeded from the gentleman's having argued for half an hour on a blank in the bill. Does the gentleman suppose, (said Mr. TAYLOR) that he is now addressing a county court, and that the advantages of special pleading are to be allowed to him? All the debate which can take place cannot change the vote of any members of this House. They have not been absent, like him, from the House; nor, like him, for the first time, seen the bill to-day.

Sir, I am no stockholder. I neither hold a share in the Bank of the United States nor any bank in the United States. I am of that class of the community, by some called clod-hoppers. For their interests, I stand up. I wish that the charter may be extended, and am desirous, in that way, to paralyze the speculation, now standing, like the pike, ready to snap at the bait. I am an advocate for the interests of the honest yeomanry of this country. It is due to them, and to this House, that I should explain the motives on which I act; the grounds on which I proceed in relation to one topic which the gentleman forgot, but which he might find a fair excuse for, in his own bill—I mean the constitutionality of the proposition for erecting or continuing a bank at all.

The constitution of the United States has given to the Legislature of the United States certain powers, amongst which is the power to lay and collect taxes, duties, imposts, and excises, and the power to borrow money on the credit of the United States; and the concluding clause of power, applicable to all the powers granted, gives power to make all laws necessary and proper for carrying into execution the foregoing powers. As the gentleman himself admitted, and as we have been told by the Secretary of the Treasury, the highest authority in the nation, on financial affairs, that a banking institution is absolutely necessary for collecting and transferring the revenue of the United States, I am saved the trouble of establishing the constitutionality of the Bank of the United States. He admits that one bank is necessary, and, because one is, two might be established. I take the other end of the argument, that a general bank is necessary for carrying on the fiscal concerns of the Government, and that Government is bound to incorporate an institution of that sort, under the words "necessary and proper." If one bank of the United States is, for that purpose, necessary and proper, and sufficient, all the power to be derived from that article of the constitution is exhausted, and we cannot exercise it any further. Having obtained such an institution as is necessary for the collection of the revenue, you cannot, by any power in the constitution, multiply institutions for the same purpose, as you will have one coming up to the definition of necessary and proper. Therefore, when Congress shall have granted a charter to any one bank, I believe it would be incompetent, in the Legislature, to grant a charter to any other bank in the United States, under the excuse of its being necessary and proper for the collection of the revenue of the United States; because, they will have exercised their power to the full extent. When they transcend it, I will join gentlemen, and say we are treading on unconstitutional ground. It is from the necessity of the case that the monopoly arises.

The impolicy of employing foreign capital has been very much inveighed against. Does the gentleman recollect the case of a majority of planters in the Southern States; that they, from year to year, are in the constant habit of borrowing foreign capital? They open accounts with the merchants on the first of January, and, if they pay punctually, they pay them at the end of the year. The merchant, if he acts wisely, adds to his profit the interest of the sum he owes over the water, for his goods, and the planters pay this "foreign tribute." Has the country grown the poorer for it? Look back, sir, to the first settlement of the country, and the value of every acre of land which has been opened and cultivated by the aid of this very foreign capital. It is a new idea to me, that we should thus start at the bugbear of foreign capital. I thought the country was more flourishing, in proportion as you hold forth to foreigners an inducement to employ their capital here. If we pay five per cent. for a capital

on which we gain ten, fifteen, or twenty per cent., it is a gain to the country. The argument of the gentleman is fallacious. Practice, which is a better guide than any theoretical speculations, will show, that the wealth of the country has been increased from this foreign capital; from this bugbear, which the gentleman is so much alarmed at!

But, says the gentleman, there will be a foreign influence. George the Third may come over to reside here, I suppose: for, unless he were here, he could not vote. Sir, if the sky were to fall, we should catch larks; and that is not a more extreme case than the gentleman's hypothesis. [Mr. LOVE said he had supposed that the King of Great Britain would send his agents to reside here, who, being ostensible owners of the stock, might have the whole direction of the bank.] Then, it seems, said Mr. T., that we are relieved, at least from one bugbear. All Europe would be much obliged to us, too, I fancy, if Bonaparte, either by himself or proxies, were to come here to speculate in bank stock, instead of busying himself about the affairs of Europe. All Europe would be glad to see him employed as a stockjobber in the streets of Boston or elsewhere. How are these monarchs, by their agents, to rule the bank, and work these wonders by it, when, by the original charter of the institution it is required, that stockholders who are citizens of the United States, shall alone be eligible as bank directors? Suppose, however, that foreign stockholders had all this influence, and exerted it to gain the direction of the bank; if they continued the bank, pursuant to the ordinary rules, which every shop-keeper knows it ought to pursue—if the bank should pursue its own interest, it would, at the same time, pursue ours. The moment it was attempted to be made a political engine, that moment, the jealousy which the gentleman now feels—the jealousy which a free People feels—would, at once, withdraw custom from it.

It would sink! It is only by pursuing its own interest that this bank can flourish; I wish it in such hands that it will pursue its own interest; I can no more suppose that it will be made use of by foreign influence, to our injury, than that the credit given, of a year, and sometimes longer, to our planters, for stuffs, hoes, and working utensils, &c., operates to the injury of the country. Neither would I give to the Government of the United States any control over this institution. I would not put into the hands of one party or another, as it became rotten by its own sins, the power of wielding such a moneyed engine as this. The jealousy of a freeman, which would, in the gentleman from Virginia, be allayed by such a course, would make me abhor giving the Government the control over it. I then should stand up, a stickler for State rights, and against measures tending to bring about a consolidation of the Government of the United States. For that reason, as a republican, I am opposed to vesting the Government with any indirect surreptitious power of controlling the feelings of the People of the United States, for party purposes. I do not know but what I may wish to see the present majority, if they degenerate, as they may, entirely changed. I do not say such will be the case, but it *might*. If it were, I wish not to have this engine operating against me.

With respect to State rights, I believe it is more easily to be demonstrated, but of which I shall not attempt the demonstration, that the States are constitutionally prohibited from erecting banks in their own States, than this Government from erecting the bank we are now discussing. I fancy these bank bills are but bills of credit, after all, which the constitution expressly prohibits the State Governments from issuing; but as the States have, without even saying by your leave, sir, exerted this power, and I am contented that they should have it, I would let the usage or custom establish the law on the subject. In the same manner, I am willing that the Government of the United States, from the same usage, the same custom, the same acquiescence, in this bank of the United States, should have the advantage of the same sort of usage. I recollect well to have heard, in the first administration of the illustrious Washington, that, under the treaty-making clause, the President construing the word "advice" to mean something more than mere consent, did actually go into the Senate for the purpose of making a treaty with Mr.

McGillivray and the Indians; and finding the thing so utterly impracticable, had to retire and do it by his deputy; and, from the inconvenience of the thing, the word advice is practically erased from the constitution. I do not find, even under the republican administration of Jefferson, that it was attempted to reduce the clause to practice. When the Senate give their consent now, they give their advice also; but their advice is never called before the treaty is finished. Sir, I could turn to cases, too, in which the republican administration have actually covenanted and agreed with this company for loans—with this company, which, if the doctrine now urged be correct, received a stolen charter, and with whom it would, in such case, be as disgraceful to trade, as for a man to trade with a notorious receiver of stolen goods. Precedent is strong on this point. The State which the gentleman, (Mr. Love) represents, has given strong proofs that usage has weight with them. What have they done which evinced it? In the year 1795, when the interest on debts, due to the State of Virginia, amounted to but two per cent., a special law was passed, by the State Legislature, authorizing this institution to receive six per cent., when others received but five. If that was not an acquiescence in it, I know not what is. The State which I have the honor to represent, (South Carolina) have not, to be sure, traded with the institution; but every year, for the last six or seven, in the annual tax bill, the collectors have been directed to receive the tax in silver or gold, or in paper of the branch bank at Charleston, or their own banks. If this be not trading with them, it is an acquiescence in the value of the bill issued by that institution, and is, so far, a manifestation of the public sentiment. I dare say, if I had the statute laws of other States in the Union, the same sort of acquiescence might be produced on record. It is the case in the State of New York.

On the subject of loans, sir, it was the policy of that very republican administration, which that gentleman applauded—it will be the policy, I hope, of this administration—not to obtain money on extensive loans. The idea of a public debt, being a public blessing, seems to have been exploded, and temporary loans are to be obtained only from moneyed institutions. Individuals loaning for a short time, and who are obliged to go into market to reinvest their stock, ask a greater premium for their money. Practice has proved that banks can do otherwise.

The argument of the gentleman, that Government will be obliged to give six per cent. for money, would tax him with a want of candor, if he had not said that he had but just read the bill. The bank will have no advantage over other individuals, in this respect, unless they make a loan for a shorter time, and on lower terms. The bill fixes the *maximum*, but not the *minimum*. It does not prevent the United States from borrowing money at five per cent., or three per cent., or at the lowest rate at which money could be obtained, across the Atlantic, from a Dutch broker. The maximum was inserted to prevent foreigners from screwing the Government, and obtaining an extravagant interest. We can only look to the bank for temporary loans. If the Government should ever be so sorely pressed as to require larger loans than five millions, it would be policy to make extended terms, to reduce the interest. What will be the consequence of putting down this, and refusing to establish any other similar institution? When we want to borrow, we must apply to the States, for acts of their Legislatures, to authorize their banks to lend money, and be thrown back into the state of the Congress under the old confederation, when they called, and called again, but could not obtain a compliance with their requisitions. Loans for temporary accommodation, only, ought to be asked for.

The language and feelings of the State Legislatures are brought into view, and an attempt is made to frighten this House with this sort of thunder clouds. They pass by like the idle wind: they have no effect on me. I will tell you where you would meet with the scowl of the State Legislatures: for they are not composed of moneyed capitalists, but of the honest yeomanry of the country. It would be to issue *exchequer bills*, to send afloat another Yazoo bubble; to blow, with a mighty wind, the shocking flame of depravity which has al-

ready caught in some parts of our country—I mean the spirit of speculation—which will diffuse itself from one end of the continent to the other, in these exchequer bills, or these bank bills, to pass after we put to death the present bank. This phoenix, which the gentleman is to raise from the ashes of the defunct institution, is to go forth—*cui bono?* That so much only shall be given for them, by the moneyed capitalist, as shall enable him to speculate on the unwary. The six millions of profit will not accrue to the United States, but the cormorants will gorge with it; the speculators, from one end of the continent to the other, will reap the benefit. On the contrary, sir, the money to be received under this bill, would go into the hands of the honest yeomanry of the country: for, when it is in the treasury, it is so much deducted from what they would otherwise have had to pay. When exchequer bills are circulated, where, at last, do they go? After the cormorants and rooks have made the most of them, they travel across the Atlantic, and the People of the United States are not benefitted, but injured by them. The end of both schemes is, according to the gentleman's own showing, that the stock and interest will go into the pockets of foreigners. Where, then, is the objection to the present plan, which would not equally apply to his own? I cannot see it.

Not only, sir, will the Government of the United States, according to the usage of commercial nations, make this company, fairly and honestly, pay the value of their charter, with the conditions annexed; but there is a benefit given to the United States, of drawing interest upon deposits, to a certain amount, which they had not under the old charter. There is also an advantage given to the United States, of subscribing nine millions of dollars, not more than once in any one year; and from the manner in which it is conducted, and according to the report of the Secretary of the Treasury, which must be correct, or he is wanting in his duty, which no man in the House suspects—from each of those millions you subscribe, you will receive, perhaps, as high a profit as upon those bank shares which were sold to Sir Francis Baring and Company, at forty-five per cent. advance; say, however, only twenty-five per cent. which will make the profit on each million, twenty-five thousand dollars. But this is too low a calculation. I believe shares will rise much higher, not from their real value—but I will state candidly, that I believe they will be sold to foreigners, and that we shall get fifty per cent. on each share, and for each million, 500,000 dollars advance; which will be a total profit to the United States of 4,500,000 dollars, which, with 1,250,000 dollars, to be paid down, will be 5,750,000 dollars; equal to the promised *bonus*, from the gentleman's exchequer bills, without the bubble they would raise. If the plan which I propose be adopted, there will be no uproar and speculation throughout the continent; the mercantile gentlemen will manage it among themselves, and we clodhoppers shall not suffer from it. On the contrary, we shall feel the benefit of it, in having saved us a contribution of six millions of dollars to the public treasury. It will put down the spirit of speculation, and, for that paramount reason, if there were no other, I would adopt it in preference to any other system.

I will state, and it is fair that I should do so, that the committee have had a conference with the agents of the bank, and with the Secretary of the Treasury. You have got, said the latter, the utmost extent of the bonus you ought to expect; and, at the same time, I believe, sir, I may say, that there is the utmost probability that, if this bill passes, with the provision contained in it, or with such reasonable modification as may be made, it will be accepted. The establishment or renewal of the bank will save you the necessity of borrowing the sum necessary to supply the present deficit in the treasury, on disadvantageous terms, because you will be able to borrow it, to be repaid in as short a time as you please to ask. If we wish not to create a national debt, it is all important that we should have it in our power to borrow money for short periods, and on the lowest terms: both of which advantages will be afforded by this institution. Allowing that other banks had sufficient capital to answer the same purpose, they could not do it without applying to the States



for authority. In some of the charters, I have seen an express provision against it.

Sir, I do not expect the present cloudy night is to last long. I look for a bright morning, when commercial nations shall cease to worry each other: when commerce shall resume her wonted activity; when the treasury shall again boast its millions. When that time comes, how degrading will it be to the Government, which shall not have anticipated such an event, and shall have borrowed money at high interest, for a term of eight, ten, or twenty years, when her coffers shall be full, and she shall not be able to pay the public debts. It is all important that the Government should have the power of making short loans; and it can only be had by passing a bill to continue this institution in operation. All this talk about the immense quantity of bullion in the United States, is, it appears to me, erroneous; I believe it exists only in the gentleman's head. With all my respect for the embargo, I will observe, that it was calculated, as we could not send produce by land, and our merchants owed money over the water, to drain the country of specie. It did so; and the stories we heard, of barrels of guineas going over the lines to Canada, are proofs of it. Will gentlemen recollect that, in Great Britain, gold sells twelve and a half per cent. above par? That, alone, is an inducement to carry it there. Money will go to the place where it can be most conveniently used. I consider it a good domestic guest, if it could be kept here; I would not drive it out of the country. In the days of our forefathers it has done so much good, that, out of gratitude for former favors, I would not be for driving it out of the country. I would not, by a refusal to renew the charter, weigh anchor to near seven millions, or, according to the gentleman's suspicions, nearer ten millions of dollars. We want it here; and the anticipation of war is the greatest argument in favor of keeping it here. It is all idle, sir, to talk of the deleterious effects of borrowing money from foreign countries, when we recollect that every planter in the country where I live, has grown rich by foreign capital; has grown rich on land, which, without foreign capital, he could not have cultivated; and which, instead of five, has, by that means, become worth fifty dollars an acre. This foreign capital is the greatest stimulant the country has ever experienced. I believe the utility of employing foreign capital, in the United States, is the strongest ground on which the institution can stand.

I have done, sir. I have but incidentally touched the details of the bill. From being utterly unacquainted with banking affairs, and never having owned a share in any bank, the insinuation of the gentleman from Virginia did not touch me. Sir, the gentleman does not think it could affect me—he did not think so when he uttered it. I never received accommodation of any bank for a cent. For my country I act, not for myself.

Mr. FINDLEY said he wished to offer a few observations, that would apply both to the bill and to the amendment, but was prevented by the motion for the bill laying on the table, made by the gentleman from Virginia, (Mr. LOVE) which precluded a reply to his arguments. [Mr. LOVE withdrew his motion, and Mr. F. proceeded.]

When the Bank of the United States was incorporated, there were but few banks in the United States, and very little experience of the banking system was possessed, and such as had been acquired had given an unfavorable impression. Towards the close of the war, in a time of great pecuniary distress, Congress passed an ordinance incorporating the Bank of North America, but, knowing that this ordinance could not give it effect, they recommended the incorporation thereof to the respective State Legislatures. Pennsylvania and Delaware, only, obeyed that recommendation. It was organized in Philadelphia, and though the capital was small, it yielded essential relief to the Government.

The charter was a complete monopoly; it was not limited in duration, and was vested with the exclusive right of banking by the ordinance by which it was incorporated, in the whole United States, as far as that ordinance

was obligatory. When the war was concluded, a new company was formed in Philadelphia for the purpose of banking; but when they applied to the Legislature for a charter of incorporation, the Bank of North America claimed the exclusive right, and after being heard by counsel, the application of the newly formed company was rejected, in consequence of which the next Legislature repealed the charter of the Bank of North America. Many thought it would have been better to have revised than to have repealed this charter, but the People had been more powerfully impressed with some incidental hardships that had resulted from the operations of the banking system, than with its advantages, not yet fully developed. That bank was still kept alive by the charter from the State of Delaware. The impression on the minds of the People of Pennsylvania, at that time, and in several other States, was, that banks were, if not a nuisance, at least dangerous, and of no use to governmental operations. After two years, however, the bank obtained a limited charter.

In about four years after this, the Bank of the United States was incorporated, and the act of incorporation was powerfully opposed on the ground that it was contrary to the constitution of the United States; and it was supported on the opinion that it was necessary for conducting the moneyed transactions of the Government in the best manner. It was admitted that, if it was necessary, it was contained in the powers vested in Congress to levy and collect taxes, duties, imposts, and excises, and pay the debts of the United States, to support armies, and, in general, to provide for the common defence; because, when a special power is given, it contains in it all powers necessary to carry it into effect, and because the constitution expressly vests Congress with all powers necessary and proper to carry the given powers into effect. Therefore the question of the constitutionality of the bank solely depends upon the question, whether it is necessary and proper for conducting the moneyed operations of Government. So great a change has taken place on that subject, within twenty years past, that it is supposed that question is now settled. Not only the moneyed transactions of the United States, but, it is believed, of all the State Governments, are carried on through the respective banks, as well as commercial transactions and other moneyed negotiations. Pennsylvania, formerly so much opposed to banks, has, since that period, incorporated many, and for about seventeen years past has connected banks with the Government, and conducts her moneyed transactions by their assistance. This much is offered with respect to the constitutional authority of Congress to incorporate a bank, because it is known that some members and many citizens still doubt of it.

Mr. F. said, that, from the ground on which the gentleman, just sat down, (Mr. LOVE) had placed the question, it was rather indelicate to oppose his arguments. He had stated it to be a question between those who were friends of the country and those who were not so. However, as he had also said, before he sat down, that he did not himself understand it, and also that he believed that many other members did not understand it; to the truth of this, Mr. F. said, he did not object, but, however little he might understand the subject of banking, he presumed that he knew so much of it as to convince the gentleman that he was not supported in all he had asserted, and that some of his arguments were not fairly deduced.

The honorable gentleman, both on a former day and the present, has charged the directors of the Bank of the United States with having acted unfairly, nay, even with fraud; that the records of their transactions are evidently fallacious; that they cannot be understood; that the bank has produced much more than is accounted for by the dividends, &c.; that the Secretary's report is inconsistent, and throws no sufficient light on the subject.

One proof he gives for the truth of this charge is, that the branches at Boston, New York, &c. account for having gained ten or eleven per cent. on the capital of their vaults, and that the mother bank had in her vaults a capital nearly equal to that in all the branches, about \$4,500,000, and yet does not account for more than six per cent. or not so much; and he considers this circumstance as a demonstration that the mother bank, at least, has acted a frau-

dulent part, by concealing her profits; whereas, if the gentleman had understood the subject, he would have taken it at least as a strong presumption that the directors have acted honestly and correctly: for this is just the way it must have been, if it was honestly and wisely conducted. He has considered the bank and its branches as so many distinct banks, having their capital independent of each other. This seems to be the source of his mistake. The capital is one. It is the capital of the Bank of the United States. When a branch is established in any State, the Bank of the United States appoint the directors for the branch, and vests so much capital in it as will probably be thought necessary for the demand, aided by the credit of the great firm. The bank itself is the great deposite or reservoir which contains the capital, and possesses the credit by which the whole is supported. If the negotiations of some branches, whether on the east or south, necessarily extend to discounts, the mother bank must extend her credit, viz: must authorize the branches to draw on the mother bank, as, if a run is made on them unexpectedly, she must do the same. Consequently, she must always have sufficient capital in reserve ready to meet all such exigencies, and must not extend her discounts. If she did otherwise, she would have justly merited such censure. If the honorable gentleman had understood this, he would not have censured the institution for what she would have been justly censurable for not doing.

The buildings and conducting of the bank and its branches requires considerable expense. A branch that produces no profit, but sometimes loss, may be as expensive in keeping it up as those that are productive. The gentleman has produced none but such as are most productive. Others may be kept up at considerable loss. If such unfounded objections as those had been anticipated, they might have been rebutted by facts, with which he was not now prepared. One fact, however, Mr. F. said, he would offer in illustration, taken from a similar institution. The Bank of Pennsylvania, in which that State was largely interested, had established a branch at Pittsburg, which did much business. She received in deposite the money of the United States, received for public land, and money of the merchants and dealers of the States on the Ohio, and, in return, gives drafts on the mother bank, on such terms as are agreed on; (to the United States she makes no charge.) She accepts of the drafts of the treasury from this city, and discounts notes to a large amount, and yet has never received any capital sum from the mother bank, but draws upon her credit. This answers every purpose, in the situation of that country; but the mother bank must always reserve sufficient surplus capital to answer the demand. These drafts are more valuable in that country than specie.

In order to give credit to the gentleman's assumed charges of fraud, against the directors of the Bank of the United States, we must first believe other very extraordinary things. We must believe not only that all the directors of the bank, elected by the stockholders on the account of their known talents and integrity, six of whom have been changed annually for near twenty years, to have been dishonest, and chargeable with a breach of sacred trust, but that all the directors of the branch banks have been so also, as well as all the cashiers and tellers, who are changeable at pleasure, and have frequently been changed, have united in the fraud, and while they robbed their employers, were so honest to each other that, even after they have been removed from their trust, or turned out of employ, they have never to this day made the discovery. Nay, we must believe what is still more extraordinary: we must believe that the stockholders, frequently also changing, were fools. Each of them had a right to inquire into the affairs of the bank, and the conduct of the directors, and it is to be presumed they have done it, and were satisfied. The Secretary of the Treasury has, for the time being, had authority by law to inspect the directors of the bank, and did do it, and obtained weekly returns of its situation. These, though of different political parties, were all men of character and talents, whose moral character has not been impeached. The present Secretary of the Treasury is supposed to be honest, and his talents on this subject are admitted by all. Indeed, the gentleman from Virginia has

not directly questioned his integrity, but has charged him, at least, with incompetency. It is certain that he, and all the former Secretaries, must have been either incompetent, or dishonest, or both, if the honorable gentleman's assertions are correct.

Mr. F. assured the House that he was not, nor ever had been, a stockholder of that bank, nor received any accommodations from it, and believed he never would; and, judging from his situation and time of life, he thought he was disinterested, and could have no view but the public good, as far as he understood it. He had been acquainted with many of the directors of that bank, from its commencement, and knew their moral characters to have been unimpeachable, but, by the law of its corporation, all the directors had been changed; one had been President of the Bank of North America since its commencement (which was the first bank in the United States) until he was elected director, and afterwards president, of the Bank of the United States, and continued to preside over that institution until he declined the honor and the labor, not long since. If the gentleman's charges against the directors of that bank are well founded, this venerable character, (Thomas Willing) never heretofore charged with dishonesty, must have been dishonest in a higher degree than all the rest, because he had the superintendence of the Bank of the United States and all its branches for the longest period.

If we are to discredit these records, and give credit to these charges of intentional fraud, so long continued, and so successfully carried on, we must give up all confidence in moral integrity and artificial checks. None can have a greater interest in seeking for moral integrity and talents, than the stockholders have. It is their property that is at risk; none can have greater checks on their conduct. Six directors, being stockholders, and going out every year, are very capable of understanding the subject and making a scrutiny, which every stockholder has a right to do. If they conceal the profits of the bank, they do it at their own loss—a circumstance very hard to believe of moneyed institutions, whose sole object is gain; for it must be admitted that the price of stock is regulated by its productiveness in dividends. In short, if the gentleman's charges against the bank directors &c. are well founded, we can have no confidence in our revenue officers, nor in any department to whom the receiving or paying money is entrusted.

The honorable gentleman is alarmed with the dangers of foreign capital in the vaults of the bank, and amount of the dividends annually drawn to Europe; he concluded with the impressive apprehension that the day was not far distant when France and the United States would be in friendship; that, in that case, Napoleon, by his agents, might purchase half the bank stock, and, through that medium, govern the United States.

Mr. F. said that the use of foreign capital had, heretofore, been of great advantage to the United States; that, from the use and improvement of this, our own commercial capital had been created, and our country improved. The gentleman had introduced the opinion of Mr. Baring, and given, he believed, a just statement of his wealth and credibility. That same Mr. Baring had, if he recollected well, stated that the merchants of the United States were always indebted to the British merchants and manufacturers upwards of £2,000,000 sterling, for which they had a credit of eighteen months, and on which, they sometimes acquired double the amount in trade, before the capital was paid. Why did not gentlemen consider this foreign capital as dangerous to the United States, which, if the maxim is true, that the borrower is servant to the lender, it certainly is? For this capital, our own citizens are under obligations to foreigners: for the stock subscribed for, by foreigners, in the bank, they are under obligations to us. How has it happened, that this, much more extensive amount, and much more influential use of foreign capital, has wholly escaped the honorable gentleman's observations? For his own part, Mr. F. said, he believed that foreign capital had been of use to the improvement of this country, and much more safely in the form of bank stock than otherwise. In the present state of the world, however, circumstances had, in a few years, greatly changed. He would not be alarmed to see Napoleon being

the purchaser of the half, or even of the whole of the stock of the Bank of the United States, as he could have no vote in the direction of it. This would be the best security we could possibly have for reimbursement of the spoiliations committed by his orders. Foreigners having no vote in the choice of directors, the stock is wholly in our power. They can, even now, purchase up all the stock of any State bank, if they please. It is for sale in the market. Sequestration of enemy's property is a just retaliation for depredations on the ocean, but ought to be the last resort. Commercial debts are hard to discover; commercial honor conceals them; but bank stock cannot be concealed: therefore, the sequestration of bank stock is the best security we could have in our power to operate against our greatest enemy, even if that should be Bonaparte.

There is also a mistake about the value of the deposits in the bank; their value arises more from their certainty than their amount. No bank will venture to discount on deposits that may be withdrawn the next day. The bank directors know the course of business in which their customers are engaged; they know when the deposits will be withdrawn, and when others will be made to replace them. On these they can calculate with certainty, and discount accordingly. But, this is not the case, at least in as high a degree, with revenue deposits. The quarterly payments of the public debt may, indeed, be calculated on, with tolerable certainty; but this is not the case with numerous other demands on the public revenue, to meet which, there must be always a sufficient amount ready, on demand. The deposits of the public revenue, no doubt, enable the bank to extend its discounts to a certain degree; but by no means to the degree that is alleged; besides, even permanent deposits are of no further use to a bank than discounts are in demand. At present, banks are so numerous as to be able to grant discounts on all good paper; and a bank with a small capital is more productive, in proportion to that capital, than a large one; but not so safe a depository for the public revenue, nor can it assist the Government in case of a sudden emergency. The honorable gentleman considers the dangers anticipated from the sudden stopping of the United States' Bank as mere bugbears, artfully promoted to influence the question; and says he has heard much of them out of doors. He assures us that the State banks, and abundant private capital in the country, are fully equal to the crisis, so much so, that no such effects will be felt, as is pretended.

Mr. F. said he was of a very different opinion. Even in countries where private capital and bank stock was much more abundant than in this country, where the great difficulty was to find profitable employment for money, the drawing of a much less sum out of circulation than the stock of the Bank of the United States, was the cause of incalculable distress. From England, from which we had learned, and might still learn, much, respecting money negotiations, many examples to this purpose might be produced. He would only mention one. In 1793, while the national bank of England was in full credit, and issued specie on demand, some of the usual channels of trade being stopped by the war, several private banks and commercial houses stopped payment. So much being withdrawn from the usual channels of circulation, spread distress over the whole nation, and its effects were felt in this country and throughout the commercial world. The pressure was too great for even the Bank of England to relieve it. A general bankruptcy was so much apprehended, that the government was under the necessity of interposing, and issued five millions, to be lent on the credit of deposits of merchantable goods, and on moderate interest. Half this sum, however, supplied the vacuum of the circulating medium, and retrieved credit and confidence; the other half never was called for. This instance is selected, because it is believed to be within the knowledge and recollection of every one who even read the newspapers but seventeen year ago.

He said that, if the paper in circulation, on the credit of the ten millions of dollars of bank stock, were suddenly drawn out of circulation, the distress occasioned thereby would be incalculable. All the aid that State or private banks could give, would not prevent it; they would be distressed themselves, and many of them stop. The demand for discounts, in specie, would be

greater than could be supplied; and demands for discounts, even if satisfied with paper, that paper would immediately be returned, and specie demanded, and must be paid, or else the bank, on which the demand is made, must stop business. The whole ten millions must be raised in specie; the paper of other banks, as negotiable paper, will not do, at least for the \$7,500,000 that is to return to Europe. It is presumed this is too great a demand of specie to be suddenly supplied. Besides these evils, it would lower the price of produce from Georgia to New Hampshire, and occasion numerous bankruptcies, and would even affect our public credit, by disabling the merchants to pay their landed debt, and obliging such as possess funded stock to send it to the market, when there would be few to purchase. Mr. F. said he was as confident that such would be the consequences of suddenly withdrawing the stock of the Bank of the United States, as he could be of any causes producing their natural effects. These consequences could only be lessened by the assistance or moderation of the stockholders. He mentioned an instance within his own knowledge, which, though comparatively small, applied to the case. A number of French royalists, who took refuge in Philadelphia, being in expectation of a counter revolution, would not vest their money in bank or public stock, but had it lent on broker interest, at one per cent a month; it had before been two per cent. In the mean time, Congress brought forward the alien law, and the emigrants not knowing who would be sent out of the country, suddenly, under that law, called in their money, which, notwithstanding the assistance of the banks, soon raised the broker's interest from one to four per cent. a month.

For these reasons, and others that might be mentioned, he was in favor of the general principles of the bill, and against the amendment. He had intended not to detain the House long, therefore, he would not discuss the details of the bill. He supposed they might be much improved, in the passage of the bill, by improving the details.

The committee then rose, reported progress, and were *refused* leave to sit again; consequently, no decision was had on Mr. LOVE's motion to strike out the first section.

APRIL 21, 1810.

The *proviso* moved by Mr. TROUP, to be stricken out of the bill, (see page 135 *ante*) was that which required the bank to pay, as a *bonus*, for the renewal of its charter, into the treasury of the United States, \$1,250,000. On this motion the following debate took place, between Mr. TROUP, Mr. TAYLOR, Mr. SMILIE, and Mr. KEY:

After some discussion of the details of the bill,

Mr. TROUP said gentlemen might pass the bill, but for the constitutional question. If they did pass it, he hoped they would not permit themselves to become the retailing hucksters of the community, for the sale of bank charters. In the name of common honesty, said he, I beseech you, what power have you to *sell* a charter? There is a power in the constitution to sell the public property; but there is certainly no power to sell privileges of any kind. I therefore move you to strike out the *bribe*, the *douceur*, and the *bonus*, as gentlemen call it, of 1,250,000 dollars.

Mr. TAYLOR said that, with respect to the principle of the Government's receiving a bonus for this monopoly, (for he said it unquestionably was a monopoly) those who were disposed to continue this charter justified their conclusion from the instrument under which they acted—under that clause which says that Congress shall have power to pass all laws necessary and proper to carry into effect the powers granted. If (said Mr. T.) one banking institution be necessary and proper, and answers the purpose of aiding us in the temporary loans it may be found advantageous to indulge in, and we act under these terms, when we have fulfilled those terms, and created an institution coming up to the definition of necessary and proper, the power then ceases. This being a monopolizing institution, being so although a handmaid



to the Government, it was deemed fair, according to the principles of national justice, that they should pay to the community, and to the People of the United States, an equivalent for that advantage, and this decision of the committee was justified not only by the example of other governments, (for gentlemen have quoted instances in which the bank of England has given a bonus for the extension of its charter) but by the practice of the different States: for it has been uniformly the practice of some States to receive a bonus from these monopolizing institutions. Unquestionably, if benefit conferred requires a return in value, it is right and proper that the Government should exact from that monopolizing institution a bonus. But, sir, this course is not only justified by the practice of the State Governments, but by the practice of the republican administration of Mr. Jefferson. The Government of the United States possessed a number of shares in the Bank of the United States, each representing, as each of these does, four hundred dollars; yet, that administration transferred this paper at an advanced price. If the principle of disposing of these shares be correct, it will equally apply to all the shares in the institution. What right had the Secretary of the Treasury, or person acting for him, to demand forty-five per cent. above the real specie capital for the bank stock? In transferring the stock, did not the Government, on that occasion, receive a bonus? Unquestionably they did. If they receive a bonus, as to some shares, can they not, with equal honesty, receive it as to the whole number of shares?

But, it does not require refinement to justify the course which it is proposed to pursue. The thing is worth something. You are offered something for it. There is no oppression in it. If you could, at once, put in requisition so much money of the stockholders, and put it in the pockets of the United States, it would be oppression. But, here is a fair choice offered to them, whether they will take the charter, giving a bonus for it, or reject it. It is perfectly a matter of choice; and, from the arguments of some gentlemen opposed to the bill, so far from being unwilling to give so much, it would seem that the stockholders ought to give much more for the renewal of the charter. I am desirous to receive a *quid pro quo*. The arguments about foreign stockholders have had so much effect on me, that I would not continue this institution, unless Government received a benefit from it. It is unquestionably true, that the habits, customs, manners, and decisions of nations have established a common course of proceeding on this subject, and we must act according to custom. We now value a dollar at so much, and a piece of iron at so much. The custom of nations has given a sort of common law control over these institutions, and we must act with them as other nations do. I do not consider it a "bribe" that I or the Government are about to receive. On the contrary, I think it a fair bargain. There seems to be no disposition to abate a farthing, but to have the value and nothing less. I do not wish to have more. The provisions of this bill, with some amendments, will give the transaction a character of perfect fairness.

Mr. SMILE said, that, on this question he differed materially from his friend on his left. The word "bribe" was not applicable to the bargain now about to be made. I take it for granted (said he) there is but one ground on which the Legislature is justified in granting a monopoly; and that is, that it is necessary in the operations of the Government. If that be the case, we certainly have a right, in granting that monopoly, to make the best bargain for our own interest which we can, always remembering that we consider the thing necessary and proper in itself. As that is my opinion, I think it a fair transaction, in making the bargain with the company, to obtain as great advantage to the Government as the justice of the case will admit; and this is a thing we have done before. It will be recollected, when the State of Ohio, then a territory, was made a State, we found it very inconvenient to the Government that they should possess the power of taxing our lands. We made a proposition to them, that, if they would not tax our lands for a certain number of years, we would do certain other things. The bargain took place.

We have derived an advantage from it, at the same time that we paid them a price for it. The consequence fairly follows, that we ought to grant this necessary charter on such terms as are just, both with respect to the country and the Government, and derive as much advantage as we can from it.

Mr. TROUP said he forebore, at present, going into the question of constitutionality. He had no idea that he could, with any efficacy whatever, stand up on this floor, with such a weapon as an argument, to contend with a moneyed institution of ten millions. If I am not disposed to go into the general question of constitutionality, said he, I am as certainly indisposed to derive this power from the power to pass all laws necessary and proper. I am the more reluctant to do so, because it is a dangerous power, and ought not to be derived by implication. I say that the power is dangerous: for, if it be conceded that the Congress of the United States have a right to erect a moneyed institution, with a capital of ten or twenty millions, it is competent to erect one with a capital of a hundred millions. It may be competent, therefore, to the United States to raise a corporation more powerful than itself—a moneyed institution which may absorb all the powers of the State. And this principle, as a precedent, will be the more dangerous, in this case, because the temptation is so much greater, in proportion to the amount of capital. I do contend, that, if the constitution did intend to grant the power of chartering moneyed institutions, it did not intend to grant it for the purposes of speculation, and of speculation merely. Sell privileges! Sell for 1,250,000 dollars the exclusive privilege of taking usurious interest on money! I thought, sir, that the power of selling privileges and indulgences was exclusively the right and power of the Pope. I ask gentlemen on what authority they act? On none of morality, certainly—but on what authority? On that of the corrupt government of England. Servile imitators of England, we must have a national bank! And why not an East India company? We could sell a charter tomorrow for millions. We could sell chartered privileges for almost as much as we should choose to ask. If we become the retailers of privileges, we shall go on to sell them till we overdo the business; and when this great national source of revenue, after becoming our chief and only resource, had failed, to what resources for revenue should we be driven? Is it not a very rational inference, that it will be to the sale of all privileges we can derive from the constitution a power to dispose of? If, sir, on any occasion, you would set up in the market privileges for sale to the highest bidder, even do so with respect to privileges of every description. You would no more hesitate to set up for sale privileges of nobility than this privilege; but, (I thank my God!) the constitution has prohibited you. But for that, you should sell them now as we do bank privileges; we should go on to make it our chief resource, till, by the cheapness of the title, we should destroy the value of the trade. If we can draw money into the treasury by bargain and sale of privileges, let it be understood that we will continue to foster it as our chief national resource. Having done with internal and direct taxes of all descriptions, because we considered them oppressive, this sale of privileges will be made the chief national resource.

I will add but one thing. The moment you accept this 1,250,000 dollars, you are bribed in the same manner as the British Parliament have suffered themselves to be corrupted. Like them we not only shamefully partake of the crime, but on our statute book acknowledge the fact.

Mr. KEY said that to him it clearly appeared within the power and limit of the constitution to establish a bank, if necessary, for the collection of the revenue. Whether necessary or not, (said he) is a question on which gentlemen must make up their minds; it would be only an unnecessary waste of time to argue it at length. My ideas on this subject, which I have never before delivered to the House, are plain and simple. I know not how far they may appear so to others; but I will explain them as they occur to me.

We need not look to the constitution always for precise terms to justify an

exercise of power, because it is but an enumeration of first principles. All we have to do is to examine whether, in what we do, we fall within the plain meaning of the constitution. In the enumeration of specific powers given to Congress by this instrument, the first is to lay and collect taxes. Here is a clear, unequivocal grant of power to lay taxes, imposts, and excises. In construing the general power, afterwards given, to make all laws necessary and proper, &c. the sound construction is to refer to the powers previously given; one of which is, as I have stated, to lay and collect taxes. The mode by which they are collected is not designated in the instrument. We have authority given us to make all laws necessary and proper to carry these powers into effect. The power of laying and collecting taxes is specifically given; but the mode is not stated. To collect is not merely the individual receipt, but the substantial collection into the treasury. It does not simply give power to the collector of a port to receive the revenue, but a power to collate the revenue into a general deposite or focus. Is, then, a bank institution necessary, in the judgment of gentlemen, to draw together, with greater facility and less cost, these taxes? If there are those who think so, we can be at no loss to find express authority for it. We have a right to lay the taxes—the manner of levying or collecting them is not prescribed; and when lodged in the hands of the different collectors, how they are to come into the common exchequer is no where described. Is the instrumentality of a bank necessary for the more speedy and less expensive collection of the revenue? If it be, all who think so are, in my opinion, constitutionally justified in voting for a bank.

In all this, I say nothing of the opinion of learned men on the subject. The act for establishing a bank was suspended some time for consideration, before it received the signature of Washington. It has been considered constitutional by all the States: for I believe I may say that the States, without exception, have given legitimacy to the paper issued by the institution. If it was originally unconstitutional, and the paper was not capable of going abroad, every man punished for counterfeiting United States' bank notes, has suffered unjustly; because, in that case, Congress having no right to create the charter of a bank, had no right to punish the forgery of its paper.

I say nothing of the stability of this institution, and of its utility in collecting the revenue. If, after the lapse of twenty years, various acts have been done, proceeding on the constitutionality of the law establishing the bank, I consider the subject one which has been so acted on, that, whatever obstacles are opposed on the ground of constitutionality, should now be done away. But, laying this consideration aside, all those who believe that a bank is a speedy, safe, and economical mode of collecting money into the treasury, must find authority for it in the constitution. To have given the power to collect taxes, and not the best means of getting them into the treasury in the most correct manner, would, indeed, have been an extraordinary feature in the constitution; it would have been giving the end without the means to attain it. It would be giving a forced construction to the constitution to say that it had done so.

I know that gentlemen think the collection of the revenue would be as well accomplished through the State banks. Those who think so justify their opinion only on reasons which, to my mind, show the constitutionality of the United States' Bank, and prove that we have authority to use that instrument, if we think proper, and deem it the most eligible. We are the grantors of power. By whom is it executed? Through the instrumentality of individuals and their funds. In using the instrument, we do create a benefit to the individuals, who, together with their friends, must be employed. For this benefit I can see nothing improper in receiving adequate compensation. And if it be a grant of a benefit, why not grant it to those who will give an equivalent for it?

Sir, the constitution grants to Congress the power to secure to inventors of useful arts the exclusive right to their discoveries. We must not be misled by language or words. We sell privileges every day. Does not our treasury receive benefits from the sale of these patents? And yet, according to the

ideas of the gentleman from Georgia, we thus become the hucksters of privileges. But lest the gentleman should not think that this case applies very strongly, I will call to mind a remarkable case—I know not how the gentleman voted on the law. We have incorporated a number of gentlemen to build a bridge across the Potomac, reserving as a bonus for this privilege, the free passage of all armies, military munitions, &c. of the United States; which was exactly the same thing as receiving so much money. The Government is a body politic; its operations must be carried on by individuals; and when individuals, incorporated for the purpose of receiving revenue, who use their hands and eyes in the business, receive too much emolument, I see nothing improper in requiring from them an equivalent in lieu of it. I hope, therefore, this part of the bill will not be struck out.

Mr. TROUP observed, that the gentleman has said, that the power to incorporate a bank was derived from the power to lay and collect revenue; and that the power ought to be exercised, because banks give a facility to the collection of the revenue. If the power be exercised, it must be necessary and proper. If it be necessary to the collection of the revenue, the revenue cannot be collected without it. The gentleman from Maryland might say a bank institution was useful. He might say it would give facility to the collection of the revenue; but facility and necessity are wholly different; and the constitution says, that a power, to be incidental, must be *necessary* and proper. If facility be a ground of action, we are greatly wide of the true policy. We ought to adopt that measure which shall give the greatest facility. The ingenious gentleman himself could sit down, and in fifteen minutes devise half a dozen modes which would give infinitely more facility than a bank, to the collection of the revenue. He might farm out the revenue; establish farming districts; put a farmer general at the head of them, with a corps of janissaries. The Secretary of the Treasury would have nothing to do but draw on him for a sum of money, and require it, or his head. This, sir, is a plan which would give the greatest possible *facility*. You could command money of the farmer general, or you could require his head. Himself and his janissaries could always send the money; or, if he did not, the People and the janissaries could send his head.

The motion of Mr. TROUP was rejected, by a vote of 35 for striking out, and 75 against it.

## CHAPTER IV.

ON THE VARIOUS PROJECTS FOR A NATIONAL BANK, IN THE YEARS 1814 AND 1815, DURING THE THIRTEENTH CONGRESS.

13TH CONGRESS, }  
2d Session. } HOUSE OF REPRESENTATIVES.

JANUARY 4, 1814.

Mr. LEFFERTS presented a petition, signed by one hundred and fifty inhabitants of the city of New York, praying that an act may be passed to incorporate a National Bank, with a capital of thirty millions of dollars.

Read, and referred to the Committee of Ways and Means.\*

JANUARY 10, 1814.

Mr. EPPES, from the said committee, made the following report; which was referred to a committee of the whole House on the state of the Union:

The Committee of Ways and Means, to whom was referred the memorial of sundry inhabitants of the State of New York, praying for the establishment of a National Bank, report:

That the power to create corporations within the territorial limits of the States, without the consent of the States, is neither one of the powers delegated by the constitution of the United States, or essentially necessary for carrying into effect any delegated power.

FEBRUARY 4, 1814.

Mr. CALHOUN, of S. C. moved that the committee of the Whole be discharged from the further consideration of the report of the Committee of Ways and Means, on the petition from New York for the establishment of a National Bank, and that the same be recommitted to the same committee, with a view of making a further motion on that subject. Agreed to.

Mr. CALHOUN then said that it would be found that the Committee of Ways and Means had decided against that report, on the ground of unconstitutionality of establishing such a bank as that asked for in the petition. Mr. C. wished to instruct the committee to inquire into the expediency of establishing a National Bank, *within the District of Columbia*, the power to do which, it could not be doubted, came within the constitutional powers of Congress. For all practical purposes, he believed, such a bank would be as useful as that which was proposed. To come at his object, Mr. C. proposed the following motion:

*Resolved.* That the Committee of Ways and Means be instructed to inquire into the expediency of establishing a National Bank, to be located in the District of Columbia.

The resolution was agreed to without opposition.

\* The said committee consisted of Messrs. Eppes, of Virginia, Taylor, of N. Y. Roberts, of Pennsylvania, Creighton, of Ohio, Alston, of North Carolina, McKim, of Maryland, and Cox, of N. J.

FEBRUARY 19, 1814.

Mr. TAYLOR, of New York, from the Committee of Ways and Means, reported a bill to incorporate the stockholders of the National Bank. It proposed the establishment of a bank, with a capital of thirty millions of dollars, in the city of Washington, and named a number of persons, some of whom are of that city and Georgetown, to act as Directors until others were appointed.

The bill was twice read and committed.

MARCH 10, 1814.

Mr. FISK, of New York, rose to make a motion, which he said he had in contemplation ever since he examined the provisions of the bill reported by the Committee of Ways and Means for the establishment of a National Bank. Whatever might be his opinion as to the expediency of a bank for national purposes, he did not know that this was the proper moment for erecting such an institution, because, when Congress had just authorized the sale of stock to the amount of twenty-five millions, it would certainly be inexpedient to create a demand for so large an amount of other stock. But, if it was expedient, or whenever it shall be, every one who had read the bill must perceive that a bill containing such provisions would not, could not pass. He, therefore, moved "that the committee of the whole to whom is referred the bill to incorporate the stockholders of the National Bank be discharged from the consideration thereof, and that it be referred to a select committee, with instructions to report a bill to establish a National Bank, with provisions for branches."

Mr. SEYBERT, of Pennsylvania, said he was opposed to this motion. He thought it would be highly improper, if it was referred to a committee at all, to refer this subject to a select committee, when it properly belonged to the standing committee, to which was referred all subjects relating to the Ways and Means, and to the credit of the Government. Mr. S. related the course this subject had taken during this session. In the first instance, it had been introduced into the House by a petition from the citizens of New York, which was referred to the Committee of Ways and Means; that committee had reported that, in their opinion, it was not constitutional to establish branches in the States. It was now proposed again to refer this question to a committee—for what? To inquire into the expediency of establishing a bank, with branches, against which so pointed a report had already been made. What could the gentleman promise himself from this course? Nothing but defeat. The question was one of considerable magnitude, which there was, during this session, no time to investigate. Mr. S. said he had been, and should be, opposed to the bill; and, on a former occasion, several of the States had declared their opposition to such a proposition. To keep the question before the House would do an injury to the nation, in regard to its public stock. There were men here who were highly interested in the fate of this question, and who, during its agitation, would doubtless dissuade their friends from embarking in the loan. He hoped this motion would not prevail, but that the bill now before the House would be taken up at a proper time, and heard on its merits.

Mr. EPPES, of Virginia, stated the course this question had taken in the Committee of Ways and Means. When the question was referred to them, they had decided against the constitutionality of the measure as then proposed; and, as so much argument had heretofore taken place on the subject, they thought it would be better now to place the naked question before the House, to enable them to decide, in the first instance, whether the constitution did vest in Congress the power to establish a National Bank. This report of the Committee of Ways and Means was referred to a committee of the whole; but, by discharging that committee from the further considera-



tion of the report, and referring it back to the Committee of Ways and Means, with particular instructions, the House had waived the constitutional question, and directed an inquiry into the expediency of establishing a bank within the District of Columbia. A majority of the committee believed it would be expedient, though he himself did not think so, and did not agree to the report. If the gentleman was disposed to try the question of establishing branches to the bank, it would be easier to do so by engrafting a proposition to that effect on the present bill. It would be better, if recommitted, however, that the bill should be referred to a select committee, and not to the Committee of Ways and Means, who had already expressed their opinion on the subject.

Mr. FISK said he did not know that the question could be acted on at the present session, but that was one of the points he wished to be inquired into. The question was of so much importance, that he wished it to be examined in all its bearings; and, if it could not be acted on at the present session, that the public opinion on it might be concentrated before the next. The agitation of this question, he presumed, would not create any difficulty in procuring the loan, when it was recollected that every Legislature in the Union almost was principally engaged during its sessions in establishing new banks. He thought the establishment of a great bank would rather have a tendency to check the extravagant issue of paper, and, if he might be allowed the expression, to bring the community to its senses. It had been said that, though the incorporation of a National Bank was unconstitutional, yet it might be established in this District, where Congress possess exclusive jurisdiction. He said he should be alarmed by such a construction, if it were to prevail, that Congress might, within this District, do the most unconstitutional acts. Such a bank was certainly not necessary for the use of the people within this District. To establish such a bank, with this view, would be as preposterous as it would be to build fifty sail of the line, under a pretence of protecting the city by sailing along the canal which runs through it. There was in the District as much natural capacity to employ the one as the other. In regard to the principle of exclusive legislation in the District, Congress had decided it not to exist in the extent now contended for, when they acquiesced in the views of the President in putting his veto to the bill for incorporating a church in the town of Alexandria, because of the unconstitutional connexion of religion with the powers of the Government. A very cursory view of the bill now before the House would show that it was not intended for the use of the good people within the District, because so few of the directors were located within it. Mr. F. adverted to other objectionable features of the bill, by way of proving that, if a National Bank was necessary, this bill was not calculated to answer the object, &c.

Mr. TAYLOR, of New York, made a few observations on the propriety of acting on this subject speedily. Though he had reported this bill, it was not a favorite project; he was in favor of reporting a bill with very different provisions, but a majority had overruled him, and decided that it was not constitutional to establish a bank with branches, &c.

Mr. ALSTON, of North Carolina, observed, that gentlemen might obtain their object without recommitting the bill, by moving a resolution, and obtaining a vote thereon, that it was, or was not, expedient to establish a bank with branches.

The question was taken on Mr. FISK's motion, and decided in the negative. Ayes 36.

And the House adjourned.

[It does not appear that any farther action took place on the bill reported by Mr. TAYLOR. This was the first of the abortive attempts that were made, during the thirteenth Congress, to establish a National Bank.]

APRIL 2, 1814.

Mr. GRUNDY, of Tennessee, submitted the following resolution for consideration:

*Resolved*, That a committee be appointed to inquire into the expediency of establishing a National Bank; and that they have leave to report by bill or otherwise.

Mr. NEWTON, of Virginia, moved that the resolution be postponed indefinitely. He said that, by this motion, he meant not the slightest disrespect to the mover of the resolution; but feeling, as he did, a firm conviction that the constitution had not given to Congress the power to establish such an institution, the correctness of which opinion had been tried and settled by a former Congress, he could not consent to the adoption of the resolution. Besides, said Mr. N., the session is now drawing to a close; the day of adjournment has been fixed by a vote of this House; and the mind of every member is anxiously directed to the moment which is to restore him to his family and home. The time is now too short for the consideration of so important a subject; and for this, as well as the intrinsic objections he had to the object of the resolution, he hoped his motion to postpone it indefinitely would prevail.

Mr. GRUNDY said he trusted the motion to postpone would not succeed. He believed there was time enough left for the consideration of the subject; and if the House would bring itself to discuss it, all constitutional difficulties, he was persuaded, would be removed. The gentleman from Virginia, by his motion to postpone, would bring the subject at once before the House; but it would be much better to refer the inquiry to a committee, let them investigate the question thoroughly, and report the result to the House, and they would then be enabled to act understandingly. Besides, said Mr. G., the gentleman has opposed the resolution, without knowing what kind of a bank is contemplated, or upon what principles, or in what manner, it is to be established. Let the matter be referred to a committee; it will then come regularly before the House, and every member will know how to act.

Mr. GROSVENOR, of New York, said he had always believed it improper for the General Government to legislate in erecting banks, except so far as to accomplish national objects, facilitating the collection of the revenue, &c. As to these objects, however, it was the constitutional duty of the Secretary of the Treasury to devise the ways and means, and if such an institution were necessary for the purposes of Government, it was the duty of that officer to recommend it. He wished the Secretary to say whether such a bank was necessary, and not that the subject should be referred to a committee of this House, and they to inquire privately of the Secretary as to the expediency of the measure. When the proposition came in at the proper constitutional door, and appeared to be necessary for the financial purposes of the Government, he should not object to it. If such a necessity exists, he wished the Government to come forward and declare it, and not shrink from the responsibility of recommending the measure.

Mr. FINDLEY, of Pennsylvania, made a few remarks, not distinctly heard. He was understood to say, the erection of a bank was not so desirable on account of the Government, as for the general convenience of the country.

Mr. OAKLEY, of New York, made a number of forcible remarks against the indefinite postponement. He said he did not believe it was so exclusively the duty of the Executive department to recommend the establishment of a National Bank, even if required by the finances of the Government, as his colleague (Mr. GROSVENOR) seemed to think. He had no doubt that a National Bank was indispensable to the proper management of the fiscal affairs of Government; but, independent of this consideration, he believed it was necessary to the general convenience of the community; and should a plan for such an

institution be brought forward in a shape that he approved, he should certainly give it his support. Supposing, however, that it was the duty of the Secretary of the Treasury to recommend a National Bank, and that he should be unwilling to assume the responsibility, such conduct would doubtless be reprehensible, but would that be a good reason why Congress should decline to establish an institution that would alike benefit the Government and promote the general good? Mr. O. said that, although the proposition did not "come in at the proper door," still it was no reason the House should refuse to act on it. Whether this be a proper mode of establishing a National Bank, is properly to be decided when the question comes before us in a regular form. The question now turns only on our belief as to the expediency of such a bank, and, if expedient, of the fitness of the time, &c. of incorporating such an institution. He was therefore clearly of opinion, on general principles, that the motion for an indefinite postponement ought not to prevail. The question of a national bank, he added, must be connected, from the very nature of the institution, with the finances of the Government. But though he should be as loath as any one to volunteer his aid to the administration, in support of the war, yet he was not to be deterred by the fear of incidentally doing so from doing what he believed to be of itself right and proper. It is our duty, said he, to legislate for a settled state of things. A National Bank is necessary in my judgment, to the permanent interest of the country, and therefore I am and shall be in favor of it, if the details of the bill establishing it shall be such as to meet my approbation.

Mr. WRIGHT, of Maryland, said he had heretofore voted a National Bank unconstitutional; he was then satisfied it was so, and he believed that to be the opinion of a great portion, if not a majority of the People. If so, why take up the time of the House, and consume two or three weeks in discussing a question which may be determined at this moment? He could not consent to spend the precious time of the House to no purpose, and being satisfied that no National Bank could be passed through this House, he should vote for the indefinite postponement of the motion.

Mr. WEBSTER, of New Hampshire, said this was a subject of great importance, and required mature consideration. The hour of adjournment having arrived, he moved that the House do now adjourn. *Negatived*, 69 to 67.

Mr. NEWTON repeated, he had moved the indefinite postponement, assuredly not from any disrespect to the mover of the resolution, but on this ground. The time rapidly approached, at which this House had resolved to adjourn; but nine days remained of the session if the determination of this House, in that respect, received the sanction of the Senate, and after so long a sitting, every member must turn his eyes with pleasure to that moment. The subject of a National Bank was one which had been discussed in the House before, and in private circles, over and often; and he had not the least doubt but every gentleman who heard him had made up his mind on the subject, and that a year's discussion would not change it. He therefore thought it would be best, in the first instance, to ascertain whether a majority was or was not prepared to vote for such a measure.

Mr. GRUNDY then said, that he certainly should never have brought forward this proposition, without having reflected much on it. He knew that it had been agitated in this House, and in the nation, heretofore, and had been much opposed by many of those politicians with whom he usually acted in this House; but he did not believe that each Congress was so bound by the decisions of that which preceded it, that it was a good argument against a measure for members of a former Congress to come in and say, "we have decided it heretofore." As a representative, Mr. G. said he claimed the right to give at least one vote on this subject, as well as the gentleman from Virginia. The spirit of our constitution had wisely ordained the frequency of elections for the very purpose of undoing what had been wrongly done by their predecessors, and of doing that which had been left undone. If the gentleman from Virginia would reflect on this subject as much as others, who had been instrumen-

tal in bringing forward the proposition, he was sure he would not be so confident that he acted correctly in refusing a deliberate consideration to it. I (said Mr. G.) have no secret on this subject: I wish to see a bank established as a national object, let who will be in power: as a general measure I wish to see it adopted. Look at the situation of our country—and I say the gentleman should forget his home, and not leave his country in peril. You have authorized a loan for twenty-five millions, and have provided for the expenditure of so much money. Where is the money? Some well informed men say there will be no difficulty in obtaining it; others, as well informed, say, that the attempt to obtain it may not be successful. I hope that gentlemen of the former description are correct. I know not what the prospect is; but one thing I do know—I would run no hazard on this point; and for one, though I have as much anxiety to be at home as any one, I am willing to sit a few days longer, to see how it will be. The gentleman from Virginia no doubt felt the same anxiety for the public service; and Mr. G. said, if his constitutional scruples were so great that he could not vote for this measure, in case the money should not be conveniently obtained, it might be necessary to resort to some other. For general consideration, Mr. G. said, he had always been in favor of a measure of this sort; and he entertained no constitutional scruples about it. In point of time, he thought the present situation of the country afforded a cogent argument in favor of the measure.

Mr. GASTON, of North Carolina, expressed his entire disapprobation of the indirect introduction of Executive recommendations into the House, as producing legislation without intelligence, and action without responsibility, &c. If, therefore, the vote on this question were to test his approbation of this indirect mode of attaining a measure supposed to be in favor of the Executive, he should certainly be inclined to vote against it. But, when a proposition was made by any member of this House, which recommended itself to his best judgment, on which he felt no constitutional scruples, and which he believed to be at all times expedient, he could not give a direct vote against it, merely because the Executive, if wishing its adoption, had not recommended it as openly as could have been wished. That it is expedient to establish a National Bank, he had no doubt, and he congratulated the House that, at the moment when gentlemen on his side of the House found some of their wishes about to be gratified by the abolition of the restrictive system, the constitutional scruples which had cramped the operations of the Government, were vanishing also; that, at the moment when they were about to liberate commerce, the fetters would also be loosed with which a narrow constitutional exposition had heretofore bound the Government. He should have been much more pleased, he said, if the measure had been directly recommended by the Executive, by an intimation that its adoption would conduce to a successful management of our finances; but merely for the reasons that it had not come before the House in that manner, he could not vote against a proposition, which, on general grounds, met his approbation.

Mr. NEWTON spoke in explanation. He was as ready as the gentleman from Tennessee to yield, not only his time, but his personal service to his country; and, had he but a dollar in the world, would freely lend it to contribute to the support of the Government in a righteous war. But this question could be decided as intelligently in a day as in a month; and, if a majority was opposed to it, it was not advisable to consume time unnecessarily upon it. Under this impression he had made the motion for indefinite postponement, to ascertain the sense of the House on this point.

A motion was now made to adjourn, and carried by three or four votes.

APRIL 4.

The House resumed the consideration of the unfinished business of Saturday last, being Mr. GRUNDY'S motion to appoint a committee to inquire into

the expediency of establishing a National Bank, with leave to report by bill or otherwise.

Mr. NEWTON's motion for indefinite postponement of this subject being still under consideration—

Mr. FARROW, of South Carolina, spoke against the postponement. He was inclined to believe the establishment of a National Bank to be both constitutional and expedient; and should therefore vote against the postponement, without saying how he should vote on the bill; because he did not know in what form it would be reported. The want of time was no argument against the discussion of this subject. None could be of more importance, or more peremptorily requiring members to sacrifice personal convenience to the public interest, &c.

Mr. HAWKINS, of Kentucky, supported the indefinite postponement. He was against the proposition proposed to be postponed, if it was only because the difficulties said to exist in procuring funds for the prosecution of the war, were seized on to produce a change of principle. As to the difficulties which were said to exist, he considered them in a great degree imaginary, and their reiteration as calculated to produce no beneficial consequences to the nation. He did not believe the difficulties in question, if they existed at all, were such as to require this House to sacrifice principle at the shrine of necessity. He should, therefore, vote for the indefinite postponement, however, under other circumstances, he might object to such a course of legislation because present necessity was made the plea for obtaining that decision from the House, which, under other circumstances, could not be obtained.

Mr. ROBERTSON, of Louisiana, opposed the postponement. He had heard no one, in the course of this debate, advocate a sacrifice of principle to the exigency of the times. He did not know but the establishment of a bank could be amply supported on general grounds, distinct from the situation of the Government, or from considerations of finance. He was happy that this was a question trammelled by no party considerations; it was a question which concerned commerce and commercial operations. Representing a distant but highly commercial section of the country, which bid fair to equal, if not outstrip any other part of the United States, in commercial importance, he felt disposed, whenever in his power, to do any act, not contravening the constitution, which would be beneficial to commerce. Those gentlemen who entertained constitutional objections, would do well to vote against postponement, because they could not be expected to yield them. Having himself no such objection, and looking to the expediency of the measure only, he wished for an opportunity of fair consideration to be offered to this subject.

Mr. HAWKINS spoke in explanation. He said he should be always ready to give a candid consideration to any proposition made in this House under ordinary circumstances. But this subject, he said, presented itself in an attitude which did not entitle it to discussion by the House, because predicated on a supposed difficulty which might be found in obtaining the loan already authorized by law. Temporary expedients were not proper for such cases, but measures of a more durable character. Therefore it was that he was in favor of the indefinite postponement. Whenever the question should present itself on principles unconnected with others of moment, and present importance, he should not be found opposed to the investigation of it.

Mr. ROBERTSON added, that he considered this as an abstract proposition, and so might the gentleman from Kentucky if he chose. Some gentlemen supposed it had reference to the immediate convenience of the Government, and some might vote for it, and others against it, in that view; but they who so voted would vote from motives which Mr. R. said had no operation on him. He did consider it as an abstract proposition, whether or not it was expedient at this time to establish a national bank.

Mr. PITKIN, of Connecticut, said he should vote to postpone this proposition, because there was already before the House a bill on the subject of a na-

tional bank; and because he was opposed to taking up, at this late period of the session, a subject which required, in acting on it, the greatest care and deliberation.

Mr. POTTER, of Rhode Island, said he should vote for the postponement, because no bill could be reported, on the subject of a national bank, that he could vote for. The establishment of such a bank would answer no valuable purpose to the community, and, by withdrawing from circulation, for six or nine months, a vast amount of specie, would add to the distresses already experienced in the nation from the want of it, &c.

The question on indefinite postponement was then decided as follows:

Those who voted in the affirmative, are,

Messrs. Alexander, Anderson, Bard, Baylies, of Mass. Bigelow, Boyd, Bradbury, Breckenridge, Brigham, Caperton, Champion, Cilley, Clark, Crawford, Davenport, Desha, Ely, Eppes, Evans, Geddes, Gholson, Goodwin, Hale, Hall,	Messrs. Hanson, Hawes, Hawkins, Howell, Hungerford, Ingersoll, Irving, Johnson, of Va. Johnson, of Ky. Kennedy, Kent, of N. Y. Kershaw, King, of Mass. Law, Lewis, Lovett, Lyle, Macon, McKim, Miller, Moffitt, Moseley, Markell, Nelson,	Messrs. Newton, Pickering, Pitkin, Pleasants, Post, Potter, John Reed, William Reed, Rhea, of Ten. Ringgold, Ruggles, Sharp, Sheffey, Stanford, Stuart, Sturges, Troup, Vose, Webster, Wheaton, Wilcox, Wilson, Mass. Wright—71.
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Those who voted in the negative, are,

Messrs. Alston, Archer, Barnett, Bowen, Bradley, Brown, Butler, Caldwell, Calhoun, Chappell, Comstock, Condict, Conard, Cox, Creighton, Crouch, Culpeper, Cutnbert, Davis of Pa. Denoyelles, Duval, Earle,	Messrs. Farrow, Findley, Fisk, of Vt. Fisk, of N. Y. Forney, Forsyth, Franklin, Gaston, Gourdin, Griffin, Grundy, Harris, Hasbrouck, Humphreys, Ingham, Jackson, of R. I. Jackson, of Va. Kent, of Md. Kerr, Kilbourn, King, of N. C. Lefferts,	Messrs. Lowndes, McLean, Montgomery, Murfree, Oakley, Ormsby, Parker, Pearson, Pickens, Piper, Rea, of Pa. Rich, Ridgely, Robertson, Sevier, Sherwood, Shipherd, Skinner, Smith, of N. Y. Smith, of Pa. Smith, of Va. Strong,
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Messrs. Taggart,	Messrs. Thompson,	Messrs. Whitehill,
Tallmadge,	Udree,	Wilson, of Pa.
Tannehill,	Ward, of Mass.	Winter,
Taylor,	Ward, of N. J.	Yancey—80.
Telfair,	White,	

So the House determined that Mr. GRUNDY'S motion should not be indefinitely postponed.

Mr. HALL, of Georgia, then moved to amend the motion by adding, after the word "bank," the words "*within the District of Columbia.*"

After a few words of objection by Mr. GRUNDY, who wished the motion general, to afford the committee a latitude of discretion as to the details of the institution, and some observations from Mr. WRIGHT, in reply—

Mr. HALL'S motion was negatived, ayes 32.

The question was then put on the adoption of the resolution, and decided as follows: For the motion, 76. Against it, 69.

So the resolution was passed, and a committee of nine members directed to be appointed, to carry it into effect.

Whereupon, Mr. Grundy, Mr. Oakley, Mr. Calhoun, Mr. Gaston, Mr. Jackson, of Va. Mr. Lowndes, Mr. Ward, of Mass. Mr. Ingham, and Mr. Fisk, of N. Y. were appointed the said committee.

APRIL 8, 1814.

On motion of Mr. GRUNDY,

*Ordered*, That the committee appointed to inquire into the expediency of establishing a national bank be discharged from the further consideration of that subject.

NOTE.—No further proceedings on the subject took place during this session of Congress.

13TH CONGRESS, }  
3d Session. } HOUSE OF REPRESENTATIVES.

SEPTEMBER 21, 1814.

A Committee of Ways and Means was appointed, consisting of Mr. Eppes, Mr. Fisk, of N. York, Mr. Archer, Mr. Oakley, Mr. Gaston, Mr. Creighton, and Mr. Ingham.

SEPTEMBER 23, 1814.

Mr. FISK, of N. Y. presented a petition of sundry inhabitants of New York, praying that an act may be passed to incorporate a National Bank.

*Ordered*, That the said petition be referred to the Committee of Ways and Means.

OCTOBER 10, 1814.

The Committee of Ways and Means made a report on the subject of the Finances of the Government, embracing five resolutions, neither of which, however, contained any proposition respecting a National Bank.

The report was referred to a committee of the whole House.

OCTOBER 18, 1814.

Mr. EPPES, from said committee, laid before the House the copy of a letter from the chairman to the Secretary of the Treasury, on the subject of maintaining, unimpaired, the public credit, together with the answer of the Secretary thereto; which were referred to the same committee of the whole House.

*The Committee of Ways and Means to the Secretary of the Treasury.*

WASHINGTON, October 14, 1814.

SIR:

The Committee of Ways and Means have had under consideration the support of public credit, by a system of taxation more extended than the one heretofore adopted. They have determined to suspend proceeding on their report, at present before the House of Representatives, with a view to afford you an opportunity of suggesting any other, or such additional provisions as may be necessary to revive and maintain, unimpaired, the public credit.

JOHN W. EPPES, *Chairman.*

The reply of the Secretary is dated the 17th of October, 1814; it contains the following suggestions in relation to the state of the currency, and a distinct proposition for the establishment of a national bank:

“The condition of the circulating medium of the country presents another copious source of mischief and embarrassment. The recent exportations of specie have considerably diminished the fund of gold and silver coin; and another considerable portion of that fund has been drawn, by the timid and the wary, from the use of the community, into the private coffers of individuals. On the other hand, the multiplication of banks in the several States has so increased the quantity of paper currency, that it would be difficult to calculate its amount, and still more difficult to ascertain its value, with reference to the capital on which it has been issued. But the benefit of even this paper currency, is, in a great measure lost, as the suspension of payments in specie, at most of the banks, has suddenly broken the chain of accommodation that previously extended the credit and the circulation of the notes which were emitted in one State, into every State of the Union. It may, in general, be affirmed, therefore, that there exists, at this time, no adequate circulating medium common to the citizens of the United States. The moneyed transactions of private life are at a stand, and the fiscal operations of the Government labor with extreme inconvenience. It is impossible that such a state of things should be long endured; but, let it be fairly added, that, with legislative aid, it is not necessary that the endurance should be long. Under favorable circumstances, and to a limited extent, an emission of treasury notes would, probably, afford relief; but treasury notes are an expensive and precarious substitute, either for coin or for bank notes, charged as they are with a growing interest, productive of no countervailing profit or emolument, and exposed to every breath of popular prejudice or alarm. The establishment of a national institution, operating upon credit, combined with capital, and regulated by prudence and good faith, is, after all, the only efficient remedy for the disordered condition of our circulating medium. While accomplishing that object, too, there will be found, under the auspices of such an institution, a safe depository for the public treasure, and a constant auxiliary to the public credit. But, whether the issues of a paper currency proceed from the national treasury, or from a national bank, the acceptance of the paper in a course of payments and receipts, must be forever optional with the citizens. The extremity of that day cannot be anticipated, when any honest and enlightened statesman will again venture upon the desperate expedient of a tender law.”

“It is proposed that a national bank shall be incorporated for a term of twenty years, to be established at Philadelphia, with a power to erect offices of discount and deposit elsewhere, upon the following principles:

1. That the capital of the bank shall be fifty millions of dollars, to be divided into 100,000 shares, of 500 dollars each. Three-fifths of the capital, being 60,000 shares, amounting to 30,000,000 of dollars, to be subscribed by corporations, companies, or individuals; and two-fifths of the

capital, being 40,000 shares, amounting to 20,000,000 of dollars, to be subscribed by the United States.

2. That the subscriptions of corporations, companies, and individuals, shall be paid for in the following manner:

One-fifth part, or \$6,000,000, in gold or silver coin.

Four-fifth parts, or \$24,000,000, in gold or silver coin, or in six per cent. stock, issued since the declaration of war, and treasury notes, in the proportion of one-fifth in treasury notes, and three-fifths in six per cent. stock.

3. That the subscriptions of corporations, companies, and individuals, shall be paid at the following periods:

20 dollars on each share, to be paid at the time of subscribing, in gold or silver coin,	\$1,200,000
40 dollars on each share, to be paid in gold or silver coin, one month after the subscription,	2,400,000
40 dollars on each share, in two months after the subscription, in gold or silver coin,	2,400,000
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100 dollars, specie,	\$6,000,000
100 dollars on each share, in gold or silver coin, or in six per cent. stock, or in treasury notes, according to the preceding apportionment, to be paid at the time of subscribing,	6,000,000
150 dollars on each share, to be paid in like manner, in two months after subscribing,	9,000,000
150 dollars on each share, to be paid in like manner, in three months after subscribing,	9,000,000
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500 dollars,	<u>\$30,000,000</u>

4. That the subscription of the United States shall be paid in six per cent. stock, at the same periods, and in the same proportions, as the payments of private subscriptions, in stock and treasury notes.
5. That the United States may substitute six per cent. stock for the amount of the treasury notes subscribed by corporations, companies, and individuals, as the notes respectively become due and payable.
6. That the bank shall loan to the United States \$30,000,000. at an interest of six per cent. at such periods, and in such sums, as shall be found mutually convenient.
7. That no part of the public stock, constituting a portion of the capital of the bank, shall be sold during the war; nor at any subsequent time, for less than par, nor at any time to an amount exceeding one moiety, without the consent of Congress.
8. That provision shall be made for protecting the bank notes from forgery; for limiting the issue of bank notes; and for receiving them in all payments to the United States.
9. That the capital of the bank, its notes, deposits, dividends, or profits, (its real estate only excepted) shall not be subject to taxation by the United States or by any individual State.
10. That no other bank shall be established by Congress, during the term for which the national bank is incorporated.
11. That the national bank shall be governed by fifteen directors, being resident citizens of the United States and stockholders. The President of the United States shall, annually, name five directors, and designate one of the five to be the president of the bank. The other directors shall be annually chosen by the qualified stockholders, in person or by proxy, if resident within the United States, voting upon a scale graduated according to the number of shares which they respectively hold. The cashier,

and other officers of the bank, to be appointed as is usual in similar institutions.

12. That the directors of the national bank shall appoint seven persons, one of whom to preside, as the managers of each office of discount and deposit, and one person to be the cashier.
13. That the general powers, privileges, and regulations of the bank, shall be the same as are usual in similar institutions; but with this special provision, that the general accounts shall be subject to the inspection of the Secretary of the Treasury."

"In making a proposition for the establishment of a national bank, I cannot be insensible to the high authority of the names which have appeared in opposition to that measure, upon constitutional grounds. It would be presumptuous to conjecture that the sentiments which actuated the opposition have passed away; and yet it would be denying to experience a great practical advantage, were we to suppose that a difference of times and circumstances would not produce a corresponding difference in the opinions of the wisest, as well as of the purest men. But, in the present case, a change of private opinion is not material to the success of the proposition for establishing a national bank. In the administration of human affairs, there must be a period when discussion shall cease, and decision shall become absolute. A diversity of opinion may honorably survive the contest; but, upon the genuine principles of a representative government, the opinion of the majority can alone be carried into action. The judge, who dissents from the majority of the bench, changes not his opinion, but performs his duty, when he enforces the judgment of the court, although it is contrary to his own convictions. An oath to support the constitution and the laws, is not, therefore, an oath to support them under all circumstances, according to the opinion of the individual who takes it, but it is, emphatically, an oath to support them according to the interpretation of the legitimate authorities. For the erroneous decisions of a court of law, there is the redress of a censorial, as well as of an appellate jurisdiction. Over an act, founded upon an exposition of the constitution, made by the legislative department of the government, but alleged to be incorrect, we have seen the judicial department exercise a remedial power. And, even if all the departments, legislative, executive, and judicial, should concur in the exercise of a power, which is either thought to transcend the constitutional trust, or to operate injuriously upon the community, the case is still within the reach of a competent control, through the medium of an amendment to the constitution, upon the proposition, not only of Congress, but of the several States. When, therefore, we have marked the existence of a national bank for a period of twenty years, with all the sanctions of the legislative, executive, and judicial authorities; when we have seen the dissolution of one institution, and heard a loud and continued call for the establishment of another; when, under these circumstances, neither Congress nor the several States, have resorted to the power of amendment; can it be deemed a violation of the right of private opinion, to consider the constitutionality of a national bank as a question forever settled and at rest?

But, after all, I should not merit the confidence, which it will be my ambition to acquire, if I were to suppress the declaration of an opinion, that, in these times, the establishment of a national bank will not only be useful in promoting the general welfare, but, that it is necessary and proper for carrying into execution some of the most important powers constitutionally vested in the Government.

Upon the principles and regulations of the national bank, it may be sufficient to remark, that they will be best unfolded in the form of a bill, which shall be immediately prepared. A compound capital is suggested, with a design equally to accommodate the subscribers, and to aid the general measures for the revival of public credit; but the proportions of specie and stock may be varied, if the scarcity of coin should render it expedient; yet, not in so great a degree as to prevent an early commencement of the money operations of the institution."

OCTOBER 21, 1814.

The House resolved itself into a committee of the whole, on the foregoing report and letters, and made some progress therein. And, on the 22d, Mr. NELSON, from the said committee, reported that the committee had again had the said report and letters under consideration, and had made certain amendments to the first and second resolutions contained in the report, which they had directed him to report to the House, and ask leave to sit again upon the residue thereof.

OCTOBER 24, 1814.

The House proceeded to consider the above report of the committee of the whole House, and the question was stated, to concur with the said committee in their amendments to the said first and second resolutions:

When, on motion of Mr. EPPES,

*Ordered*, That the said first and second resolutions do lie on the table, and that the committee of the whole House have leave to sit again to-day, on the residue of said report and letters.

The House, afterwards, resolved itself into a committee, and Mr. PITKIN reported that the committee had again had the said report and letters under consideration, and made amendments to the fourth and fifth resolutions; also, that they had further amended the said report, by adding thereto three new resolutions, to come in as the 6th, 7th, and 8th.

On motion of Mr. EPPES,

*Ordered*, That the said report do lie on the table.

OCTOBER 28, 1814.

The House resumed the consideration of the remaining part of the report of the committee of the whole, it being the 8th resolution, "that it is expedient to establish a national bank, with branches, in the several States."

Mr. POST, of N. Y., hoped the chairman or some other member of the Committee of Ways and Means would explain the reasons on which the proposition was founded.

Mr. CLOPTON, of Va., called upon gentlemen in favor of the proposition to show in what part of the constitution was contained the power to establish a national bank. Having always, himself, denied the constitutional power, and the House having so decided, six years ago, he could not see what had occurred to change the nature of the constitutional question. Unless his objections on this head were removed, he must certainly vote against this proposition.

Mr. EPPES, of Va., said his sentiments in relation to this question were well known, and were not changed. However necessary he might believe the agency of such an institution at the present moment, he could not give his consent to a measure which he believed contrary to the constitution. For the reasons in favor of the resolve which he had reported, in obedience to the instructions of the committee, he referred to Mr. DALLAS's report, and to the gentlemen of the committee who favored it.

Mr. WRIGHT, of Md., expressed himself decidedly in favor of the establishment of a bank, but, in order to obviate objections some might conscientiously entertain on constitutional grounds, he was of opinion that the bank ought to be located within this district. He therefore moved to amend the resolve, by inserting therein the words "within the District of Columbia."

Mr. BURWELL, of Virginia, said he had no doubt of the power of Congress to establish a bank of the kind proposed, in the District of Columbia; but he should vote against the amendment, because he believed such a bank would not at all assist the finances of the Government. He was, also, entirely hostile to the establishment of a bank on the principles recommended in the Secretary's report as its basis, for reasons growing out of their general impracticability and inexpediency.

Mr. DUVAL, of Kentucky, said he was opposed to the proposed amendment, because it would destroy the utility of the bank, so far as regards its issuing a medium which should possess the general confidence; and he was opposed to it, also, because the adoption of it would virtually sanction the construction, which he denied, that it was not constitutional to establish a bank with branches in the several States. Mr. D. was proceeding to argue in support of the constitutionality of a bank, when

Mr. WRIGHT withdrew the amendment which he had proposed.

Mr. STANFORD, of North Carolina, moved to strike out of the resolve the following words: "with branches in the several States." Some gentlemen, he said, were of opinion a bank might be established adequate to all necessary purposes, having no branches, but arrangements with some one or more banks now existing in each State. He was in favor of leaving the question as broad as possible.

Mr. DUVAL resumed his argument on the constitutional question, which he examined with no little ability and ingenuity. He chiefly rested his opinion of the power to incorporate a bank, on that section of the constitution which prohibits the States to coin money, or issue "bills of credit;" which negation of power, he apprehended, implied the existence of the power in Congress. If Congress had not power, under the constitution of the United States, to establish a bank or banks, nearly all the States had violated their own State constitutions, as well as the constitution of the United States, in authorizing the circulation of bank notes, which, call them what you will, are "bills of credit." Mr. D. went deeper still into this question, and concluded with expressing his decided hostility to the proposed amendment.

Mr. GROSVENOR, of New York, having no doubt of the constitutionality of a national bank, entreated gentlemen to vote down the proposed amendment; because, if adopted, it would hold out fallacious ideas of the adequacy of a bank without branches, to be established within this district, which would no more relieve the embarrassment of our finances than will the five and ten cents bills issued by the corporations of this city and Georgetown, &c. He should vote for the general proposition. As for the Secretary's proposition, it was a *felo de se*; and many of its features could not be sanctioned in this House.

Mr. HAWKINS, of Kentucky, said that one of his earliest convictions on political topics was, that this Government had no power to establish a national bank; but, if it is to be established, he was clearly of opinion it ought to be on general principles. In order to give the question full and ample consideration on the widest national, just, and general objects, he should vote against the amendment, without intending in any way to sanction the idea that Congress has the power "to establish a national bank with branches in the several States."

Mr. CLOFTON made a number of observations in reply to the argument of Mr. DUVAL. The true principle of construction of the constitution being that all powers not expressly delegated are reserved, he contended that Congress could by no forced construction derive the power to establish a national bank.

Mr. WILSON, of Pennsylvania, predicated his views in favor of the resolution, and against the amendment, on the statement of facts, and reasoning of the Secretary of the Treasury on this subject, which, combined, he believed to be conclusive.

Mr. M'KEE, of Kentucky, expressed surprise that the opposition to this measure, declared by the Secretary of the Treasury to be necessary not only to the maintenance but to the restoration of the public credit, proceeded from those who had, in every other respect, been the most zealous and inflexible in their pursuit of measures to sustain the operations of the Government. He had no doubt of the power of the Government to establish a national bank as an instrument of finance, and entered into a train of reasoning, with his usual acumen, as well to prove this, as to prove the injury which had resulted from the



refusal to re-charter the late Bank of the United States. As to the establishing the bank within this district, for all present practical purposes, it might as well be established in Abyssinia. He was decidedly opposed to the motion now under consideration.

The question on Mr. STANFORD'S motion to strike out the words "*with branches in the several States*," was decided, by yeas and nays, in the negative, as follows: For the motion, 14. Against it, 138.

The question being stated on the passage of the resolution—

Mr. POST, of New York, said, under present impressions, he should vote against it, because the idea it embraced was illusive, and its object impracticable at the present moment; to show which, he made a number of remarks going to establish the insufficiency of such a measure to remedy the general want of confidence among individuals as well as in the banks, which at present prevailed.

The question on the adoption of the resolution was decided by the following vote:

Those who voted in the affirmative, are,

Messrs. Alexander,	Messrs. Forney,	Messrs. Montgomery,
Alston,	Forsyth,	Moore,
Anderson,	Gaston,	Markell,
Archer,	Geddes,	Oakley,
Avery,	Gourdin,	Ormsby,
Barnett,	Griffin,	Parker,
Bayly, of Virginia,	Grosvenor,	Pearson,
Bradley,	Hanson,	Pickens,
Brown,	Harris,	Piper,
Butler,	Hasbrouck,	Rea, of Penn.
Caperton,	Hawes,	Rich,
Caldwell,	Hopkins, of Ken.	Robertson,
Calhoun,	Hubbard,	Sage,
Cannon,	Hurlbert,	Sevier,
Chappell,	Ingersoll,	Sherwood,
Clark,	Ingham,	Shipherd,
Comstock,	Irving,	Skinner,
Condict,	Kent, of New York,	Smith, of N. H.
Conard,	Kent, of Maryland,	Strong,
Creighton,	Kerr,	Sturges,
Crouch,	Kershaw,	Tannehill,
Culpeper,	Kilbourn,	Taylor,
Cuthbert,	King, of N. Carolina,	Telfair,
Dana,	Lefferts,	Thompson,
Davis, of Penn.	Lewis,	Udree,
Denoyelles,	Lovett,	Ward, of N. Jersey,
Duval,	Lowndes,	Webster,
Earle,	Lyle,	Wilson, of Penn.
Farrow,	M'Kee,	Winter,
Findley,	M'Kim,	Wright,
Fisk, of New York,	M'Lean,	Yancey.—93.

Those who voted in the negative, are,

Messrs. Barbour.	Messrs. Clopton,	Messrs. Glasgow,
Bard,	Crawford,	Goodwyn,
Baylies, of Mass.	Davenport,	Hale,
Bowen,	Desha,	Hall,
Boyd,	Ely,	Hawkins,
Bradbury,	Eppes,	Humphreys,
Burwell,	Evans,	Hungerford,
Champion,	Franklin,	Jackson, of R. I.
Cilley,	Gholson,	Jackson, of Vir.

Messrs. Johnson, of Vir.	Messrs. Pleasants,	Messrs. Seybert,
Kennedy,	Post,	Sharp,
King, of Mass.	Potter,	Smith, of Virginia,
Law,	John Reed,	Stanford,
Macon,	William Reed,	Taggart,
Moseley,	Rhea, of Tennessee.	Vose,
Nelson,	Ringgold,	Wheaton,
Newton,	Ruggles,	Wilcox,
Pitkin,	Schureman,	Wilson, of Mass.—54

So the resolution was agreed to, and this, together with the other resolutions, were referred to the Committee of Ways and Means, to bring in bills accordingly.

NOVEMBER 7, 1814.

Mr. FISK, of New York, from the Committee of Ways and Means, asked and obtained leave to report a bill to incorporate the subscribers to the Bank of the United States of America; which was twice read by its title, and referred to a committee of the whole.

And the House adjourned.

NOVEMBER 13, 1814.

The House went into committee of the whole on the said bill; which having been read through, the committee rose, and obtained leave to sit again.

NOVEMBER 14, 1814.

The House resolved itself into a committee of the whole, Mr. NELSON, of Virginia, in the chair, on the bill to incorporate the subscribers to the Bank of the United States of America.

The first section of the bill having been read, in the following words:

*Be it enacted, &c.* That a bank of the United States of America shall be established, the capital stock of which shall be fifty millions of dollars, and no more, divided into one hundred thousand shares, of five hundred dollars each share, and that subscriptions towards constituting the said capital stock, shall be opened on the first Monday of ——— next, at the following places, viz: Boston, New York, Philadelphia, Baltimore, Richmond, Charleston, and Pittsburg, under the superintendence of the following persons, as commissioners to receive the same: At Boston, James Lloyd, Thomas Perkins, and William Gray; at New York, General John Smith, Isaac Bronson, Theron Rudd; at Philadelphia, Thomas M. Willing, Stephen Girard, Chandler Price; at Baltimore, Henry Pason, William Cooke, William Wilson; at Richmond, Benjamin Hatcher, John Brokenborough, William Preston; at Charleston, John C. Faber, John Potter, James Carson; at Pittsburg, George Robinson, Samuel Robert, and Henry Baldwin; which subscriptions shall continue open every day, from the time of opening the same, from ten o'clock, in the forenoon, until four o'clock, in the afternoon, until the Saturday following, at four o'clock, in the afternoon, when the same shall be closed; and, immediately thereafter, the commissioners, or any two of them, at the respective places aforesaid, shall cause two transcripts or fair copies of such subscriptions to be made; one of which they shall send to the Secretary of the Treasury, one they shall retain, and the original subscriptions shall, within three days from the closing of the same, be, by the said commissioners, transmitted to the said commissioners at Philadelphia, or to one of them; and, on the receipt thereof, the said commissioners at Philadelphia, or any two of them, shall immediately thereafter convene, and proceed to take an account of the said subscriptions; and if more than the amount of the said capital stock of thirty millions of dollars shall have been subscribed, then the said last mentioned commissioners shall apportion the same, among the several subscribers, in a just and equal ratio, according to their several and respective subscriptions: *Provided, however,* That such commissioners shall, by such apportionment, allow and

apportion to each subscriber at least one share; and, in case the aggregate amount of the said subscriptions shall exceed thirty millions of dollars, the said commissioners, after having apportioned the same, as foresaid, shall cause lists of the apportioned subscriptions to be made out, including in each list the apportioned subscription for the place where the original subscription was made; one of which lists shall be transmitted to the commissioners, or to one of the commissioners, under whose superintendence such subscriptions were originally made, that the subscribers may ascertain from them the number of shares apportioned to such subscribers, respectively."

Mr. FISK, of New York, stated the reasons which had influenced the Committee of Ways and Means in confining to a few cities and towns the books of subscription, which were, generally, that the Atlantic cities were the principal repositories of specie and superfluous wealth, and that the exigencies of the times required greater expedition than was consistent with a more diffused subscription. It had been deemed proper, however, to add more commissioners in two or three of the cities; and he was instructed to move accordingly.

And, on motion of Mr. FISK, the following gentlemen were added: To the commission at Boston, William Eustis and Samuel Brown; to the commission at New York, Isaac Lawrence and John Hone; to the commission at Philadelphia, Jared Ingersoll and Anthony Taylor.

Mr. SHARP, of Kentucky, then said he was not satisfied, by the reasons of the gentleman, for limiting to so few the places of subscription, and moved, for the convenience of the Western country, to insert Lexington, in Kentucky.

Mr. ROBERTSON, of Louisiana, proposed also New Orleans, and argued, with much force, in support of his suggestion; and other gentlemen proposed other places.

The motion of Mr. SHARP, being the one immediately before the House, gave rise to a considerable debate. The motion was supported by Messrs. *Sharp, Robertson, Lewis, Macon, Wright, Pearson, Harris, Hopkins, of Kentucky, Burwell, and Barnett*, and opposed by Messrs. *Fisk, of New York, Oakley, Creighton, and Ingham*.

On the one hand, various arguments were urged in favor of extending the subscription, founded on the equal rights of all sections of the country to participate in any general benefit; the expediency of collecting specie from every part of the country; the advantages of uniting in the subscription People of every quarter of the country; and thus uniting the People of all sections to the Union, by the ties of interest, which are frequently stronger than those of legal or moral force.

On the other hand it was said, besides the delay inseparable from such a course, that it was important that the bank should be put into operation speedily, if at all, and that its commencement would be greatly delayed by multiplying places of subscription. It was also said, that, if this motion were withdrawn, an amendment might be devised by the Committee of Ways and Means, which would meet the views of all parties.

Mr. SHARP's motion at length prevailed. Lexington, Kentucky, was inserted as one of the places at which subscriptions should be opened, and Messrs. Charles Wilkins, Lewis Sanders, and John H. Morton, designated as the commissioners.

On motion of Mr. ROBERTSON, New Orleans was then added, and commissioners named for that place.

On motion of Mr. HARRIS, Nashville was added, and Robert Weakley, Felix Grundy, and John R. Bedford, named as the commissioners.

On motion of Mr. LEWIS, Washington City was added, and Robert Brent, Walter Smith, and Thomas Swann, named as commissioners. Mr. FISK, of New York, named John Mason, Daniel Carroll, and John P. Van Ness; but Mr. LEWIS's motion being the first made, was agreed to.

On motion of Mr. MACON, Raleigh, in North Carolina, was inserted, and Sherwood Haywood, Beverly Daniel, and William Pierce, named as commissioners.

On motion of Mr. FORSYTH, Savannah, in Georgia, was added, and John Bolton, Charles Harris, and James Johnson, named as commissioners.

On motion of Mr. CONDUCT, New Brunswick, in New Jersey, was added, and James Vanderpool, John Gray, and Peter Gordon, named as commissioners.

Mr. GROSVENOR moved to add Utica, in New York, and John C. Devereaux, Benjamin Walker, and Jeremiah Van Rensselaer as commissioners; but the motion was negatived, after some objections by Mr. INGHAM, and replication by Mr. GROSVENOR.

On motion of Mr. WEBSTER, Portsmouth, in New Hampshire, was added, and John Goddard, Nathaniel A. Haven, and Nathaniel Gilman, named as commissioners.

On motion of Mr. KILBOURN, Pittsburg was stricken out, Chilicothe, in Ohio, added, and Samuel Findley, Thomas James, and William M'Farland, named as commissioners.

Mr. LEWIS then made a motion, the object of which was to establish the principal bank at the city of Washington, in this District.

This motion was opposed by Mr. FISK, of New York, who said that the Committee of Ways and Means had fixed on Philadelphia, in preference to New York and other places, to be the seat of the principal bank, as being a place of greater security and greater wealth, and as being more central to the commercial transactions and wealth of the country, &c.

Mr. LEWIS said he had no doubt that the gentleman from New York preferred Philadelphia to this place, as he had already given sufficient evidence of his candor in that respect. The Military School, the National Bank, and every institution of a national character, had been contemplated to be fixed at this place, by those who located the seat of Government here, &c. and so they ought to be, &c. Besides, there might be many gentlemen who would vote for a bank to be established at this place, who would, on constitutional grounds, be opposed to its establishment elsewhere. He therefore hoped his motion would be agreed to.

Mr. LEWIS's motion was negatived, about thirty members only rising in favor of it.

On motion of Mr. FISK, of New York, an amendment was adopted, authorizing the Philadelphia commissioners, in case thirty millions should not be subscribed and returned to them within the time allowed, to open the books at Philadelphia until the whole should be subscribed.

Mr. GASTON, of North Carolina, then said, before the committee proceeded further in the bill, he wished to propose a material amendment to it, and, with a view to ascertain whether the House were disposed to hear him in support of his motion at this late hour of the day, he moved that the committee now rise.

This motion was negatived; and

Mr. GASTON proceeded to lay before the committee his views in relation to this bill. He professed himself anxious for the establishment of a National Bank, which he had always favored when opportunity offered. But it was his decided conviction, he said, that a bill like that on the table would not answer the purposes of the nation or of the Government. This view of the subject he supported by various objections to different features of the bill, and particularly to the mode of subscription in stock of the United States; the operation of all which he contended would be to throw into circulation a quantity of paper, founded not on a specie capital, but on the credit of the United States' stock, &c. which would therefore be of no greater value than any other paper which the United States should make receivable in taxes, though much more expensive to the United States than treasury notes or bills of credit would be, &c. &c. In support of this idea, Mr. G. adduced many illustrations, from writers

on this subject, from our own history, and from analogy. He objected also to the proposed appointment of a part of the directors by the President, to the large portion of the stock to be held by the United States, &c. He wound up his argument on these and other points by observing, that, as he was friendly in principle to the establishment of a National Bank, he should not consider himself as doing his duty, if, while he disapproved of this plan, he did not offer another as a substitute to it. Instead of a bank of a nominal capital of fifty millions, he would establish a bank whose capital should not, at farthest, exceed twenty millions. He considered it as by no means important to its success that the Government should subscribe a cent to its capital stock; but, as that was a fashionable idea, he would say a portion of the capital, five millions, should be subscribed by the Government; that the remaining fifteen millions should be subscribed by individuals, five millions of it at least, in specie, the remainder either in treasury notes, at par, or in six per cent. stock of future loans, at par, or six per cent. stock of former loans, at the price at which it was contracted for with the Government. So far from such stock being inalienable, as now proposed, he would permit the directors to manage and dispose of it as they pleased. They might lend money to the Government if they found it to their interest and convenience to do so. He would abolish from such a charter the idea that the fiat of the President should at any time suspend the payment of specie by the bank, &c. If any plan of a National Bank could succeed, it must be on something like the plan of which this was the outline. To try the principle of this bill, and whether the House were disposed to accept any amendment whatever to it, Mr. GASTON concluded his speech by moving to strike out *fifty* millions (the proposed capital stock of the bank) and insert in lieu thereof *twenty* millions.

On motion of Mr. HOPKINS, of Kentucky, the committee then rose, and obtained leave to sit again.

NOVEMBER 15, 1814.

The House again resolved itself into a committee of the whole, Mr. NELSON, of Va. in the chair.

The motion of Mr. GASTON to make the capital of the bank *twenty* instead of *fifty* millions of dollars, being still under consideration—

Mr. FISK, of New York, spoke in reply to Mr. GASTON's speech, and in explanation of the views of the committee. He declined replying to Mr. GASTON's objections to various details of the bill, until those details should come immediately under consideration of the House; but applied his observations particularly to Mr. G's objections to the amount and character of the proposed capital of the bank. The objects of the Committee of Ways and Means in proposing such an institution, ought ever to be kept in view in this discussion. They were, generally, the revival and support of the public credit. These objects could be best accomplished, 1st. By raising the value of the public stocks; and, 2d. by the establishment of a competent circulating medium. Mr. F. then entered into an argument to show that the plan now before the House was that which would best accomplish these objects. He referred to the history of the former Bank of the United States, established with similar objects and under like circumstances, and from its efficiency argued what might be expected from this bank. The committee, in inquiring as to the amount of circulating medium which could be now advantageously employed, had fixed on fifty millions, which amount had also received the sanction of the opinion of the Secretary of the Treasury. The present banking capital of the nation being estimated at a hundred millions, it was believed by the committee that the addition of fifty millions would not be dangerous either to those institutions or to the community. Having thus determined on an increase of the circulating medium of the country, the next object was the appreciation of the value of the public stock. That stock had depreciated in value, not from any doubt of the ability or disposition of the Government to

comply with its engagements to the public creditors, but from the quantity of the stock which it had been necessary to throw into market exceeding the means for purchasing it. A relief of the stock from its present depreciation was promised by the withdrawal of a part of it from the market; and with this view, it had been contemplated that twenty-four millions of the capital stock of the bank should be subscribed in Government securities. This, by taking so much stock out of the market, would raise the price of the stock, and make room for more, which it might be necessary to create. It had been thought proper, too, that the United States should hold a part of the stock of the bank—to what amount, there had been some difference of opinion; and if the House thought too great a proportion was by this bill allowed to the United States, they would so decide. Mr. F. was willing, for himself, that the bank should be connected with the Government, and the Government with the bank, and that they should mutually support each other, &c. As to the share of the Government in the appointment of directors, whilst it could be no injury to the institution, it was necessary as well to guard the interest of the United States, as to take care of their interest in the security of the revenue in the various branches of the bank. Mr. F. took a comparative view of the situation of the nation now and in 1791, when the Bank of the United States was established, dwelling on the diminution of the public debt and increase of the means of payment, since that day the increase of circulating medium, wealth, population, &c. from which he concluded there was as ample employment for a bank of fifty millions now, as for a bank of ten millions then. Of the ten millions capital of that bank, three-fourths of it was composed of public stock, as much depreciated at that day, as public stock now is. The operation of that bank, he said, had been not only beneficial, but wonderful, giving a spring to public credit, and raising the price of all public stock—as he believed this bank would, when once established. As to the specie capital, it was difficult, he remarked, to say how much specie would give confidence to the operations of the bank. The old bank of the United States had commenced its operations on a specie capital of 400,000 dollars. He had no doubt, therefore, but this bank might safely commence its operations on a specie deposit of 1,200,000 dollars, which he believed there would be no difficulty in procuring. As to the confinement of the subscription to the stock created since the war, the committee had deemed it proper to confine their object of raising the price of the public stock to such as was depreciated, viz. to that which had been created since the declaration of war, and which had depreciated, perhaps, because not so well supported by specific pledges of revenue as the old six per cent. stock. These various features were, however, in the hands of the committee of the whole, and entirely at their disposal, &c.

Mr. Gasron, in a speech of some length, advocated the superiority of the plan he had yesterday indicated over that embraced in this bill, and replied to the remarks of Mr. Fisk. He expressed his regret that Mr. Fisk had declined replying to the objections he had urged to the bill, and had not given a general statesman-like exposition of the whole bill, instead of resting its defence on the magic words revival, and support of the public credit, &c. He repeated, and enforced at some length, his objections to this system, which he contended would neither revive the public credit nor afford a circulating medium of general credit. As to the momentary appreciation of the public stocks, it would benefit only the particular individuals who held them; and, as to an increase of mere paper, it was not even desirable: for it was the superabundance of that which had already caused the specie of the country to disappear, &c. He compared this proposition to relieve the evil arising from too much paper, by throwing more into circulation, to the remedy which Burke had described the French Convention as prescribing for every evil, viz. issuing *more assignats*. As to the necessary specie capital, and the facility of obtaining it in the course of banking operations, Mr. G. said, a bank must have specie before it has credit; when it has credit, it may obtain specie,



but not till then, &c. Upon the whole, he had no confidence in this system. In times of public difficulty—in times like this—people were too apt to look for relief from some splendid project. It was a period like this in the finances of France, that Mr. Law came forward with his Mississippi bank project. The old fashioned notion of redeeming credit by economy, punctuality in fulfilling engagements, &c. was at that time abandoned; and the result was, that thousands of individuals were ruined, and the finances of the French nation reduced to a lower state of degradation than when the attempt was made to resuscitate them. He cautioned gentlemen against falling into the same error, and to examine well the practicability of the system proposed for their consideration, &c.

Mr. FISK made some remarks by way of resisting the attack which he said the gentleman had to-day made from the same battery as he yesterday opened on the bill. He denied the applicability of some of his remarks, particularly of that in relation to Law's scheme, which arose from that bank's having issued a vast amount of paper on its capital, founded on the fictitious value of certain land certificates, &c.—an excess of folly into which no properly regulated bank was in any danger of falling, &c.

The question on Mr. GASTON's motion to strike out *fifty* and insert *twenty* millions, was then decided as follows: For the motion, 47. Against it, 79.

So the motion was negatived.

On motion of Mr. PARKER, of Massachusetts, among the places at which subscription books should be opened, Hallowell, in Maine was inserted, and three persons named as commissioners.

Mr. CONDUCT, of New Jersey, said he thought it would be good policy to permit as large a portion of the agricultural community to contribute to the stock as possible. With this view he moved to increase the number of shares from one to *five* hundred thousand, and reduce the amount of each share to *one* instead of *five* hundred dollars.

Mr. FISK, of New York, opposed this motion. The shares, he conceived, were made sufficiently small, to enable every one so disposed to participate in the bank; whilst a still further subdivision of the stock would produce great embarrassment, and a total derangement of the details of the bill, and much difficulty in apportioning the proportions of stock, treasury notes, and specie to be paid on each share.

The motion was rejected, *ayes* 32.

Mr. WRIGHT, of Maryland, proposed to substitute, for the provision respecting the manner of taking subscriptions for this stock, a provision for dividing its capital stock, among the several States in proportion to their representation, so that all the members of the Union might equally participate in the benefits of such subscription. He had no doubt the subscriptions would be advantageous to the individuals, inasmuch as he believed the stock would be greatly above par as soon as the bank went into operation. Not having, however, had time to prepare an amendment to meet his wishes, he should waive his motion for the present, until the bill was gone through.

After making further verbal amendments to the 1st section—

The second section of the bill was read:

Mr. HALL, of Georgia, moved to amend this section by adding thereto a proviso, in the following words:

“*Provided*, That no interest shall accrue on the public stock or treasury notes paid by the subscribers as a part of the capital of the bank during the continuance of the charter.”

The reason assigned by Mr. HALL was, that the bank would draw a double interest on the stock part of the capital, *viz.* 6 per cent. on the stock, and a per centage from the operations of the bank upon that stock.

Mr. FISK opposed this motion, and expressed much surprise at it. He thought the moral sense of the Government must revolt at its injustice; besides, that it would destroy all possibility of organizing a bank on the principles proposed by the bill.

The motion of Mr. HALL was negatived, very few voices only appearing in favor of it.

Mr. OAKLEY, of New York, moved so to amend the bill as to make it optional to subscribers to pay in the whole of their shares (except the specie part) in six per cent. stock, instead of compelling them to pay in a part of the subscription in treasury notes.

This motion was opposed by Mr. FISK, of New York, and negatived, ayes only 43.

Mr. BRADBURY, of Massachusetts, made a motion, the object of which was, in the provision respecting the subscription of a certain proportion of the capital in stock of the loans created since the war, to substitute, in lieu thereof, the stock "in loans hereafter to be contracted by authority of any act of Congress, passed, or to be passed, during the present session."

Mr. B. said that the bill, as it now stood, would afford no real advantage to the Government, unless it were in the privilege of borrowing thirty millions of dollars from the bank. The intention of the charter proposed to be granted by the bill, was to authorize the individuals associating to issue paper money—notes which would promise to pay nothing but paper: for, he contended, whether the provision authorizing the President, on certain occasions, to suspend payment of specie, were adopted or not, the institution would be nothing but a bank of paper money; and he could see no advantage the Government could derive from borrowing thirty millions of paper money. If, however, this bank should be advantageous or profitable to the stockholders, he could see no reason why those who had lent the Government money, since the declaration of war, should have any advantage over any present or future stockholders. They had obtained, he conceived, sufficient discount beyond the six per cent. interest for the loans they had made; and yet, it appeared to him, from an examination of this bill, that its whole object was to benefit this description of persons. If this bank should go into operation, which he doubted, even should the bill pass, what, he asked, would be the consequence? Ignorant and unwary men would purchase the public stock, at par, from these who contracted for it, and now hold it, and presently the bubble would burst, and these purchasers become the losers by the scheme. If the individuals who took the last loans, had been permitted to devise a bill for their particular advantage, they could not have drawn one to suit them better, &c.

Mr. WRIGHT, of Maryland, proposed to submit, in lieu of Mr. BRADBURY'S motion, an amendment which he had prepared. If the House meant to do perfect justice to themselves, and to the United States, he said they would be indisposed to put the public stock, redeemable at the will and pleasure of the Government, on the same footing as specie; and, if that stock were permitted to be subscribed, *at the contract price*, it would be a sufficient bonus to the stockholders that their stock was converted into bank capital which would immediately rise to fifty or sixty per cent. above par. In such a provision as he proposed, there would be nothing coercive; the stockholder might or might not subscribe his stock; if he did, he would be placed on the same footing as the rest of the community. Mr. W. wished, therefore, to admit any stock to be subscribed, of the past or future loans, at the contract price.

Mr. BRADBURY declined assenting to this substitute to his motion, which, however, he modified, by adding to the end of it the words, "at its par value," thus proposing to allow subscriptions to the bank in the stock of any future loan, at its par value.

Mr. FISK opposed Mr. B'S motion with considerable warmth. If they could

not aid the public credit, he said, he hoped Congress would refrain from doing any thing which should injure it. The public creditor had generally gone to the extent of his means in purchasing the public stock now lying on his hands. But it never could have entered into his calculation that the Government would adopt any measure calculated directly to bear on him, as the creation of a new stock, on a different footing, certainly would, by giving it the advantage in the market over him. Such a course pursued by Government, of exercising its power to serve its own purposes, instead of pursuing a course of magnanimous policy, must, Mr. F. said, be repugnant to every sentiment of morality as well as justice, which ought to be observed by nations. It would be an iniquitous delusion practised on the community, inasmuch as the depreciation of public stock does not now arise so much from distrust of the Government as from inability of the people to lend, which ability could not be increased by giving this sort of privilege to the stock in any subsequent loans, &c. Such a discrimination as is proposed, would so weaken the confidence in the public faith, that, he did not believe, after adopting it, the Government would be able to obtain further loans on any terms.

Mr. HAWKINS, of Kentucky, in a very decided manner reprobated the adoption of this amendment. It was pretty well understood, he said, that the Government had exhausted almost to the last cent the ability of the nation to obtain loans under the existing state of things. It was true, that, while this House was recently debating on the three millions loan bill, he had suggested, and it was the fact, that the Executive was negotiating a part of the six millions loan. They had hopes, also, to obtain, under the bill last proposed, a loan to enable them to redeem the treasury notes becoming due in this quarter. But, how could this body expect this Government should, in the hour of most need and difficulty, obtain those resources which are indispensable to the fulfilment of the public engagements, if gentlemen, first on one day, and then on another, should persist in introducing motions and speeches in respect to the present creditors, which must have an injurious effect on future loans? No doubt the gentleman, in this motion, thought he was advocating the interests of his country; but, unfortunately, by one and another proceeding, public credit was injured, and the operations of Government retarded. Remarks had been made on this floor, and he alluded emphatically to those unfortunately made by a gentleman from Virginia, (Mr. JACKSON) who, he regretted, was not now in his seat, which had a more deleterious effect on public credit than that gentleman could possibly have expected or wished. They were certainly not authorized by sound policy, and he would venture to say, so far as they respected the public credit, the redemption of the public debt, and payment of past and future loans, were not sanctioned by the administration or any member of it. He would not support any men or administration that supported such a doctrine, and, so far as the doctrine had been advocated by one of his political friends, he declared the opinions expressed were not his; that they were unworthy of any party, of any government, of any administration, or any member of it. As to this bill, he entertained constitutional objections to the establishment of any bank; if they could be removed, he might vote for this bill. He did not rise to speak of its merits, but to protest against propositions calculated to weaken, if not destroy, all confidence in the public faith. It had been assigned as a reason for such a motion, that speculators had preyed on the public credit. This he denied. The Government had gone on relying on the public credit alone to support its loans, until the terms on which they could be obtained had fallen from par to 88, from 88 to 80, &c. The Government had been compelled to have money, and had bought it as low as they could. As to the terms of the ten millions loan, on which so much had been said, Mr. H. said it was only an adaptation to that loan by Mr. Campbell, of the terms on which Mr. Gallatin had, without censure, obtained the sixteen millions loan, and in consequence of which last engagement the terms of the loan had been more than once varied, &c. Nay more, he said, the terms allowed by Mr. Campbell were less advantageous to the contractors than those

allowed by Mr. Gallatin, so that the blame thrown on him was imputable not to the terms of the late loan, but to the inability of the Government to borrow, &c. Mr. H. protested against the principle of this amendment. If the House resorted to invidious discriminations between the public creditors, he admonished them that they would paralyze their own arm, and arrest the future operations of the Government.

Mr. GHOLSON said he sincerely regretted, that, the animadversions of the honorable gentleman from Kentucky (Mr. HAWKINS) on the speech of the honorable gentleman from Virginia (Mr. JACKSON) on the loan bill, had not been made while that gentleman was present, so that he might have had an opportunity of vindicating himself before the committee and the nation. Mr. G. observed that he did not recollect the remarks of his friend (Gen. JACKSON) with sufficient distinctness to attempt to state the substance of them to the committee. He, however, did not understand them to be such as could be construed into an in disposition to pay the public debt. Mr. G. said he applauded the zeal which had been manifested by the honorable gentleman from Kentucky, in favor of the public credit. With that gentleman he ardently hoped, that ample provision would be made, at the present session, for the punctual payment of the interest, and for the redemption, within a reasonable time, of the last cent of the principal of every description of the public debt.

Mr. CALHOUN of S. C. said they had arrived at that part of the bill on which he presumed there would be the greatest diversity of opinion. The subject was highly important and worthy of mature consideration; he, therefore, moved that the committee now rise, to allow time for further reflection on it.

The committee rose, and the House adjourned.

NOVEMBER 16, 1814.

The House resumed, in committee of the whole, the consideration of the bill.

At the request of Mr. CALHOUN, of South Carolina, who desired to propose another amendment, Mr. BRADBURY, of Massachusetts, withdrew the amendment he offered yesterday. A great part of his object, he said, had been answered by arresting the attention of the committee to this subject.

Mr. CALHOUN, then, in a very ingenious and elaborate speech, laid before the House his views on this subject, and the reasons why he should propose a total change in the features of the bill. The motion he now made was one of limited character, but such a one as he proposed to follow up by other amendments, or, by distinct legislative provisions, which should together embrace a plan, of which the following is a brief outline: The capital of the bank remaining unchanged, at fifty millions, the payments of subscriptions to this capital stock to be made in the proportion of one-tenth in specie, (which he afterwards varied to six-fiftieths) and the remainder in specie, or in treasury notes, to be hereafter issued; subscriptions to be opened monthly, in the three last days of each month, beginning with January next, for certain proportions of the stock, until the whole is subscribed; payment to be made at the time of subscribing; the shares to consist of one hundred instead of five hundred dollars, each; the United States to hold no stock in the bank, have no agency in its disposal, nor control over its operations, nor right to suspend specie payments. The amount of treasury notes to be subscribed, viz. forty-five millions, to be provided for by future acts of Congress, and to be disposed of in something like the following way, viz: Fifteen millions of the amount to be placed in the hands of the agents, appointed for the purpose, or in the hands of the present commissioners of the sinking fund, to go into the stock market, to convert the treasury notes into stock; another sum, say five millions, to be applied to the redemption of the treasury notes becoming due at the commencement of the ensuing year; the remaining twenty millions he pro-

posed to throw into circulation as widely as possible. They might be issued in such proportions, monthly, as to be absorbed in the subscriptions to the bank, at the end of each month, &c. This operation, he presumed, would raise the value of treasury notes, perhaps twenty or thirty per cent. above par, being the value of the privilege of taking the bank stock, and thus afford, at the same time, a bonus and an indirect loan to the Government; making unnecessary any loan by the bank, until its extended circulation of paper shall enable it to make a loan which shall be advantageous to the United States. The treasury notes so to be issued to be redeemable in stock, at six per cent., disposable by the bank at its pleasure, and without the sanction of Government; to whom neither is the bank to be compelled to loan any money. This, it is believed, is, in a few words, a fair statement of the *projet* of Mr. Calhoun, which he supported by a variety of explanations of its operations, &c. the notes of the bank, when in operation, to be received exclusively in the payment of all taxes, duties, and debts, to the United States. The operation of this combined plan, Mr. C. conceived, would be to afford, 1. Relief from the immediate pressure on the treasury; 2. A permanent elevation of the public credit; and 3. A permanent and safe circulating medium of general credit. The bank should go into operation, he proposed, in April next. He concluded his exposition by a motion, the effect of which is to deprive the United States of any share in the stock of the bank, and to change the proportions of specie and paper, in which it shall be payable, to *one-tenth* in *specie*, and *nine-tenths* in *treasury notes*.

This motion opened a wide and interesting scene of debate.

Mr. FISK attacked Mr. CALHOUN's proposition with considerable zeal, principally on two points; its failure to provide for the present absorption of United States' stock, and the difficulty which would occur in the circulation and disposal of so immense a mass of treasury notes. He drew a comparison between Mr. CALHOUN's *projet* and that of the Committee of Ways and Means, highly favorable to the latter.

Mr. FORSYTH, of Georgia, opposed the adoption of this proposition, and examined the features of the amendment proposed by Mr. CALHOUN, and the arguments advanced in favor of it. He was opposed to it in nearly all its features, and greatly preferred the plan reported by the Committee of Ways and Means. His arguments were principally in reply to those of Mr. CALHOUN, which he generally pronounced to be erroneous and delusive.

Mr. LOWNDES, of South Carolina, replied, at considerable length, to Mr. FORSYTH, and vindicated the proposition of Mr. CALHOUN, in an able argument on the principal points of objection, urged by Mr. FORSYTH, and in illustration of the principles of the bill. He showed what he believed a decided superiority of the amendment over the original project of the Committee of Ways and Means.

When Mr. L. ended his speech, the debate on the main question terminated, and this day's sitting ended with the following skirmishing debate, during the whole of which, the Chairman and the members of the House were endeavoring to limit the debate to the question before the House.

Mr. OAKLEY, of New York, after remarking on the very high importance of this subject, and the magnitude of the change which this amendment proposed to introduce into the principles of the bill, and the obvious necessity of further time for the consideration of so important an amendment, moved that the committee rise, report progress, and ask leave to sit again.

Mr. INGHAM, of Pennsylvania, opposed this motion. He feared, if the House were to adjourn without deciding on this motion, coming from the imposing quarter whence it did, and supported with so much ability by the gentleman from South Carolina, it would arrest the loan of three millions, and

even the nine millions loan, which were absolutely indispensable to support the military establishment, and other departments of the Government. What, then, he asked, would become of the soldier who is now in a northern clime, depending on the fate of these loans for his pay, clothing, and sustenance? Whoever, in the face of such considerations, should vote to rise without deciding on this proposition, possessed, he said, more courage and philosophy of temper than he would boast. He hoped the committee would not rise without deciding on this motion.

Mr. GROSVENOR, of New York, said he hoped the committee would rise. This was the very question, how money should be raised, whether by treasury bills or by any other mode, which more than any other required the deliberate decision of Congress. It was not a question simply of paying the militia, or the army now out, but of establishing a system which should enable the Government to discharge all the demands against it. It was all important on such a subject as this, more than on any other, to vote considerably, and after deliberation. The proposition of the gentleman from South Carolina, he considered to be generally advantageous; but he had some objections to it which he wished an opportunity to submit. He hoped, before deciding on a subject like this, the House would take due time to deliberate on a proposition to throw into circulation fifty millions of treasury notes, trusting to the bank for their absorption.

Mr. SHARP, of Kentucky, said he hoped the committee would not rise. He wished, before rising, that they would decide upon the proposition before them; not, however, for the reasons expressed by the gentleman from Pennsylvania. He did not, like that gentleman, conceive that the decision on this amendment could affect the loans; for one, he said, he protested against loans made, or to be made, on the expectation of the creation of a bank to give a bonus to the holders of the public stock, in addition to that which they have already contracted to receive from the Government. It was important that some decision on this subject should immediately take place, which had been already three days debated; and he knew of no plan which would be so operative as that now proposed by his friend from South Carolina, whose arguments, he said, together with those of his colleague, (Mr. LOWNDES) were something like mathematical demonstration.

Mr. OAKLEY denied any weight to the remarks of the gentleman from Pennsylvania, and allowed almost as little to the argument of Mr. Sharp, that three days had been consumed in the discussion of this subject. He should, for his part, say that three weeks might be well employed in the discussion of a project for establishing a bank with a capital of fifty millions of dollars—a capital sufficiently large to influence the destinies of this nation to future ages. He was friendly to the main principles of Mr. Calhoun's proposition; but he was not certain but there might be radical objections to some of them. He hoped some indulgence would be afforded to those, who, like him, wished to deliver their opinions on this subject.

Mr. INGHAM remarked that the House had been sitting here nine weeks, and not a single measure had been definitively adopted for the support of the public credit. Delay and procrastination had taken place day after day; and, if the House were to wait until every gentleman was satisfied as to every word and letter in a bill, the House would never get through one. The very suggestion of such an amendment as that now under consideration, would, he said, produce ill consequences. It ought to be determined, therefore, as early as possible. He did know that a speech, (Mr. JACKSON'S) delivered in this House, had depressed the price of stocks in Philadelphia, full two and a half per cent. The proposition now before the House, he feared, would depress them still further; and, when the public stock was in a state of depression, going down, down, down, he was unwilling the House should take any course which should still further prostrate it.



Mr. FISK hoped the committee would not be induced to rise, at the early hour of three o'clock, by the old plea of want of time for consideration. It was important now to act, and that the whole course of proceedings of the House should be reformed, and one of greater energy and promptitude substituted.

Mr. GROSVENOR said this was no ordinary subject, on which men could make up their minds in a moment; and, although some gentlemen might be prepared to vote on it, he hoped they would allow some time to those who desired to reflect before they voted on a question of so great moment.

The committee then rose, reported progress, and obtained leave to sit again.

NOVEMBER 17.

The House again in committee of the whole, Mr. NELSON in the chair; the important amendment yesterday proposed by Mr. CALHOUN to the bill, being still under consideration—

An amendment was moved thereto by Mr. FISK, of New York, and accepted by the House, authorising the receipt of foreign gold and silver coin, (as well as gold and silver coin of the United States) in payment for the subscriptions to the stock of the bank at certain rates expressed in the amendment.

Mr. WRIGHT, of Maryland, in the course of a few remarks on the motion of Mr. CALHOUN, expressed his approbation of the principle, and avowed a decided preference to the plan it embraced over that contained in the original bill.

Mr. SHARP, of Kentucky, moved to amend the bill so as to preclude any thing but treasury notes from being received in payment of the forty-four millions, which are now proposed to be payable *in specie* or in treasury notes. His object was to prevent the latter payments into the bank from being made by the aid of accommodation from the bank after it goes into operation.

After some conversation, Mr. S. withdrew his amendment with a view of offering it in some future stage of the discussion.

MR. INGHAM.—Mr. Chairman: As the question on the amendment proposed by the gentleman from South Carolina, (Mr. CALHOUN) now recurs, I beg leave to submit a few observations before it is decided. No member of this committee, can be more sensible than I am, of the disadvantages I shall have to contend with, in entering the lists against either of the honorable gentlemen from South Carolina who have supported the amendment; and I am now fully conscious, that I shall fail to communicate my ideas with that perspicuity, which alone can give them their proper force and effect, yet, I am emboldened by the importance of the occasion, and shall rely upon the intelligence of the committee and the subject itself, to supply all other deficiencies. The amendment under consideration, taken in connexion with the suggestions of the honorable mover, contemplates a radical change of all the principal features of the bill reported by the Committee of Ways and Means. It will, therefore, be necessary, in order to contrast the two plans, to notice that which has been proposed by the committee, somewhat at large, though I shall endeavor to be as brief as the subject will possibly admit. It will be seen, that the only important features of the bill are: 1st, the amount of the capital stock; 2d, the character of it; 3d, loan to the Government of \$30,000,000; and 4th, a qualified power to suspend specie payments. To all these points, objections have been urged, either by the gentleman from South Carolina or the gentleman from North Carolina, (Mr. GASTON) and a particular examination of them, becomes necessary as a preliminary to the examination of the amendment. First, with respect to the amount of capital. The bill proposes a capital of fifty millions of dollars; it is sufficiently apparent, that the establishment of the proposed bank, is designed as an instrument in aid of other measures; to revive the public credit, and thereby enable the Government to procure the neces-

sary resources to prosecute the war with such effect as to bring a speedy and honorable peace. But we find, that since the commencement of the war, the public stocks have suffered a gradual depression up to the present year, when it seems that loans, on any terms, are totally at an end. The reason of this is obvious; we have borrowed and attempted to borrow too much, and have not resorted, as we ought to have done, to a more enlarged system of internal revenue. It is unnecessary to go back farther. What is the present state of things? We find the market exhausted of the money and overloaded with the public debt. In addition to this misfortune, we find, literally, no circulating medium in the nation. What then is to be done? You cannot borrow; you cannot impose taxes to the extent of your demands, and even those which are laid, cannot be paid in money that will answer the purposes of the Government. The answer is plain; by withdrawing a portion of the encumbering mass of stock from the market, you relieve it from its pressure; a pressure which bids defiance to your efforts to penetrate it. But if, by this process, you can convert this weight of debt into an instrument of credit, not only for those interested in it, but for a great portion of the community, and also, for the Government to an almost unlimited extent, and, at the same time, restore the circulation of the money medium to its accustomed action, you have accomplished great and essential purposes. It is for these purposes, that this bill was reported, and the amount named in it, fixed upon for the capital of a national bank, that it might absorb such a mass of the encumbering stock as would relieve the market; raise the price of debt not taken up; give facilities to the obtaining of loans for the present year, and for each succeeding year. And here, I would beg leave to remark, that an evident repugnance has been manifested by some gentlemen, (which I will not, however, impute to the honorable gentleman from South Carolina) to doing any thing to raise the price of public stock, lest those who have purchased, at a low rate, should be benefited. Permit me to inquire of those who have no gratitude nor feeling for public creditors who have loaned you their money in the time of your necessity, will you refrain from doing an act indispensably necessary for the credit of the Government, and to enable it to borrow more money, for fear you do a *benefit*, not to call it an act of justice, to your creditors? I would ask such gentlemen, how they expect to go into the market and sell stock for eighty-eight, when that already sold, is every day to be bought for eighty? It is humiliating to dwell upon a subject so plain and simple, and, but for the strange declarations which I have heard, it would not have been noticed. Mr. Chairman, there is no consideration to which every financier who is obliged to anticipate his resources by loans, is more attentive to, than that of supporting public credit; or, in other words, keeping up the price of stocks; the faithful payment of interest, though indispensable, is not always sufficient. Sinking funds have, therefore, been resorted to, but, as your power of establishing sinking funds is limited, when we find, by a repetition of loans, we have overloaded the market, you must, if possible, withdraw that surplusage before you can recommence your loaning operations, and even then, you must return to the market with that caution which experience has indicated, as necessary to your success. It is, therefore, that we propose to take out of the market, the eighteen millions of stock and the six millions of treasury notes; and, as the stocks are now selling at eighty, it was calculated, that an advance of twenty-five per cent. upon twenty-four millions of dollars, equalized, as it would be, upon the whole amount of the debt in which subscriptions to the bank could be made, (about eighty millions) might be computed to advance the whole of these depressed stocks to about eighty-eight. The sum proposed to be absorbed, therefore, was the least amount that could, consistent with the plan, have been taken. But, there is another reason why a large capital was determined upon. We propose, for the sake of mutual benefits to the bank and the Government, to give it great facilities in the circulation of its notes. In fact, this will be almost the only medium which can be employed for the payment of taxes, or to carry on the ordinary commercial intercourse between people of different States, those of most of the State banks being now exclusively

confined to a circumscribed atmosphere around the bank from which they issued. With these facilities, it is apparent, that the bank may issue considerable quantities of paper, and, it was much safer to make the capital of the bank exceed the amount of notes which the demand for circulating medium would enable it to issue, than, that it should have power to contract debts equal to its capital. And here, it should be observed, that a bank with a small capital, possessing, in all other respects, the same facilities with a bank with a large capital—specie payments being suspended—will be able to issue nearly, if not exactly, the same quantity of paper. It, therefore, becomes necessary for the security of the creditors of such a bank, that it should have a large capital. I heard the honorable gentleman from South Carolina, (Mr. CALHOUN) with some degree of astonishment, yesterday, state, that a bank of one million of dollars, could, with safety, issue paper to the amount of two or three millions. I would ask him, what would be the situation of an individual whose debts three times exceeded his whole real and personal estate? He would be insolvent, and so would the bank. No bank, conducted with integrity, ever did issue notes to the amount of its capital; and no bank, that has any regard to its reputation, will ever dare to do it. The gentleman has, probably, confounded discounts and emission together—an error into which many others have been led before him. Although these operations are intimately connected, yet, they are extremely different in their nature; the one constitutes the debts due to the bank, while the other constitutes the debts due by the bank. The gentleman, and every member of the committee, will see the distinction, and it will be unnecessary further to illustrate it. I think, it has been sufficiently shown, that a bank, with a capital much less than fifty millions, could not, with safety, issue, upon the customary mode of bank operation, notes to meet the present demands for circulating medium and preserve an adequate security to its creditors. It is, I believe, unusual for the large State banks to issue, in paper, more than one-third, or, at most one-half, the amount of their capital, although they often loan or discount to the whole amount.

The next point which presents itself for consideration, is the *character of the capital*. It is proposed to be constituted of twenty-four millions of public debt, that have accrued since March, 1812, or, that is now authorized to be created. Eighteen millions of dollars of this, will be six per cent. stock, and six millions of dollars in treasury notes now issued or to be issued in pursuance of existing laws. Twenty millions to be subscribed by the Government, and paid in six per cent. stock, and six millions in specie. The objections that have been urged to the character of this capital, are worthy of some particular notice. We are told, “that it is nothing more than a paper bank;” “that it is not entitled to credit;” that “its paper will not circulate, having no security for its solvency, but the obligation of the Government to pay its debts.” It is, perhaps, fortunate for the friends of this bill, that they have the light of experience to justify their expectations and calculations on this subject. Is there not a strong resemblance between the character of this capital and that of the old United States’ Bank? The amount and proportions are somewhat variant, but the essentials are precisely the same, and when was the validity of that paper questioned? It is true, specie payments were not suspended, but every body knew, that, while it was doing business upon a capital of ten millions of dollars, issuing notes to the amount of five to six millions, its specie capital only amounted to two millions five hundred thousand dollars, and no difficulties were ever experienced for want of more specie, that I have heard of. In ordinary times, there is very little occasion for specie in banking operations; none is wanted except for the payment of balances between the merchants of different cities, between different banks, and the small change required by retailers. And the amount of specie required for these purposes, does not increase in proportion to the amount of banking capital employed in the country. As an evidence of this fact, we may refer to the operations performed by the Bank of England. The amount of payments made every day by the different banks of London, is estimated to exceed four millions sterling, and in the year 1810, the whole amount of notes

of the Bank of England and private banks, in circulation, amounted to seventy-nine millions sterling, while the specie only amounted to four millions. It may be fairly inferred, that the credit of a bank does not depend upon the amount of specie in its vaults, no more than the credit of a merchant depends upon the amount of money he keeps in his desk. His visible estate, his income, and his integrity, are the foundation of his credit, and it is the same with the bank; the visible estate of which, is the public debt and specie, its income is the interest arising therefrom, and from loans to Government and individuals. And the caution that will be exercised in the selection of directors, will, no doubt, as has almost universally been the case, especially in the large banks, ensure a faithful and judicious management of its affairs. But, we are told the only security for its paper is the obligation of the Government to pay its debts! And are we to be gravely told, that *this is no security?* I never can, for a moment, believe that this security will be questioned, regarding, as every man in the nation does, the obligations of the Government to its creditors, of so solemn and unchangeable a character that, let whatever may happen, they must be fulfilled in good faith. In addition to these considerations, the credit which the paper of the bank will receive in payment of taxes and customs, and the imperious necessity which exists for a circulating medium that will be co-extensive with the States, will ensure the circulation of the paper, and there cannot exist a rational doubt of its credit being maintained without depreciation, answering all the valuable purposes that are expected from it both for the Government and the community. But here we are met by another objection, viz: that the enormous loan, as it has been called, of thirty millions to be made to the Government, will produce a run upon the bank that will exhaust all its specie and arrest its future operations. In the first place, it is not to be presumed, that the Government will do any act that will embarrass the bank, being, as it always must be, so deeply interested in its preservation. The loan will, therefore, be asked for according to the terms of the bill, in such sums and at such periods as may be made mutually convenient and consistent with the objects of the Government. And there is no doubt, but the Government would regard this resource as a reserve only to be used in time of particular necessity, when the depression of stocks should forbid them from going at large into the market. At any rate, the amount would not be required, as it could not be wanted, in large sums. And such of these as would be drawn out of the bank, would mostly find their way into it again before another payment would be demanded; a portion would return in taxes and other portions in payment of debts due from the country to the city merchants, and a very considerable part of this loan would, like ordinary loans or discounts, as they are called, to individuals, never get from the drawer of the bank, but merely pass from the credit to the debtor side of its books. Under this view of the subject, which exhibits the necessary and natural operations, it will be admitted, that not so much danger exists from this loan, as some gentlemen seem to apprehend. But should any unexpected difficulties menace the bank, there will be a resort to the power of suspending specie payments. But this provision has also been objected to, and almost in the same breath, we are told, that no bank can exist with the extensive operations designed for this, with an obligation to make specie payments. But the objectors have not furnished us with an alternative. I do not apprehend any serious consequence will result from the temporary suspension of specie payments. The experiment was tried many years ago in England, and has been continued up to this time, without injury to the commercial interests and with essential benefit to the nation at large. It has also been tried here, and, although bank paper is somewhat depreciated thereby, it is solely because it will not answer the purpose of paying balances between people of different States, for which specie had usually been employed. For example, the bank paper of this District will not enable you to trade east of Baltimore; yet, every article to be purchased with it here, is as cheap as it was twelve months ago. It may, therefore, be fairly inferred, that a paper which was receivable all over the United States, in taxes, and might be ex-

changed for notes of smaller or greater denomination, or treasury notes in each of the States would, from its general convenience, continue to circulate without depreciation, even though a temporary suspension of specie payments should take place. It has already been shown that, but a small quantity of specie is actually necessary, when the People have faith in the capital, the income, and the integrity of the bank; and in this case, necessity would become an auxiliary to faith, and business would go on as usual. But further: Is it not probable that most of the moneyed capitalists in the United States would vest a portion of their disposable funds in this bank, as also a number of the State banks? and will not all these be interested in the support of the credit of its paper? I do not believe it possible, for any hostile combination to resist *their* influence in money transactions, when thus united and thus interested. And from every view that can be taken of the subject, there does not appear any rational doubt of the success of the plan proposed by the committee in answering all the valuable purposes for which it was designed. The plan has been, for a considerable time, before the public, and although some have objected to the amount of the specie called for by the bill as being difficult to procure and unnecessary, it has met the approbation of the most intelligent men in this community, (as to money matters I mean) to say nothing of the mature and deliberate consideration which has been given to it by the able and enlightened statesman at the head of the Treasury Department, who, relying upon the support of Congress, has assumed the high responsibility of his station with a degree of energy and confidence that does no less honor to himself, than it promised to do service to the country; to say nothing of the discussion and consideration which has been given to this subject by the Committee of Ways and Means, for whom, although no more confidence should be claimed than for any like number of the members of the House, yet, their duty, their great responsibility, could not fail to produce a laborious examination of the plan. But, we are not without experience as to its influence. *The stocks had began to advance*, of course public credit was reviving, and some loans were actually negotiating for the relief of the present quarter, in anticipation of the success of this bill, to carry into effect the general plan of finance submitted to Congress by the Secretary of the Treasury. Such was the progress of our fiscal operations, and we were emerging, as it were, from a dense cloud of difficulties and embarrassments that hung over the nation. A more extensive and efficient system of finance than any ever adopted in this country, was progressing to maturity as rapidly as circumstances would admit; and the bill under consideration, an indispensable instrument to carry it into effect, had progressed with a flattering prospect of success; and behold, at a crisis so eventful, we are met by a proposition which goes (to use the expression of the gentleman from South Carolina) to effect a radical change in the whole system of the bill reported by the Committee of Ways and Means. I shall say nothing farther as to the time and manner of this proposition; but I trust it will appear to have been suggested without due consideration, as it has been without concert or consultation; and, however plausible in theory, that it is impracticable in its details, and will be injurious in its effects. In attempting to investigate this new plan, we are subjected to considerable difficulties on the threshold, because it has neither assumed form nor shape. The plan can therefore only be collected from the suggestion of the honorable gentleman in his speech yesterday, except so far as it is found in the amendment on the table, which only appears to be a small patch of the scheme. That the scheme is crude and undigested, there can be little doubt, when we recollect the changes that have been proposed or consented to by the mover, since it made its appearance in the committee yesterday; but I will proceed to examine it. The plan proposes to constitute the bank upon a basis of six millions of specie, and forty-four millions of treasury notes; these notes hereafter to be issued, and when subscribed to the bank, to be exchanged for six per cent. stock at par; fifteen millions of the forty-four to be placed in the hands of the commissioners of the sinking fund; and to carry the plan into effect, a law must be passed to authorize the issuing of the treasury notes, and another law

to dispose of the fifteen millions in the hands of the commissioners of the sinking fund, and as there may be a great difference of opinion as to these ulterior measures between the branches of Congress, the possibility of a failure to pass these laws, presents a strong objection to the plan. We already find a difference of opinion between the two gentlemen from South Carolina who have supported the amendment; one of them (Mr. Lowndes) altogether disapproves of placing fifteen millions of notes in the hands of the commissioners of the sinking fund, to be exchanged for six per cent. stock, and subscribed to the bank. I shall presently consider this part of the subject, with reference to both their schemes, and, in the mean time, recur to the proposition to issue either the forty-four or the twenty-nine millions of treasury notes, for the purpose of being subscribed to the bank; and it may here be observed, that the treasury notes are not, as some seem to think, calculated for a circulating medium, nor can they ever be made to supply its place; it is an evidence of debt bearing interest in no essential particular different from the public stocks, except that the former is made payable monthly at the end of a year, while the latter are redeemable at a longer period; the interest that accrues retards, instead of accelerating the circulation, and it must partake of all the essential qualities of capital. If, therefore, you issue a sum of treasury notes, you make virtually a loan to that amount, and especially if they are not to be repaid, as in the present case, at the end of the year; the money market is as much exhausted by the operation, as if six per cent. stock is sold to the same amount; it is, therefore, fair, to consider this enormous emission of treasury notes as a loan, which, by offering extraordinary inducements, you calculate to effect. Now, in order to judge of the propriety of this measure at this time, we must consider the state of the money market, and also what constitutes the capacity of a people to loan to their Government. It has already been observed, that the market is overcharged with stocks, and each succeeding loan has (except in one instance) been obtained on more unfavorable terms than the former. It must be evident, therefore, that we have attempted to borrow, and that we *have* borrowed too much in proportion to the provisions that have been made to redeem, especially when we consider the stagnation of the medium. The stock market is glutted and overloaded, and you may buy stocks in it at a much cheaper rate than the Government ought to sell them. Is it then prudent, or wise, to force out at such a time, in one year, the enormous sum of forty four millions of new stock, to accumulate this new insupportable burthen on the market? It should be recollected, that the amount which the people can loan to their Government, within a given time, can never exceed the amount of their nett profits for the same time; and in a country like this, where there are so many avenues to wealth by the reinvestment of the yearly profits in capital, either by enlarging existing establishments, or engaging in new employments, it cannot be expected that any very considerable portion of the annual profits can be borrowed, without giving a high premium for them. But, at this particular time, when, owing to the interruption of all business, by the stoppage of specie payments by the banks, and the consequent location of their paper to a very limited boundary, it cannot be expected that the habits of industry, or means of loaning, can be near as great as they will be when the circulating medium of the country shall resume its accustomed activity. If these premises are correct, the conclusion is inevitable, that it would not only be unwise and impolitic to press so great a loan, as it were, by force, upon the market at this time, but that it would be much more safe and prudent to withdraw a part of the stocks from the market, and abstain, if possible, from pressing it again, until it shall have become relieved by the income of the succeeding year. Hence it is, that we propose to require the bank to loan money to the Government, a part of which would perhaps be required for the next year, and the remainder reserved for similar exigencies. But the honorable gentleman from South Carolina calculates to obviate all difficulties and embarrassments for two years, by the sale of the twenty-nine or the forty-four millions of treasury notes, which he calculates will readily be sold at par, nay, even at a premium. Now, as the amendment stood when he delivered



his speech, and as it now stands, (although I am aware of the proposition of the honorable gentleman from Kentucky, to require payments for the bank subscription to be made in the treasury notes *only*, to the amount of forty-four millions, which he had thought proper, however, on reflection, to withdraw, and which, upon more mature reflection, I am sure he will not renew) as the amendment now stands, the payments may be made in treasury notes, or *gold and silver*. And how will treasury notes be sold for specie or bank notes of equal value, at a premium or at par, when the specie can be paid directly into the bank? The thing is too absurd to dwell upon for a moment. But, perhaps we shall be told that the subscriptions for the forty-four millions must be paid in treasury notes only. I can hardly think it possible that the honorable gentleman, with all his courage, would venture upon such a measure to force his treasury notes into the market; it would be little better than a tender law in principle, and in its operation most iniquitous and injurious to the success of his plan. For instance, an individual being in possession of specie, must be compelled to buy treasury notes before he can subscribe to the bank; thus preventing specie from finding its way into a bank, which must always continue its specie payments, and he must be subjected to the risk of not being able to secure the amount of his subscription to the bank; in which case there will no doubt be a loss upon the treasury notes that are not absorbed, and of course the less inducement to buy them. But it does not appear to me, that the treasury notes can be sold to the amount proposed. How are they to be paid for? Specie cannot be found: will you sell them for bank notes? One half of these, if the treasury notes are distributed over the States for sale, as the gentleman proposes, will answer the Government no purpose. It has now near three millions of southern notes, which must be applied to the payment of the interest on the public debt in Boston; nor can the notes of Baltimore be certainly applied to the payment of debts even in Philadelphia. How then can these forty-four millions of treasury notes be sold for a valuable consideration in any State where the taxes exceed the disbursements of the Government, and in which the banks do not pay specie? The gentlemen of this House may, perhaps, take a few of their per diems home in treasury notes; but it will be impossible to distribute them, when the credit of the Government exceeds its debts, unless you *give them away*. But the gentleman proposes to reduce the denomination; and what will this avail his plan? A few of them may be picked up by hucksters and tinpeddlars, and there it will end. You cannot pay money where you do not owe it, nor sell treasury notes to people who have no money to buy them with, or whose money answers you no purpose. I conclude thus far that the scheme is unwise, impolitic, and impracticable. But suppose it were possible to carry it into effect, what is its moral character and its effect upon public credit? I do not mean to impeach the motives or moral principles of the honorable gentlemen who have advocated this plan of a bank; I know they are utterly incapable of supporting any measure of which they entertain a doubt as to its strict moral propriety; but, thinking differently from them in this particular, I shall be excused for explaining my views of it. It has already been stated that the stocks are in a state of heavy depression; and it may be added, that those who have given you one hundred dollars in specie for one hundred dollars in stock, cannot now sell the same for more than eighty dollars—so of those who have given you eighty-eight for one hundred. This depression is not the fault of the creditor; it is his misfortune; and when the Government can, without injury to itself either do a benefit to its creditors thus circumstanced, or avoid doing them an injury, it is bound by every moral obligation so to do. But what will be the effect of the measure under consideration? We find the stock market glutted; the public creditor sinking under his burdens, and, without any occasion whatever, we accumulate an additional mass upon him, and consummate his ruin. But, says the honorable gentleman from South Carolina, (Mr. CALHOUN) fifteen millions of treasury notes shall be applied to purchase up the depressed stocks; that is, he will offer seventy-five or eighty dollars in treasury notes for a certificate which purports on its face to

demand one hundred dollars in specie. But this is not all; by our own act, we first depress the price, and depreciate the value of our debt, and then, by the aid of some speculating scheme, we buy up that debt at its depreciated rates, just like some swindling traders in our cities, who, when their credit is exhausted, shut up shop, and send out runners to buy up their notes at forty or fifty per cent. discount. Such is, to my mind, the character of the transaction. But one honorable gentleman from South Carolina (Mr. Lowndes) is opposed to this part of the plan; he will not employ any part of the intended capital of this bank to purchase up the depressed stocks. *So much the worse.* The public creditor would then have no remedy for even a part of his misfortunes, and the Government, in such a case, would act the part of a spendthrift, whose land could not be sold for debt, and while he was giving usurious advantages to obtain new credit, he would defy his old ones, and mock at their complaints. I am aware that many plausible things may be said to show what are the obligations of the Government to its creditors, and that they may be fulfilled according to the terms of the contract, without being noticed in this bill. Be it so; but, I contend that you are attempting to effect by indirect means, what you would not venture to do by direct means; that is, to obtain from the public creditor your *obligation* for a less amount than you promise upon the face of it to pay him. He will not be satisfied with special pleadings and logic; he will realize his misfortunes, and execrate his wrong-doers. When his children cry for bread, his answer will be, I loaned my country; I confided in her justice; but, in an unlucky hour, her councils were guided by logicians, and I am ruined. But there is another feature in the new plan, which constitutes an insuperable objection. Specie payments are to be made absolute. If we did not know that necessity sometimes requires a suspension of specie payments by banks both at home and abroad, and that it may be done without that terrible danger which some affect to apprehend, there would be some reason to refuse making any provision for the case; but, with all this light, and the existing condition of the specie medium of the country in full view before us, it would seem to be a species of frantic enthusiasm, not to provide for the case. If bank credit can be restored, and it has not been essentially impaired, there will be a better opportunity to do it under the power to suspend the specie payments, guarded as it is, than there would be in any other way. But, suppose the balance of trade to continue strongly against us, and a high premium for specie to be given by our enemy. Your bank will become an instrument by which it will be drained from the country; and it may happen, and probably will happen, that their specie payments cannot be discontinued, and what will then be the situation of the bank? Failing to fulfil the purposes designed, its credit is blighted, its operations are stopped, and its charter violated; and if this should take place before your treasury notes are sold, the Government will scarce obtain a moment's relief; but, if the treasury notes have been forced out, will they not come back upon the Government for payment, when it has no means to redeem them, instead of passing into the drawer of a broken bank?

The patience of the committee is no doubt exhausted, and I will conclude by exhibiting the relative pecuniary value of the two plans, in a calculation that cannot be misunderstood.

By the scheme of the honorable gentleman from South Carolina, suppose that you succeed in issuing the forty-four millions of dollars in treasury notes at par, whether to be vested in stock, or for the purpose of a direct subscription into the bank, and suppose, too, that the fifteen millions of treasury notes will purchase one hundred dollars of stock for eighty dollars of notes; the advance or profit obtained in the operation, will be the difference between the present price that is paid for money, and the rate thus obtained, viz. twenty-five per cent., which, upon forty-four millions, will be eleven millions. This is the utmost that can be claimed for his plan, *if it succeeds.*

Now, by the plan proposed by the bill, we have the same advance upon 6,000,000 treasury notes, viz.

Twenty-five per cent. upon a loan of \$30,000,000,	\$1,500,000
	7,500,000

And, if we suppose our bank stock to advance twenty per cent. above par, it will make a disposable capital of \$25,000,000, to obtain which, we should be obliged at the present rates to pay a premium of \$6,250,000,

Which, together with the advance on the stock,	-	-	6,250,000
			5,000,000

Will make a nett gain to the Government, of - - - \$20,250,000

Making a difference in favor of the Government, by the bill as reported by the Committee of Ways and Means, of \$9,250,000.

This is a plain arithmetical fact, that cannot be controverted. The figures will speak for themselves, and every member of the committee may make the calculations for himself. But I can scarcely hope to convince the honorable gentleman from South Carolina. He appears to be so enthusiastically attached to his proposition, that he has called in the aid of his prophetic spirit to sustain him, and has painted in glowing colors the prospect of the blockade being raised, and the speedy restoration of our foreign commerce and coasting trade to their accustomed activity. But I cannot rely upon anticipations of this kind, though I have often listened with pleasure to them. I have heard of his prophecies before, and recollect listening with pleasure, though with some degree of scepticism, to a speech of his, highly colored with promising prospects, on a bill which has contributed to produce, more than any other cause, our present fiscal embarrassments. It does appear to me, that the wisest course would be, not to yield to visionary speculations, nor to adapt our measures to a state of things not likely to be realized. We have been trying expedients too long. Solid, substantial, and lasting measures, are now indispensable. Such is the character of the proposition contained in the bill; while the amendment proposed totally changes its character as well as form. That which was designed as an agent to revive public credit, to supply the present exigence of the country, and give such facility in obtaining future loans, as would enable us to prosecute this war with vigor and effect, is to be converted into a machine to squeeze a little depreciated money out of the People *for the present*; abandoning the other great and important objects so indispensably necessary to be effected.

I beg pardon of the committee for having trespassed so long upon their patience, and the only apology that can be offered, is the importance of the subject.

#### Mr. INGERSOLL's speech against Mr. CALHOUN's amendment.

Mr. INGERSOLL said, that he inserted himself into this debate with great reluctance, almost in despair—reluctance to take part in a discussion for which he had no inclination, and which he thought had better be left to the members of the committee who had reported the bill; in despair, because he had no hope of making any impression on an assembly but too studious of change, too fond of novelty, too apt to think that national wealth was most certainly to be found in individual impoverishment. Ever since this war was declared, and, indeed, since the session of Congress preceding it, the nation had been kept alive on sickly hopes of peace, and the empirical sustenance of inadequate loans; and it was not till just now, when these flattering unctions were no longer applicable, that we had made up our minds to the solid food of heavy taxes, pledges of them in sinking funds and a national banking institution. For his part, Mr. I. said, that he had uniformly denied and deprecated the effects anticipated from the Russian mediation, as well as those of the negotiation subsequently translated from Gottenburg to Ghent. These always appeared to him to be the *beau ideal* of our foreign relations. He had never ceased to remonstrate against abstracting an eminent person from the head of the Treasury Department, to send him to make the grand tour of Europe in pursuit of peace. I have invariably thought and said, (said Mr. INGERSOLL) that the only policy was that just indicated by my friend and colleague who preceded me, (Mr. INGHAM) to look the difficulties manfully in the face, con-

ceive them at their worst, and deal with them accordingly. We have at last come to this complexion, and I congratulate the country on the occasion. We never should have had peace till war was waged in earnest; and perhaps we are now much nearer to a termination of hostilities, than we were while subsisting on pacific overtures.

The Treasury Department, in concert, and after long consideration, with the committee of Ways and Means, assuming the responsibility of their respective stations, have recommended to us the plan of a bank, which is comprehended in the bill under discussion. In this Congress of ambassadors, as I think it was the late President Adams, (in his Treatise on the Constitution) very aptly denominates us, rather than a Congress of the representatives of different portions of the same people, it should always be the first preliminary to entering upon any subject, the *sine qua non* (since *sine qua non*s are so much the mode at modern Congresses) to agree by mutual sacrifices of the pride of opinion, and the spirit of system, to endeavor to attain some practicable object and result. It is well known to every member, that a national bank, while nearly all acknowledge the imperious necessity of such an establishment, has to encounter the various obstacles and collisions which arise from various quarters of this House. In the first place, it is to be opposed by those gentlemen on the opposite side, who, deeming this war unjust in its origin, deem it, moreover, a constitutional and correct orbit of opposition, to move indiscriminately against every measure calculated to act in furtherance of the war. I will not take upon myself to determine, whether this is a proper view of the subject. We at all events know that it is one most steadfastly adhered to. In the next place, a bank is resisted by certain scruples respecting the constitutional power of Congress to create one, which obtain with several gentlemen on this side of the House. And lastly, it cannot be doubted but that the most powerful, pervading, and indefatigable hostility out of doors, will be organized by the innumerable State banking institutions; which comprehend within the sphere of their influence, almost every man of property in the country, who may apprehend that a Bank of the United States would tend to curtail, to cripple, or to destroy their resources. As long, however, as the objections urged on this floor were confined to those which might have been expected, and which may be urged against all such establishments, I did not suppose it incumbent on any member, to assist those gentlemen of the committee who have the particular conveyance of this bill through the House. I should not have presumed, therefore, to mingle in the debate in reply to such objections. Indeed, the grounds which were eloquently occupied by the gentleman from North Carolina, (Mr. GASTON) seemed to me to be sufficiently answered by himself; for I really think that there were few of the difficulties which he recapitulated against the proposed plan, that are not in equal force of existence against the substitute he suggested. As to plans, indeed I am not myself at all tenacious. Any plan will answer my purposes, that promises to restore public credit and create a circulating medium. Nor can we, to be sure, complain of any deficiency of projects. Almost every gentleman has his own; and if you happen to look into a newspaper *ecce Homo*, here is a daily column of most comfortable schemes ready printed for your perusal, [in allusion to a voluminous writer on these subjects in the National Intelligencer, who affixed the signature of *Homo* to his essays.] It affords me pleasure to bear testimony to the satisfaction with which I followed the gentleman from South Carolina, (Mr. CALHOUN) in the development of his substitute for the system recommended by the Treasury Department. I must do that gentleman the justice to say, that his views were exhibited in a clear, connected, and well digested discourse, on this abstruse and complicated subject; in which he unquestionably showed, at least, his own preparation and capacity for explaining and supporting any favorite project he may choose to introduce; and while I declare my unequivocal opinion, that his appears to me to be the most fantastic, impracticable, and, I will add, pernicious, of all the plans we could adopt, calculated inevitably to destroy the public credit of this Government, to damn it to all eternity; yet, so anxious am I to pro-

vide for the crisis which presses on us, that I would rather fall in even with this alternative, at the expense of all your remaining public credit, in preference to not voting for some immediate means for meeting present embarrassments. If we must ruin our existing creditors in order to procure fresh supplies, and if that is the best manner of procuring them, I profess my readiness to proceed to so deplorable a result, rather than to omit altogether, the making of some provision for the exigency. But the gentleman from South Carolina (Mr. CALHOUN) has pointed out to us a stream of finance which positively is not navigable. We may trace its origin, and follow its course—seemingly a fine volume of water—fertilizing as it flows—until we behold it emptying itself into the ocean: but when we come to try its usefulness, we find that, like the river Susquehanna, its navigation is doubtful, dangerous, and unsafe. It invites population to settle on its shores; but diseases and death infest them; and we are amazed to discover, on experiment, how fatally it disappoints the expectations that were at first encouraged of its beneficial properties. Nothing but a freshet will justify our venturing on this current; and that is precarious, uncertain, and alarming.

Let us examine this unexpected substitute. What do we find? Why, sir, in the outset an insuperable difficulty, *in limine*, before we reach the body of the project. The gentleman from South Carolina (Mr. CALHOUN) who, (no doubt in the zeal of an ardent mind) let drop some rather inadmissible expressions, by way of forestalling the objections he anticipated to his scheme, will excuse me for the similitude—but really it reminds me of the French veterinary surgeon, who killed the sick horse, in order that he might prove his skill by restoring him to life. Is it not so? Does not his plan demand, as its first postulate, a total prostration of the public means, an absolute vacuum in the treasury, to be afterwards revived, by filling it with forty millions of treasury notes? Does it not require that the twelve millions which are indispensable for the current quarter of this year, should be sacrificed, and that the Government should stop payment for the present, relying on this scheme for obtaining funds hereafter? Most assuredly, the doors to which you look for loans, will be locked up and double bolted against your advances, if you enact a law, impregnated as this is now proposed to be, with injustice to those who have hitherto sustained your credit by administering to your occasions. You are to forego the advantages of an approved and rational plan—you are to abandon the attempt to borrow what you stand most seriously in need of at the present moment; you are to stop payment; you are to become bankrupt, in order that new, untried, and impracticable efforts, may afterwards be made to raise you from the grave. The thing is impossible: and if it were not, the experiment, at all events, is rather too critical a one. You may, I believe that you must, perish under the operation. Of how nice and delicate a texture public credit is composed, we have had demonstrations but too painful, during the present session. It is the very gossamer of political elements. The perpetual sunshine of confidence, is necessary to its existence. Withhold this, and it languishes. Withdraw it, and it dies. And once dead, where is the magic, where the power that can revive it? Let me caution gentlemen against even handling it too roughly. It is but too easily destroyed; and, whatever may be said in speculations here, depend upon it, sir, that there is no skill in either surgery, or quackery, that can call it back again to an animation once suspended.

Such, however, so imminent, so full of dissolution and decay, are the very foundations on which this new superstructure is to be built up. Let us now look a little further into its details. And here, at the very inside of the threshold, I am again struck with a general imperfection. Why not come at once to the rejected resolutions of my honest friend from Georgia (Mr. HALL?) What use is there in such a mass of banking machinery, to give circulation to some millions of treasury notes? Why not issue them at once without this unwieldy, this unnecessary medium? Do you surround them with it, in order to pass them off with less embarrassment, supposing that the public will occupy themselves in examining the mill, without scrutinizing the material? If you do,

disappointment will be the consequence for those moneyed men, whom you hitherto have looked to for support, though now you seem ready to discard them, are not to be so easily prevailed upon. They are sharp sighted animals, who will pierce through your projects at a glance, however you may wrap and fold them up from common observation.

Again: If treasury notes are to constitute the universal succedaneum, and you intend to deprive the Government of authority to prohibit the issue of specie even under peculiar circumstances, and for short periods, what occasion have you for any specie capital at all? Do you imagine, sir, that your five or six millions will be suffered to remain quietly in circulation, going in and out of the vaults of this bank, without any guard whatever against its fraudulent evasion? I am quite mistaken if the whole sum would not migrate to Halifax within a fortnight after its deposit. I cannot pretend to speak with precision as to the amount of specie, now in retirement, belonging to the different banks of Philadelphia, and individuals who have secured portions of it in safe places; but I should imagine that it must be considerable, perhaps some millions. How long, is it supposed, it would continue in fair circulation if the banks were to pay it out for notes? It would infallibly and almost instantaneously disappear. I confess that I have my doubts as to the propriety of affording Government any number of the directors of the bank; but I cannot conceive a mode for dispensing with the inhibition by law of specie issues in certain cases, without referring this authority for its exercise to the directors themselves, who must endanger the charter by its enforcement. It is, therefore, best in other hands.

But, after all, Mr. Chairman, it was in behalf of the public creditors that I was mainly induced to address you. It was to bespeak your indulgence, to appeal to your faith, to indicate your policy, as regards the stockholders of the late loans, that I have ventured to rise on this occasion. In order to understand and appreciate their relation to the Government, let us inquire how it came about. It is not two years since, when I first came to this House, I felt it my duty to assert their pretensions against attack from the other side. And now, already, much sooner, I confess, than I expected, I am called upon to defend them from attacks on this side. Blessed encouragement this, to be sure, for those who may be disposed to lend their money to the public! And pray, what are the circumstances that justify these aggressions? You first went into the market for a loan of eleven millions at six per cent. of which you obtained but about six. [Here some explanation took place between Mr. EPPES (Chairman of the Committee of Ways and Means) and Mr. INGERSOLL, by which it appeared that Mr. I. was mistaken in supposing that the residue of this loan had been filled up by a diversion of the sinking fund for that purpose. Mr. E. pointedly denied that the sinking fund ever had been diverted from its true object.]

The explanation afforded by the gentleman from Virginia (Mr. EPPES) makes no change (proceeded Mr. INGERSOLL) in the aspect of my argument. I was about to show that your loan market was exhausted by a loan of six or seven millions, at the hundred for a hundred. Your next bargain was for sixteen millions at eighty-eight for the hundred. Afterwards, seven millions and a half at the same rate. And finally, that portion of the twenty-five millions, which has been negotiated at eighty, and perhaps less, for the hundred. And what inducements did you hold forth to those who advanced these sums? Of course the faith of Government for the punctual payment of the interest, and faithful redemption of the principal at the expiration of the stipulated term. But was this all? Was there no accessory, no additional inducement, besides the plighted faith of the nation? This House must well remember that there was. It cannot be forgotten that the Secretary of the Treasury was selected as one of the commissioners to repair to Europe to treat for peace; and it is perfectly well known that both he and his colleague, at the time that some of these loans were under contract, were sanguine in their calculations on the prosperous result of their mission. Indeed, since we have become acquainted with their instructions, it cannot be matter



of surprise that they should have entertained such a confidence. The fact, however, is, that subscribers to the loan at eighty-eight, were led to believe, and from the best authority, that their stock would enjoy all the benefits of peace within twelve months from the time of their subscription, and that instead of merely par for the eighty-eight which they loaned, they might reasonably calculate on a rise of ten or fifteen per cent. above the hundred which they were promised for their money. It was, moreover, made a test of patriotism in the subscribers, and hundreds contributed in part on this principle. Gentlemen talk of these persons as if they were the veriest brokers and stockjobbers in the world; and as if, too, none but brokers and stockjobbers had subscribed. But no misconception could be more unfounded. Let such as imagine that some half a dozen usurious capitalists hold all the stock in question, attend on quarter day at the door of a bank, in which dividends are payable, and examine there into the characters and conditions of the crowd of anxious expectants for their income. They will find the widow and the orphan, the aged and the infirm, as well as the wealthy and the competent, waiting for their shares; some of them for small sums, payable by way of annuity, (which was authorized by the loan laws) and the only reliance of the poor. People who have invested their funds in this stock. These are the persons whom you are proposing to cast aside. They did not seek you nor press themselves into your assistance; but, on the contrary, you went in search of them, and induced them, by strong and seductive promises, to part with their money for your necessities. They did so at your earnest instances. They paid it to you when they could have had gold and silver for their checks. But now having bound them to your destiny, having exhausted their capacity to lend, you deny them (should the proposed amendment be adopted) any participation in your plans for the improvement of their funds. You leave them to their fate, vainly imagining, that after such crying injustice, you can substitute another class of creditors in their places. No moneyed institution can succeed which is to be founded on principles at war with the interests of the moneyed men of a community. You may rail at these persons if you will; but, depend upon it, that to enlist their opposition to any plan for the restoration of public credit is not the way to accomplish it.

The bank contemplated by the original bill on the table, was to be laid on the liberal, the politic, and the natural endowments of public stock and specie, in certain adequate proportions. That which is to be attempted, should the amendment succeed, would, for the first time in the history of such institutions, be founded on a vast basis of new paper or stock to be created, to the prejudice of those who now own the stocks and regulate the prices, in the market. Of these, there are between sixty and eighty millions (including treasury notes) in existence. Instead of withdrawing a third of this amount and appropriating it to a bank, the gentleman from South Carolina (Mr. CALHOUN) would send in forty odd millions more, in the shape of treasury notes, more heavily than ever to choke up and everdo the market. I do not pretend to be very conversant with these matters, but I must confess, that I cannot perceive how such a scheme could possibly succeed in operation.

Of all models for a moneyed institution, the late Bank of the United States affords one, the most worthy of imitation. And upon what was it founded? Public stock and specie capital. What public stock? Not new stock created for the purpose; but that which was funded at twenty shillings in the pound, though a great deal of it was purchased as low as one and six pence. The Secretary of the Treasury would hear of no discrimination between the creditors. He well knew that public credit was to be created, not by looking forward to new auxiliaries, and discarding old ones, but by a punctilious and faithful, an indiscriminate and universal fulfilment of all former engagements. Paying old debts is the best mode of enabling a community to contract new ones. The Bank of England, the Bank of Genoa, most of the celebrated moneyed institutions in Europe, were established on similar recognitions and adoptions of the public stocks of their respective countries. The Bank of the United States, therefore, followed their example. Stockholders, who were

known to have purchased their stock at a great discount, were, nevertheless, allowed to subscribe without discrimination, though it was well ascertained that the bank stock would immediately rise after the subscription, and though it did actually rise to one hundred and forty. Now, in all views of this subject, the late Bank of the United States affords a precedent to be consulted with the utmost consideration, and one not to be departed from without very sufficient causes. Broken up as that institution has been, and subjected to the severest tests of investigation, the wisdom, fidelity, and punctuality of its transactions have been manifested in the strongest light; and I think it would be hazarding not a little to disregard them.

The gentlemen from South Carolina, both the honorable mover of this amendment, (Mr. CALHOUN) and his colleague who supports him, (Mr. LOWNDES) deny that the creation of a new stock for the bank capital would be either an injury or an injustice to the present stockholders. I understand that the stock was at 81 the day before yesterday, in Baltimore, and looking up, in anticipation of its incorporation into the bank. No doubt it will fall again as soon as this proposition for excluding it goes abroad. What more infallible thermometer can we have of the effect of such a measure on the stock? There are between sixty and eighty millions of it in circulation. You propose to issue fifteen millions of treasury notes for purchasing up such of it as is to be subscribed to the bank. The inevitable consequence must be, first, a competition, a most unfair one, in the market, and then a depreciation of the stock. He who subscribed at 80 has 20 per cent. advantage over the more meritorious subscriber at 100 or at 88; and no alternative is left for the latter but to sacrifice his stock at 50 or 60, in order to reimburse himself by the profits of a subscription to the bank, or to hold his stock, depreciated to one half of what he gave for it. I am not disposed to repeat the epithets that were bestowed on such dealings by my friend and colleague (Mr. INGHAM,) but really, I must say, that I should consider them most reprehensible proceedings. There is, too, a difference of from fifteen to twenty per cent. in the prices of stock at different places; at Baltimore and Boston, for instance; and the scandalous speculations to be authorized, would, therefore, carry with them this additional aggravation. In fact, there is no stock market in this country; and whenever the purchases in question are to be made, the holders of stock in different places must abide the effects of the variation in the prices accumulated on the other hardships of their case.

But why, we are asked, are these stockholders to be preferred? Why is an individual, holding certificates of this stock, to enjoy the advantages of a subscription to the Bank of the United States, in preference to any individual who does not happen to hold such certificates? The answer is, that they are not preferred any more than the few possessors of specie. Any person may buy the stock who chooses it, and thus become capacitated to subscribe it to the bank. There is no deficiency of it for sale in the market. We have taken care of that; and but two numerous, unfortunately, are they who are anxious to get rid of it.

As to taking it at the rate at which Government received their money, could any thing be more unjust? The public faith was pledged to redeem eighty-eight with a hundred. The stockholders are, consequently, entitled, in the first place, to have one hundred for their eighty-eight; and then, most assuredly, they have a right, in common with all other subscribers, to all the profits to accrue, above par, on their subscription to the bank. In this, they are not preferred to other subscribers; though, perhaps, it might be shown, without any great difficulty, that they are entitled to at least a highly favorable attention from the Government. We have got all their money. We took it when it was convertible into gold and silver. And it would be neither generous nor just now to postpone them to other members of the community.

These arguments, however, are controverted by the gentlemen from South Carolina, both of whom deny that Government is bound to admit these stockholders into the bank, as well as that any injury will be done to them by the exclusion. But what facts have they advanced to sustain their theory? The

rise and fall of the stock is, as I have shown, a very clear criterion of the state of the stockholders' interests; and, really, I cannot help saying, that when so much experience and fact is to be overthrown by a speculation, we should have something more than even the most respectable opinions in its favor. One of those gentlemen (Mr. CALHOUN) insists that no depreciation can be the consequence of his scheme, and the other (Mr. LOWNDES) expresses his conviction that the proposed amendment is preferable to the original bill. Those honorable gentlemen know, I am well persuaded, of the attention and pleasure with which I always listen to whatever falls from either of them. But I must be pardoned for withholding my consent to this conclusion of theirs, which really is only asserted, not proved, by the one, with, if I may so express it, his most respectable colleague's endorsement on the draft.

I was surprised, I confess, at the latter gentleman's (Mr. LOWNDES) repetition of a question which had been previously put by the gentleman from North Carolina (Mr. GASTON). Why, it is with seeming triumph demanded, why, if former and not new stock is to be part of the capital, do you exclude the old funded debt of the United States? Most obviously, it may be answered, because that account has long ago been settled, because a sinking fund has been many years operating the absorption of that debt, because it is not liable to the fluctuation of the market, as the late stock is, and because the holders of it do not desire you to meddle with it. [Mr. LOWNDES here inquired if Mr. INGERSOLL included the Louisiana stock, to which he answered that he did not.] The difference is very great indeed between the old six per cents. of which I am speaking, and the recent stock, created during the present war. After the experience public creditors have lately had of congressional kindness and good will, they might well exclaim, like the French merchants to the economists, "*Laissez nous faire*. Let us alone. We do not stand in need of your assistance, nor desire your interposition. All that we ask is, to be let alone." Very different, indeed, is the situation of the new stockholders, with all their money gone, their funds depreciated, and their Representatives in Congress inveighing against their contracts as usurious and iniquitous. They are bound to the public car by ties they cannot break. They must continue to follow public fate. They cannot afford either to sell or to hold. After exhausting their credit at bank they are driven to the usurer for relief, who strips them of half their stock for the preservation of the residue; and that residue they must needs hold—to bequeath it to their children, with curses on the Government which borrowed of them, on fair promises, to their last cent, and then left them to their ruin.

Mr. Chairman, we are debating this interesting subject under very peculiar circumstances. It is now two months since Congress have been in session, convened by the President, under the pressure of great and weighty considerations. Since we assembled, a most alarming temper has appeared in very decided indications among some of the Eastern States: and it is said to be intended by the agitation of the Hartford convention, to proceed, deliberately, to the disintegration of New England from the Union. For my part, I cannot believe it. I cannot impute such designs to a people whose forecast, or orderly and general attachment to regular government, have been so much vaunted, and perhaps not without reason. But what encouragement, if such be their object, are we not holding out to them! And what a rebuke the Hartford convention may, in all probability, impose upon Congress? The fifteenth of December is advertised as the day of their meeting, scarcely more than three weeks from the moment when I address you—after having been two months in session under every impulse to action and concert—without having yet achieved any one important act—without, in fact, being now as likely to agree as we were six weeks ago—still amusing ourselves with discordant projects and visionary speculations. The Hartford convention will find disunion ready made to their occasions. Instead of taking steps to separate themselves from the other States, to delay or defeat our measures, they will have, I fear, but too much opportunity for declaring that their convention was rendered indispensable by our procrastination and idle controversy—that they met to save, not to destroy—not to deny the authority of Congress and prevent

its proceedings; but to provide for our omissions; to raise an army to repel invasion; to create a navy; to establish adequate taxes and a circulating medium—to uphold the staggering credit of the country. We are disputing about details while the nation is agonized with the pangs of dissolution. We must come to action, and that speedily too, or the agony will be over. I hope, therefore, Mr. Chairman, that the amendment will be rejected, and that we shall endeavor to make some harmonious progress with the original bill on the table.

Mr. OAKLEY, of New York, in a speech of an hour and a half, replied to the speeches of Messrs. INGHAM and INGERSOLL, and advocated the motion of Mr. CALHOUN. He began by deprecating a hasty decision on this subject, one of the most important that could ever come before a legislative body; being no less than the establishment of a charter for a moneyed institution of fifty millions, the features of which could not, when once settled by a solemn act of Congress, be changed, but must be as irrevocable, during the term of the charter, as the constitution itself, &c. The National Bank, if necessary, was required by the public good alone. He therefore threw out of view, as wholly irrelative, the argument in relation to the effect of the proposed amendment on the holders of public stock, who had no right to demand any advantages from such an institution, and to whom no injustice would be done by precluding them from any other share in it than other citizens of the United States. He stated some things in relation to this bill, to show that the facts of its having been reported by the Committee of Ways and Means was not an unanswerable argument against amendment: for, he stated, that the principal feature proposed to be changed by this amendment scarcely obtained a majority in the Committee of Ways and Means, &c. He then proceeded to examine, first the details of the bill before the House, and next of the amendment proposed to be made to it; and concluded an elaborate and able view of the subject, by expressing his decided conviction of the superior practicability of Mr. CALHOUN'S proposition over the bill as reported, &c.

When Mr. OAKLEY concluded,

The question was taken on Mr. CALHOUN'S motion to amend the bill, and decided in the *affirmative*, by a majority of about *sixty* votes.

The committee then rose, reported progress, and obtained leave to sit again.

NOVEMBER 18, 1814.

Mr. CALHOUN, of South Carolina, remarked, that he looked upon the decision of the House on yesterday, as indicating a disposition, on the part of the House, to change the whole nature of the bill, now before a committee of the whole, for incorporating the subscribers to the Bank of the United States of America. As many amendments in detail would be required, he thought the most proper way to act on the bill would be to recommit it for amendment to a select committee.

This motion was opposed by Mr. WRIGHT, of Maryland, and Mr. LOWNDES, of South Carolina, on the ground that there were parts of the plan of the gentleman, against which the House might decide, and which could as well be acted on in committee of the whole as by a select committee.

Mr. CALHOUN then withdrew his motion, reserving the right to offer it again when further progress should have been made in the discussion of the bill.

On motion of Mr. FISK, of New York, the House then again resolved itself into a committee of the whole on the said bill, Mr. NELSON in the chair.

Mr. FORSYTH, of Georgia, moved an amendment to the second section of the bill, (as it has been amended) the object of which was, to admit the forty-four millions of the capital to be paid in treasury notes, as it now stands, *or in public stock created since the war.*

This motion was declared by the Chairman to be out of order, inasmuch as the committee of the whole had yesterday decided, that no part of the payments of the subscriptions to the bank, should be made in the manner proposed by the amendment.

Mr. FORSYTH was, on this decision, disposed, for the present, to waive his motion; but

An appeal was made by Mr. FISK, from the decision of the chair on this point; which decision was affirmed by the committee of the whole—75 to 39.

The House then proceeded to the consideration of the third section of the bill, which contemplates the subscription by the United States of twenty millions in six per cent. stock to the capital of the bank.

This section Mr. CALHOUN moved to strike out of the bill.

This motion produced debate.

Mr. FORSYTH, of Georgia, said, he hoped the section would not be struck out. He considered it important that the United States should hold a certain proportion of the stock of the bank, because he believed the privilege of so doing, would be valuable to the Government. In the stock of the old Bank of the United States, the Government had held a considerable portion of the stock, and the benefit to be derived from it had not been denied. It had been a matter of boast on the other side of the House, and the republican administration had enjoyed the advantages arising to the Government from it. He could not conceive any solid objection to this course. It might be said the bank would be injuriously affected by the shares the United States would hold in it, because they would subscribe nothing but stock. But Mr. F. said, if the basis of the bank was to be public stock, its value would not be destroyed by a part of it being owned by the United States as well as by individuals. He hoped the motion would not prevail.

Mr. CALHOUN said the principle of his motion had been decided by the amendment which had been made to the second section. Consistency required that the House, after deciding as they did yesterday, should now strike out this section.

Mr. WRIGHT said he did not consider the decision of yesterday as at all interfering with this motion. If it did, he felt himself to be committed contrary to his intention. The discussion on yesterday had not turned on this point; and, he contended, even had the House inadvertently decided the principle yesterday, the decision to retain this section would control the provision in the said second section, inasmuch as, in law, posterior control prior provisions. The Government ought, he contended, to have a share in the stock, and in the direction of the bank. The old Bank of the United States would yet have been in operation, he said, if a portion of the direction had been under the control of the Government, to have prevented it from being a perfect inquisition. He instanced the advantages which several of the States derive from holding a share in the stock and direction of banks within their respective limits. Seven-eighths of the capital of the old bank had, he said, been held by foreigners; and every man who had any hand in the direction of its concerns was adverse to the politics of this administration. Some of them were refugees from the country, who ought to have been hung during the Revolution. It could not, therefore, be expected that Congress would revive that institution or create any other, the whole weight of which would have been thrown in the opposite scale to that of the United States. Mr. W. was desirous not only that the United States, but that the agricultural interest of the country, should hold a due proportion in the stock of this bank, to keep it out of the exclusive control of the commercial class, which, he intimated, was generally in the British interest, and not a few actually connected in business with British houses. The landed and manufacturing interest, he argued, ought to be at least equally interested in the bank with the commercial. It was necessary the Government should hold both stock

and direction in the bank, to guard the United States against the operation of any foreign influence, &c.

Mr. CALHOUN finding, as he said, from the course of the debate, that the eyes of the committee had been so entirely directed to the main object of the amendment adopted yesterday, that they had overlooked the part of it to which this section had reference, rose to explain the reasons of his present motion. Whether the provision under consideration should be struck out or retained, he contended, depended on the situation of the nation. He was clearly of opinion, that, in the present situation of the nation, it ought to be struck out. One great object of this bank was to afford the means of relieving the nation from difficulties under which it now labored. By striking out this section, the Government would not, he said, lose the advantages it would derive from retaining it, inasmuch as the twenty millions, instead of being vested by the United States in stock, would assume the shape of treasury notes, and in reality produce the effect, by their absorption in the bank, of an immediate loan to the Government. Which, he asked, does the United States now most want—a capital, or the use of a capital? He said he should be glad, indeed, abstractedly, that the United States should possess a share in the capital of the bank; he should be glad the United States should possess a capital in the bank on which they could draw one, two, or three per cent. more interest than they had to pay for it. But we want still more the *use* of the capital. If any gentleman could conceive the situation of the country to be such that we could lock up instead of using these twenty millions of capital, he would vote against this amendment. The capital, he said, would not be lost to the United States, but would assume for them the most active and most efficient form, by means of the treasury notes, which, being put into circulation and absorbed by the Government, would effect an immediate loan to the Government. But, it had been said, unless the United States held some share in the bank, it would fall into the hands of our enemies. Mr. C. said he did not think so harshly as the gentleman from Maryland of the commercial interest; in the large, he believed that great interest to be American, notwithstanding some exceptions might be found to that character. But even if such a disposition as was feared by the gentleman should exist, it would not be controlled by retaining the present provisions of the bill; because the twenty directors could always vote down the five proposed to be appointed by the Executive, if there should arise a contest between the Government and the bank. But there was another mean of protecting the Government against the bank, more potent and certain than any such provisions: let the United States retain the power over its deposits, and over the receipt of the bank notes in payment of duties and debts to the Government, and it would possess a sufficient control over the bank.

Mr. FORSYTH admitted an immediate loan would be an advantage to the Government; but was such a loan wanted, to the proposed amount, in addition to the taxes to be raised by the bills now before the House? He contended that it probably would not. But, if it would, he argued that part of the project was impracticable, because of the difficulty of throwing into market forty-four millions of dollars of treasury notes; whereas, if twenty millions of that amount were subscribed in stock in behalf of the United States, the balance of twenty-four millions would be all disposed of, and would probably be sufficient for all the purposes of the Government. Even for the benefit of the gentleman's plan, therefore, this feature ought to be retained.

Mr. CALHOUN said, that if fifteen millions of the forty-four millions of treasury notes were applied, as he had suggested, to the purchase of stock, and five millions to the redemption of treasury notes falling due at the commencement of the next year, there would be no difficulty in disposing of the remainder of them. He said, to vest twenty millions in the capital stock of the bank would be acting like a man, without a dollar in his pocket, offering



to lend out money at an interest lower than he has to pay for it for his use. If the demands of the treasury during the next year did not require the whole of these notes, Mr. C. said a part could be retained until the year after, and thus provision be made for two years. If the subscriptions were received monthly in twelve instalments, there would never be out at one time more than two millions; much less than the amount of treasury notes now in circulation. There would be no doubt, he thought, of their being sought for with avidity.

Mr. INGHAM, of Pennsylvania, said that, if the whole amount of treasury notes now proposed to be issued, should not be wanted in the course of the next year, it would unquestionably be more to the interest of the Government to invest twenty millions of the amount in stock in the bank, provided it would be an advantage to them to possess that stock. Allowing the stock of the bank to advance as it might be expected to do, it would afford a profit to the United States, in twelve months, of six millions of dollars; and the United States would besides dispose of the capital stock at its full value whenever they chose.

Mr. FORSYTH still questioned the ability to circulate so large an amount of treasury notes; because they were not like bank paper, which could at any time command specie; nor would they circulate even as well as the present treasury notes, because not payable at the end of the year, but to be funded in six per cent. stock. The fact that money is not to be paid for the proposed issue of treasury notes, would be as well known to the People of the United States as this House. The circulation of treasury notes at present was principally among those who have money on hand for which they have not immediate use, which they invest in treasury notes, in preference to this public stock; because, at the same time that they produce an interest, they are payable at a day certain. The treasury notes to be issued will not suit such persons, and will, therefore, probably have a very limited circulation.

Mr. KILBOURN said he had voted for the amendment yesterday, without any idea that the other amendments indicated by its mover, would necessarily follow. He hoped the section now under consideration would not be struck out. For, though he had ever believed the establishment of a national bank one of the most important objects, yet, if this motion prevailed, he should greatly deprecate it. Was it true, he asked, that this nation was so embarrassed in its finances, was in such a critical situation, that, to obtain money for a year, it was necessary to establish a colossal moneyed institution, with a charter which it would be beyond the power of this Government to alter for twenty years; that might, in one year, if amended as proposed, fall entirely under the direction of the enemies of the Government? He trusted not. If, on the other hand, this stock was taken by the Government in the bank, it might be sold at any moment, if necessary, at twenty per cent. profit, or at least without a sacrifice; and thus furnish the United States with as much money as it would sell for.

Mr. LOWNDES supported the motion to strike out this section. The reservation of twenty millions for the United States of the capital of the bank, would, he said, unquestionably be attended with some advantages. It could not be denied that it would, by the strength of this capital, or by selling it at an advance, afford the means of obtaining money for the service of the Government in the year 1816. But the course proposed by gentlemen was to lessen the security of the loan for 1815, in order, with remarkable foresight, to provide the ways and means for the year 1816. Mr. L. said he differed from his colleague as to the application of fifteen millions of treasury notes to purchase of public debt, and five millions for the redemption of treasury notes. The object of Mr. L. was nothing more than this: to induce the House to reduce the capital of the bank from its present proposed amount. It almost necessarily followed, from the main points of his colleague's plan, that the capital should

be reduced. It was impossible every treasury note thrown out should be absorbed in the bank at the times of subscription; and the amount to be issued must, therefore, of necessity, exceed the amount to be paid in as a part of the capital stock of the bank. It was important, in giving additional value to the treasury notes, that the bank stock should be made as valuable as it could. The success of the plan for immediately aiding Government by the means proposed, must depend on the value of the treasury notes, which must depend on the value of the shares in the bank. The less valuable the shares in the bank, as they would be by the retention of so large a capital stock, the less temptation would there be to purchase the notes or stock which is the basis of the subscription. Mr. L. said he hoped, before this subject was finally acted on, the committee would limit to thirty or thirty-five millions, to some moderate, some reasonable amount, the circulation of the bank, and thus guard against danger of the plan from the amount of capital, at the same time that it would increase the value of the treasury notes. The plan of the gentleman before him (Mr. Forsyth) he thought it obvious, provided for the demands of the public service in 1816, by rendering utterly hazardous, if not entirely defeating, the provision for 1815. He denied that the treasury notes to be issued in pursuance of this plan would be less valuable than those now in circulation. It was impossible, he said, in the nature of things, but, in furnishing additional modes of application of them, the committee would increase instead of diminishing the value of treasury notes, &c. &c.

After a few words from Mr. RHEA, of Tennessee, indicative of an impatience for the question—

The committee agreed to Mr. CALHOUN'S motion by the following vote:

For the motion,	-	-	-	-	79.
Against it,	-	-	-	-	53.

So the third section was struck out.

The committee then proceeded in further examination and amendment to the details of the bill, in the course of which considerable debate took place, involving generally the minor principles of the art or science of banking. Among the amendments agreed to, were the following: viz. To strike out so much as gives the Government a share in the direction of the bank; so much as prohibits the bank from selling the United States' stock which may come into its possession; so much as binds the bank to loan thirty millions to the Government, &c.

A motion was made by Mr. LEWIS, of Virginia, and supported by Mr. PEARSON, to amend that part of the section authorizing the bank to establish offices of discount, deposit, and distribution, so as to require the bank, whenever the Government may direct it, to establish an office of discount and deposit at the city of Washington, with a capital (not less than five millions of dollars.) After striking out the latter clause, within parenthesis, the motion was negatived.

When the committee rose for to-day, an amendment was under discussion affecting the manner in which the bank shall pay specie for its notes, whether at all its offices, or at the mother bank only.

NOVEMBER 19, 1814.

The House again in committee of the whole, Mr. NELSON in the chair.

The question depending on yesterday's adjournment was on a motion of Mr. OAKLEY, of New York, to strike out the 18th fundamental rule for the government of the bank, which is in the following words:

"18. During the continuance of the present war between the United States and Great Britain, all the notes of the said corporation, whether payable at the seat of the bank in Philadelphia, or elsewhere, shall be payable in other notes of the said corporation, in treasury notes, or in gold and silver coin, at the bank in the city of Philadelphia,

at the option of the applicant. At all the offices of discount, deposite, and distribution, and of deposite and distribution only, established, as aforesaid, and at all the banks employed in lieu of such offices, as aforesaid, the notes of the said corporation, during the continuance of the said war, shall be payable in other notes of the said corporation, or in treasury notes only." And the said corporation shall, at all times, distribute among the offices and banks aforesaid, a sufficient sum in the various denominations of the notes of the said corporation, and in treasury notes, to answer the demand therefor, and to establish a sufficient circulating medium throughout the United States and the territories thereof.

On the suggestion of Mr. **LOWNDES**, Mr. **OAKLEY** modified his motion so as to strike out that part only of the rule which is in inverted commas; and, after some remarks, in opposition, from Mr. **FISK**, the motion was agreed to. Ayes 82.

Mr. **LOWNDES** then moved to amend the remainder of this rule, by adding, after the words "*treasury notes*," the words "*which it may receive upon deposite of the Government.*" Agreed to.

The 19th rule having been read, in the following words:

19. "The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same; of the moneys deposited therein; of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statement: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank."

Mr. **FORSYTH** moved to strike out this rule. If the Government had no interest in, or control over the institution, he saw no reason or propriety in the United States having a right to inspect the proceedings or state of the bank.

To this Mr. **CALHOUN** replied, that there was an obvious propriety in the United States having the right to inspect the affairs of the bank, to ascertain whether its deposites, &c. would be safe in its hands.

The motion to strike out the rule was negatived.

The 10th section, making the notes of the bank receivable in all payments to the United States, having been read—

Mr. **CALHOUN**, of South Carolina, moved to strike it from the bill; assigning, as a reason for this motion, that, as the United States were now, by the amendments which had taken place, divested of all control over the operations of the bank, it would be proper, in self-defence, for the Government to retain in its hands the power to make the notes of the bank receivable or not, to protect it against misconduct or attempt at control by the bank.

The motion was agreed to without a division.

On motion of Mr. **CALHOUN**, the section authorizing the suspension, on proclamation of the President, of specie payment in certain cases and for certain periods, was stricken out without debate or division.

The 13th section of the bill, which pledges the faith of Congress not to establish any other bank during the continuance of the charter, being read,

Mr. **LEWIS**, of Virginia, moved an amendment, the object of which was, to except from this prohibition the banking associations existing within the District of Columbia, not at present incorporated.

Agreed to.

The bill having been gone through,

The committee recurred, on suggestion of Mr. **LOWNDES**, to the first section of the bill.

Mr. **LOWNDES** made a motion, which he supported by a train of reasoning, predicated on the impracticability and unwieldiness of so large a moneyed in-

stitution as this bank was proposed to be, to reduce the capital of the bank from *fifty to thirty-five* millions of dollars.

Mr. CALHOUN opposed the motion with much zeal, defending the proposed amount of capital on the ground of the proposed appropriation of fifteen millions of the treasury notes for the purchase of existing stock, &c.

Mr. CUTHBERT and Mr. FORSYTH supported Mr. LOWNDES's motion, and Mr. CALHOUN replied to them.

The motion was, in the end, negated, as follows:

For the motion,	-	-	-	-	-	56,
Against it,	-	-	-	-	-	75.

On motion of Mr. CALHOUN, an amendment was adopted to the first section of the bill, changing the times of subscription to conform it to the intimations he had before given.

On motion of the delegate from Missouri, the town of St. Louis was inserted as one of those at which subscriptions should be received, and J. B. C. Lucas, Alexander Stuart, and Bernard Pratt, named as commissioners; and, on motion of Mr. Fisk, of Vermont, Windsor, in that State, was also inserted, and Elias Lyman, Wm. Levering, and Eleazer May, named as commissioners.

Various other amendments were proposed to the bill, some of which were adopted and some rejected.

At length the committee rose and reported the bill as amended.

The bill having been so interleaved and interlined with amendments by the committee of the whole, that the Clerk himself could scarcely arrange them, or the Speaker state them to the House,

It was ordered to lie on the table, and be printed as amended.

[The amended bill to incorporate the subscribers to the Bank of the United States of America.]

*Be it enacted by the Senate and House of Representatives of the United States of America* shall be established, the capital stock of which shall be fifty millions of dollars, and no more, divided into five hundred thousand shares, of one hundred dollars each share, and that subscriptions and payments towards constituting the said capital stock shall be opened and made on the two last days of January next, Sundays excepted, of each succeeding month of the year one thousand eight hundred and fifteen, till the whole amount subscribed and paid shall equal the sum of fifty millions of dollars, aforesaid, the sum subscribed to be paid at the time of subscribing, at the following places, viz: at Hallowell, in Maine; Portsmouth, in New Hampshire; Windsor, in Vermont; Boston; New York; New Brunswick, in New Jersey; Philadelphia; Baltimore; City of Washington; Richmond; Raleigh; Charleston; Savannah; Lexington, in the State of Kentucky; Nashville, in the State of Tennessee; Chillicothe, in the State of Ohio; New Orleans and St. Louis, in the Territory of Missouri, under the superintendence of the following persons, as commissioners to receive the same: at Hallowell, Benjamin Dearborn, Joshua Gage, and Peter Grant; at Portsmouth, in New Hampshire, John Goddard, Nathaniel A. Haven, Nathaniel Gilman; at Windsor, in Vermont, Elias Lyman, William Leverett, and Eleazar May; at Boston, James Lloyd, Thomas Handyside Perkins, William Gray, William Eustis, and Samuel Brown; at New York, Isaac Lawrence, John Hone, General John Smith, Isaac Bronson, and Theron Rudd; at New Brunswick, James Vanderpool, John Bray, and Peter Gordon; at Philadelphia, Jared Ingersoll, Anthony Taylor, Thomas M. Willing, Stephen Girard, Chandler Price; at Baltimore, Henry Pason, William Cooke, William Wilson; at the City of Washington, Robert Brent, Walter Smith, and Thomas Swann; at Richmond, Benjamin Hatcher, John Brokenborough, John Preston; at Raleigh, Sherwood Haywood, Beverly Daniel, and William Peace; at Charleston, John C. Faber, John Potter, James Carson; at Savannah, John Bolton, Charles Harris, and James Johnson; at Lexington;

in Kentucky, Charles Wilkins, Lewis Sanders, John H. Morton; at Nashville, Tennessee, Robert Weekly, Felix Grundy, and John R. Bedford; at Chillicothe, in Ohio, Samuel Finley, Thomas James, William McFarland; at New Orleans, Dominick A. Hall, Benjamin Morgan, Paul Lanuse, Thomas L. Harmar, and William Flood; at St. Louis, in the Territory of Missouri, John B. C. Lucas, Alexander Stuart, and Bernard Pratt; which subscriptions shall continue open every day, from the time of opening the same, from ten o'clock in the forenoon until four o'clock in the afternoon; and immediately after each subscription and payment, the commissioners, or a majority of them, at the respective places aforesaid, shall cause two transcripts, or fair copies of such subscriptions to be made, one of which they shall send to the Secretary of the Treasury, one they shall retain, and the original subscriptions shall, within three days from the closing of the same, be, by the said commissioners, transmitted to the said commissioners at Philadelphia, or to one of them; and on the receipt thereof, the said commissioners at Philadelphia, or a majority of them, shall immediately thereafter convene, and proceed to take an account of the said subscriptions; and if, on adding the final subscription and payment to the sums previously subscribed and paid, more than the amount of fifty millions of dollars shall have been subscribed and paid, then the said last mentioned commissioners shall apportion the difference between the said capital stock of fifty millions of dollars, and the aggregate amount of the subscriptions and payments, preceding the final subscription and payment, among the several subscribers to the final subscription, in a just and equal ratio, according to their several and respective subscriptions: *Provided, however,* That such commissioners shall, by such apportionment, allow and apportion to each subscriber at least one share; and the said commissioners, after having apportioned the same as aforesaid, shall cause lists of the said apportioned subscriptions to be made out, including in each list the apportioned subscription for the place where the original subscription was made, one of which lists shall be transmitted to the commissioners, or to one of the commissioners, under whose superintendence such subscriptions were originally made, that the subscribers may ascertain from them the number of shares apportioned to such subscribers, respectively: and if the amount of thirty millions of dollars shall not be subscribed, during the period aforesaid, at all the places aforesaid, the subscription to complete the said sum shall afterwards be, and remain open, at Philadelphia, under the superintendence of the said commissioners appointed at that place; and the subscriptions may be there made by any corporation, copartnership, or person, for any number of shares, not exceeding the amount required to complete the said sum of thirty millions of dollars.

SEC. 2. *And be it further enacted,* That it shall be lawful for any person, copartnership, or body politic, to subscribe for so many shares of the said capital stock of the said bank, as he, she, or they, shall think fit; and the sums respectively subscribed, shall be payable in the manner following, that is to say: six millions of dollars thereof in gold or silver coin of the United States, or in gold coin of Spain, or the dominions of Spain, at the rate of one hundred cents for every twenty-eight grains and sixty-hundredths of a grain of the actual weight thereof; or in other foreign gold or silver coin, at the several rates prescribed by the first section of an act regulating the currency of foreign coins in the United States, passed tenth day of April, one thousand eight hundred and six; and forty-four millions of dollars thereof in such gold or silver coin as aforesaid, or in treasury notes, now authorized, or to be authorized, to be issued in the year one thousand eight hundred and fifteen.

SEC. 3. *And be it further enacted,* That whenever and as often as any of the treasury notes shall be subscribed and paid in as aforesaid, to the said capital stock of the said bank, shall be due and payable, it shall be lawful for the Secretary of the Treasury (and he is hereby authorized and required) to pay and redeem the same, principal and interest, by causing certificates of public stock, for an equal amount, bearing an interest of six per cent. per annum, and redeemable in any sums, and at any periods, which the Government may deem fit, to be prepared and made in the usual form, and the same to be de-

livered to the president and directors of the said bank, in satisfaction and discharge of such treasury notes.

SEC. 4. *And be it further enacted*, That the subscribers to the said Bank of the United States of America, their successors and assigns, shall be, and are hereby, created a corporation and body politic, by the name and style of "The President, Directors, and Company of the Bank of the United States of America;" and shall so continue until the third day of March, in the year one thousand eight hundred and thirty-five: and by that name shall be, and are hereby, made able and capable in law to have, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of whatsoever kind, nature, and quality, to an amount not exceeding in the whole fifty-five millions of dollars, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, alien, or dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts and places whatsoever; and also to make, have, and use, a common seal, and the same to break, alter, and renew, at their pleasure; and also to ordain, establish, and put in execution, such by-laws and ordinances, and regulations, as they shall deem necessary and convenient for the government of the said corporation, not being contrary to the constitution and laws of the United States; and generally to do and execute all and singular the acts, matters, and things, which to them it shall or may appertain to do; subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed and declared.

SEC. 5. *And be it further enacted*, That, for the management of the affairs of the said corporation, there shall be twenty-five directors, who shall be elected on the first Monday of January, in each year, by the stockholders or proprietors of the capital stock of the said corporation, and by a plurality of votes actually given, according to the scale of voting hereinafter prescribed: and the directors so duly chosen, shall be capable of serving by virtue of such choice, until the end or expiration of the first Monday in January, next ensuing the time of such election, and no longer: *Provided, always*, That the first election of directors shall be at the time, and for the period, hereinafter declared.

SEC. 6. *And be it further enacted*, That, as soon as the sum of thirteen millions two hundred thousand dollars, in such gold and silver coin as aforesaid, and in such treasury notes as aforesaid, shall have been actually received on account of the subscriptions to the said capital stock, notice thereof shall be given by the persons under whose superintendence the subscriptions shall have been made, at Philadelphia, in at least two public newspapers, printed in each of the places where subscriptions shall have been made; and the said persons shall, at the same time, and in like manner, notify a time and place within the said city of Philadelphia, at the distance of at least twenty days from the time of such notification, for proceeding to the election of directors aforesaid; and it shall be lawful for such election to be then and there made. And the persons who shall be then and there chosen, as aforesaid, shall be the first directors, and shall proceed to elect one of their number president of the said corporation, and they shall be capable of serving by virtue of such choice until the expiration of the last Monday in January, next ensuing the time of making the same, and shall, forthwith, thereafter, commence the operations of the said bank, at the said city of Philadelphia: *Provided always*, That, in case it should at any time happen that an election of directors and president of the said corporation should not be made upon any day, when, in pursuance of this act, they ought to be made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day to hold and make an election of directors and president of the said corporation (as the case may be) in such manner as shall have been regulated by the by-laws and ordinances of the said corporation, and until such election be so made, the directors and president, for the time being, shall continue in office: *And provided, also*, That, in case of the death, resignation, or absence from the United States, or removal of a director from office, the vacancy shall be supplied by



the stockholders for the remainder of the year: *And provided, also,* That, in case of the death, resignation, or removal, of the president of the said corporation, the directors shall proceed to elect another president.

SEC. 7. *And be it further enacted,* That the directors, for the time being, shall have power to appoint such officers, clerks, and servants, under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services, respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities for the well governing and ordering of the affairs of the said corporation, as shall be described, fixed, and determined, by the laws, regulations, and ordinances, of the same.

SEC. 8. *And be it further enacted,* That the following rules, restrictions, limitations, and provisions, shall form and be fundamental articles of the constitution of the said corporation, to wit:

1. The number of votes to which the stockholders shall be entitled, in voting for directors, shall be according to the number of shares he, she, or they, respectively, shall hold, in the proportions following, that is to say: for one share and not more than two shares, one vote; for every two shares above two and not exceeding ten, one vote; for every four shares above ten and not exceeding thirty, one vote; for every six shares above thirty and not exceeding sixty, one vote; for every eight shares above sixty and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote. But no person, copartnership, or body politic, shall be entitled to a greater number than thirty votes. And after the first election, no share or shares shall confer a right of voting, which shall not have been holden three calendar months previous to the day of election. And stockholders, actually resident within the United States, and none other, may vote in elections by proxy.

2. Not more than eighteen of the directors in office at the time of an annual election, shall be re-elected for the next succeeding year, and no person shall be a director more than three out of four years; but the director who shall be the president at the time of an election, may always be re-elected.

3. None but a citizen of the United States, and being a stockholder, shall be a director; and if any director shall cease to be a stockholder, he shall cease to be a director.

4. No director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting. The stockholders shall make such compensation to the president, for his extraordinary attendance at the bank, as shall appear to them reasonable.

5. Not less than seven directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case his place may be supplied by any other director, whom he, by writing, under his hand, shall depute for the purpose. And the director so deputed, may do and transact all the necessary business belonging to the office of the president of the said corporation during the continuance of the sickness or necessary absence of the president.

6. A number of stockholders, not less than sixty, who, together, shall be proprietors of one thousand shares or upwards, shall have power at any time to call a general meeting of the stockholders, for purposes relative to the institution, giving at least ten weeks' notice in two public newspapers at the place where the bank is seated, and specifying in such notice the object or objects of such meeting.

7. Every cashier, or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with a condition for his good behavior, and the faithful performance of his duties to the corporation.

8. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been bona fide mortgaged to it by way of security,

or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales, upon judgments which shall have been obtained for such debts.

9. The total amount of the debts which the said corporation shall, at any time, owe, whether by bond, bill, note, or other contract, shall not exceed the sum of fifty millions of dollars, over and above the moneys then actually deposited in the bank for safe keeping, unless the contracting of any greater debt shall have been previously authorized by a law of the United States. In case of excess, the directors, under whose administration it shall happen, shall be liable for the same in their natural and private capacities; and an action of debt may, in such case, be brought against them, or any of them, their, or any of their heirs, executors, or administrators, in any court of record of the United States, or either of them, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement, to the contrary notwithstanding. But this provision shall not be construed to exempt the said corporation, or the lands, tenements, goods, or chattels, of the same, from being also liable for, and chargeable with, the said excess. Such of the said directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the President of the United States, and to the stockholders, at a general meeting, which they shall have power to call for that purpose.

10. The said corporation shall not, directly or indirectly, deal or trade in any thing except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or goods which shall be the produce of its lands. It shall not be at liberty to purchase any public debt whatsoever; nor shall it take more than at the rate of six per centum per annum for, or upon, its loans or discounts; but the said corporation may sell any part of the public debt whereof its stock shall be composed.

11. No loan shall be made by the said corporation for the use, or on account of the Government of the United States, to an amount exceeding three hundred thousand dollars, or of any particular State, to an amount exceeding fifty thousand dollars, or of any foreign Prince or State, unless previously authorized by a law of the United States.

12. The stock of the said corporation shall be assignable and transferable according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same.

13. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and his, her, or their executors or administrators, and of his, her, or their assignee or assignees, and the executors or administrators of such assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees, and his, her, or their executors or administrators, to maintain an action thereupon in his, her, or their own name or names. And the bills or notes which may be issued by order of the said corporation, signed by the president, and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her, or their order, or to bearer, although not under the seal of the said corporation, shall be binding and obligatory upon the same, in the like manner, and with the like force and effect, as upon any private person or persons, if issued by him or them, in his, her, or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons; that is to say: those which shall be payable to any person or persons, his, her, or their order, shall be assignable by endorsement, in like manner, and with the like effect, as foreign bills of exchange now are;

and those which are payable to bearer, shall be assignable and negotiable by delivery only.

14. Half yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors advisable; and, once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of profits, if any, after deducting losses and dividends. If there shall be a failure in the payment of any part of any sum subscribed by any person, copartnership, or body politic, the party failing shall lose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

15. It shall be lawful for the directors of the said corporation to establish offices wheresoever they shall think fit, within the United States, or the territories thereof, for the purposes of discount, deposit, and distribution; or for the purposes of deposit and distribution only; and upon the same terms, and in the same manner, as shall be practised at the bank; and to commit the management of the said offices, and the business thereof, respectively, to such persons, and under such regulations, as they shall deem proper, not being contrary to law or to the constitution of the bank. Or, instead of establishing such offices, it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank or banks, at any place or places that they may deem safe and proper, to manage and transact the business proposed as aforesaid to be managed and transacted by such offices, under such agreements, and subject to such regulations, as they shall deem just and proper.

16. The said corporation, all offices of discount, deposit, and distribution, and of deposit and distribution only, which shall be established by the said directors as aforesaid, and all banks by the said directors employed in lieu of such offices as aforesaid, shall be bound to receive upon deposit the treasury notes of the United States which have been, or may be, hereafter issued, by virtue of any law or laws of the United States. But it shall be optional with the said corporation to pay and discharge the checks or drafts of the persons making such deposit in treasury notes, for the amount thereof, either in gold or silver coin, or in the notes of the bank, or in treasury notes. And all banks by the said directors employed as aforesaid, in lieu of the offices aforesaid, shall be further bound to receive on deposit, and to circulate, the notes of the said corporation, on the same terms, and in the same manner, as the notes of the said banks, respectively, are received and circulated; and, from time to time, to issue and exchange for the said notes of the said corporation, other notes of the said corporation, or the notes of the said banks, respectively, or treasury notes, at the option of the persons applying for such issue or exchange.

17. The said corporation shall, at all times, distribute among the offices of discount, and deposit, and distribution, and of deposit and distribution only, and at all the banks employed in lieu of such offices, as aforesaid, a sufficient sum, in the various denominations of the notes of the said corporation, and in the treasury notes which it may receive upon deposit from the Government, to answer the demand therefor, and to establish a sufficient circulating medium throughout the United States and the territories thereof.

18. The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same; of the moneys deposited therein, of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statement: *Provided*, That this shall not be construed to imply a right of inspecting the accounts of any private individual or individuals with the bank.

SEC. 9. *And be it further enacted*, That, if the said corporation, or any person or persons for, or to the use of the same, shall deal or trade in buying or sel-

ling any goods, wares, merchandise, or commodities, whatsoever, contrary to the provisions of this act, all and every person and persons by whom any order or direction for so dealing or trading shall have been given, and all and every person and persons who shall have been concerned as parties or agents therein, shall forfeit and lose treble the value of the goods, wares, merchandises, and commodities, in which such dealing and trade shall have been; one half thereof to the use of the informer, and the other half thereof to the use of the United States, to be recovered in an action at law with costs of suit.

SEC. 10. *And be it further enacted*, That, if the said corporation shall advance or lend any sum of money for the use or on account of the Government of the United States, to an amount exceeding three hundred thousand dollars; or of any particular State, to an amount exceeding fifty thousand dollars; or of any foreign Prince or State, (unless previously authorized thereto by a law of the United States) all and every person and persons, by and with whose order, agreement, consent, approbation, and connivance, such unlawful advance or loan shall have been made, upon conviction thereof, shall forfeit and pay for every such offence treble the value or amount of the sum or sums which shall have been so unlawfully advanced or lent; one-fifth thereof to the use of the informer, and the residue thereof to the use of the United States, to be disposed of by law, and not otherwise.

SEC. 11. *And be it further enacted*, That the capital stock of the said corporation, its dividends, deposits, and profits, its bills and notes, and generally, all its personal property and estate, whatsoever and wheresoever, shall be exempt from all taxes imposed, as well by the authority of the United States, as by the authority of the several States: *Provided always*, That this exemption shall not be extended, nor be deemed to extend, to the real estate of the said corporation.

SEC. 12. *And be it further enacted*, That no other bank shall be established by any future law of the United States, during the continuance of the corporation hereby created; for which the faith of the United States is hereby pledged, provided Congress may renew existing charters for banks in the District of Columbia, not increasing the capital thereof, and grant charters to such banking associations, within the District of Columbia, as are at present in operation, and which have already applied for acts of incorporation. And notwithstanding the expiration of the term for which the said corporation is created, it shall be lawful to use the corporate name, style, and capacity, for the purpose of suits, for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, real, personal, and mixed, but not for any other purpose, or in any other manner whatsoever, nor for a period exceeding two years, after the expiration of the said term of incorporation.

SEC. 13. *And be it further enacted*, That any committee specially appointed by Congress for the purpose, shall have a right to examine into the doings of the said corporation, and shall have free access to all their books and vaults, and report their proceedings to Congress.

SEC. 14. *And be it further enacted*, That, during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall do and perform the several and respective duties of the commissioners of loans for the several States, or any one or more of them, at the times, in the manner, and upon the terms, to be prescribed by the Secretary of the Treasury.

## HOUSE OF REPRESENTATIVES.

NOVEMBER 21, 1814.

The House took up the amendments reported by the committee of the whole.

The amendments to the first section having been taken up, and the question being about to be put generally; on motion of Mr. FORSYTH, the question was divided, and first put on agreeing to such amendments as add places of subscription, and names of commissioners; and, with modifications, that class of amendments was agreed to.

The question was then stated on agreeing to the amendments which go to change the times and mode of subscription, viz: to make the number of shares 500,000, at one hundred dollars, instead of 100,000, at five hundred dollars; to be subscribed and paid in on the two last days of January next, and the three last days of each succeeding month in the year 1815.

On this question, Mr. FORSYTH, of Georgia, said he had no idea of renewing, at this time, the debate on this subject, having already expressed his sentiments on this project. He wished it at the same time to be distinctly understood, that he was not prevented from so doing by any signs of impatience exhibited in the House; because, he should never be deterred from doing his duty by any emotion which might be thereby excited. But he thought it fair for the gentlemen, who advocated the amendments made by the committee to this bill, to make it as perfect as they could; and reserved the right, when the bill should be perfected, to make such remarks as the subject should appear to him to call for. As, however, the House had not expressed their sense directly on the subject of the change of the principles of the bill, he should call for the yeas and nays on the first question which should involve the principle of the main amendment.

The amendments to the first section were then agreed to, in part; and the section was further amended on suggestion of various gentlemen.

Mr. BRIGHAM, of Massachusetts, moved to strike out *fifty*, (the proposed amount of capital stock) and insert *twenty-five* in lieu thereof. This motion Mr. B. sustained on a series of reasoning, founded on the impracticability of filling up the stock of so large an institution, by means of a species of paper already so greatly depreciated in some parts of the country.

Mr. CALHOUN replied to the argument of Mr. Brigham, and explained the process by which the treasury notes, which appeared to alarm the gentleman so much, would be absorbed.

Mr. LOWNDES, of South Carolina, explained at some length, and with much clearness, the objections he entertained to the present magnitude of the capital of the bank, founded on the disproportion of the paper to the specie to be subscribed, and the impracticability of the circulation and absorption of so much paper. He concluded his observations by intimating, that, if the gentleman from Massachusetts would withdraw his motion, he (Mr. L.) would substitute *thirty* instead of *twenty-five*, as the amount to which he desired the capital of the bank to be reduced.

Mr. BRIGHAM declined to vary his motion; but, subsequently, waived it until the House should have acted on all the amendments proposed to the bill.

The House then proceeded to the amendments of the second section, which embrace the principle of Mr. Calhoun's amendment.

SEC. 2. *And be it further enacted*, That it shall be lawful for any person, co-partnership, or body politic, to subscribe for so many shares of the said capital stock of the said bank, as he, she, or they, shall think fit, and the sums respectively subscribed shall be payable in the manner following, that is to say: *six millions of dollars* in gold or silver coin of the United States, or in gold coin of Spain, or the dominions of Spain, at the rate of one hundred cents for every twenty-eight grains, and sixty-hundredths

of a grain of the actual weight thereof, or in other foreign gold or silver coin, at the several rates prescribed by the first section of an act regulating the currency of foreign coins in the United States, passed tenth day of April, one thousand eight hundred and six; and *forty-four millions* of dollars thereof in such gold or silver coin, as aforesaid, or in treasury notes, now authorized or to be authorized, to be issued in the year one thousand eight hundred and fifteen.

Mr. FORSYTH moved to amend this section, by adding the following clause to the end thereof; which motion would restore the principle embraced by the bill as first reported, viz:

“Or in the public debt of the United States, contracted by virtue of the act of Congress, entitled ‘An act authorizing a loan for a sum not exceeding eleven millions of dollars,’ passed the 14th day of March, 1812, or contracted by virtue of any subsequent act or acts of Congress authorizing a loan or loans.”

This question was decided, without debate, by yeas and nays, as follows:

For the motion, . . . . .	45,
Against it, . . . . .	94.

So the motion was negatived.

A motion of Mr. GASTON was more successful, being agreed to, to amend the bill by striking out the words, “six millions of dollars,” and, in lieu thereof, insert the words, “*on each share twelve dollars;*” and strike out “forty-four millions of dollars,” and insert the words “*eighty-eight;*” so that subscriptions shall be paid in the proportion of twelve dollars in specie, and eighty-eight in treasury notes, on each share of one hundred dollars.

Mr. SHARP, of Kentucky, moved to strike out, in the latter part of this section, the words “*in such gold or silver coin, as aforesaid, or*”—his object being to require treasury notes, only, to be received in payment of the eighty-eight dollars on each share allowed to be paid in that way. The motion was negatived—75 to 58.

Mr. HAWKINS, of Kentucky, then moved to add, after the words “*now authorized,*” in the latter clause of the above section, the words “*to be issued;*” his object being to allow to be received in payment on the bank shares, as well those treasury notes now in circulation, or already authorized to be put in circulation, as those hereafter *to be* authorized, &c. The motion was negatived—ayes 26.

The question on the amended section having been divided, was, on the suggestion of Mr. KILBOURN, of Ohio, first taken on striking out so much of the original second section of the bill as limits the subscription of any individual, or body politic, (the United States excepted) to one thousand shares.

This part of the amended section having been agreed to, the question recurred on the main principle of the section as amended.

Mr. GROSVENOR, of New York, requested the yeas and nays on the question of concurrence with the committee of the whole in agreeing to the amendment. He believed the plan embraced in the amendment to be fanciful and wholly impracticable, and such as would, in its failure, prove more ruinous in its consequences to the community, than could be well anticipated; he, therefore, desired to record his vote against it.

Mr. FISK, of Vermont, opposed the amendment, and conjured gentlemen, on the same side with himself, to oppose this amendment, embracing a system which, he said, he was confident would disappoint the hopes of its projectors, and prostrate the party now in power. If the House should determine to exclude the holders of the stock of the United States from any participation in the subscription, and should permit the bank to go into operation, as was proposed, whenever 13,200,000 dollars should be subscribed, it would fall wholly into the hands of the opponents of the present administration, who would never lend the United States a cent of the capital of the bank, but employ it, as far as possible, in opposing the measures of the Government. The very moment the subscription is opened, Mr. F. said, it would be filled by those



who have modestly told you that they alone are competent to carry on the operations of the Government, and its influence be employed by them against the measures of the Government. Rather than follow such an ignis fatuus as this, Mr. F. said, he would take his hat, make his bow, and retire from the House at once. The bill did not contain a single provision to oblige a man to pay in his subscription in treasury notes. The bill, he said, as proposed to be amended, would completely disappoint its projectors. In the first place, it would shut out our friends, all the subscribers to the old stock who have exhausted their funds; and, in the next place, the only subscribers to the bank would be those who wish us, as they say, to retire as soon as possible, and who have not aided us very much in the prosecution of the war. They are under no obligation, by this bill, to loan money to the Government; and they would not do it until better times and better men being in the Government (according to their modest opinion of themselves) should authorize them in doing it. Mr. F. said he was for taking a practical course in whatever he he did, and therefore he would never agree to such a system as this.

Mr. CALHOUN said, in reply to these remarks, that it was a sound rule in legislation, not to act with a view to benefit one or another party, but with a view to promote the national good. If a bank was to be erected to prop up this or that party, Mr. C. said, it should not receive his sanction. In moving the amendment, he said, he had not been governed by views of so limited a character. He had regarded the nation as a nation, and not as divided into two political parties. The subscription was equally open to both parties; and, although the moneyed class attached to the ruling party might be exhausted, the farming interest was not in so miserable a situation. Mr. C. was not willing to recognise the correctness of the picture which the gentleman had drawn of the great republican party, as exhausted and moneyless. Although there was great capital on one side, so there was on the other; and it is our boast that the yeomanry, the substantial part of our population, are on that side of the question to which we belong. The very amendments proposed, and now objected to, present the opportunity to every capitalist, however inconsiderable, to share in the capital of the bank, &c. and to disseminate its benefits all over the country, &c. As to the control over the bank, Mr. C. contended that the amendments, retaining the power over deposits, and of making the bills receivable for the revenue, or otherwise, gave the Government a greater control than it before possessed over the operations of the bank, &c. Legislation, on party principles, he said, must ever react on the party pursuing it; he would, therefore, not resort to it. No, said he, rather let us act on national, on great principles.

Mr. FISK rejoined, and defended, with his usual point, the ground he had taken.

Mr. INGHAM, of Pennsylvania, took occasion, in behalf of the Committee of Ways and Means, to disclaim the operation of any party feelings in recommending to the House the system advocated by the gentleman from Vermont; from whom, although he agreed with him in opposition to the present amendment, he differed as to the grounds of his opposition.

The question was then taken, by yeas and nays, on agreeing to the second section as amended, and decided in the affirmative, as follows:

For the amendment, . . . . .	87.
Against it, . . . . .	52.

NOVEMBER 22, 1814.

The House resumed the consideration of the remainder of the amendments of the committee of the whole.

The amendment of the committee of the whole, to strike out the third section of the original bill, (authorizing the Government to subscribe twenty millions to the capital of the bank) was concurred in.

That amendment being under consideration which strikes out so much of the original bill as allows to the Government the appointment of five directors of the bank—

It was opposed by Messrs. ROBERTSON, GHOLSON, and WRIGHT, and supported by Messrs. CALHOUN, GROSVENOR, and LEWIS.

[The advocates of this amendment contended that the power of appointment of five of the directors of the bank would be merely nominal, as to any control over the operations of the institution, which control would be much better effected by the power of the Government to withhold its deposits, &c. On the other hand, it was said that a large majority of the directors would probably be, in future, as they have been heretofore, adverse to the politics of the Government, and, unless properly guarded, would be disposed to thwart its operations, and favor the views of its opponents, &c. &c.]

The question on concurring with the committee of the whole in this amendment to the bill, was decided as follows:

For the amendment, . . . . .	86.
Against it, . . . . .	64.

The House proceeded in the further consideration of the amendments to the bill.

When the House came to that amendment to the tenth rule for the government of the bank, which is expressed in the following words: "*But the said corporation may sell any part of the public debt, whereof its stock shall be composed.*"

A motion was made, by Mr. FORSYTH, so to amend this amendment as to make it read as follows: "*But the said corporation SHALL NOT sell any part of the public debt, whereof its stock shall be composed, DURING THE PRESENT WAR.*"

After a debate of considerable length and warmth, the question on the motion to amend the amendment was decided as follows:

For the motion, . . . . .	64.
Against the motion, . . . . .	73.

The motion of Mr. Forsyth having been thus rejected—

The amendment reported by the committee of the whole, as first above stated, was amended by adding thereto the following, on motion of Mr. RICH:

"*Provided, That, during the continuance of the present war, the said corporation shall not, without the consent of Congress, sell or dispose of their public debt to an amount above ten millions of dollars.*"

A motion was made by Mr. INGHAM, of Pennsylvania, further to amend the said amendment, by adding to it as follows: "*nor, after the war, any part thereof, at a price less than its par value.*"

This motion was negatived.

The amendment of the committee of the whole, as amended, was then agreed to. Other amendments were then considered and agreed to.

The amendment to the 12th rule for the government of the bank, is to strike out the following clause:

"*But the said corporation shall be bound to lend to the Government of the United States thirty millions of dollars, at an interest not exceeding six per centum per annum, in such sums, and at such periods, as, consistently with the objects of the Government, may be made mutually convenient to the Government and the corporation, whenever any law or laws shall authorize and require such loan or loans.*"

The question on concurring in this amendment was decided in the affirmative, as follows:

## Those who voted in the affirmative, are,

Messrs. Alston,	Messrs. Geddes,	Messrs. Potter,
Avery,	Grosvenor,	John Reed,
Bard,	Hale,	Wm. Reed,
Barret,	Hanson,	Rea, of Penn.
Baylies, of Mass.	Hasbrouck,	Rich,
Bayly, of Va.	Hurlburt,	Robertson,
Bigelow,	Ingersoll,	Ruggles,
Boyd,	Jackson, of R. I.	Sharp,
Bradley,	Kent, of N. Y.	Sheffey,
Brigham,	Kent, of Md.	Shipherd,
Burwell,	Kerr,	Smith, of N. Y.
Butler,	King, of Mass.	Smith, of Va.
Caperton,	Law,	Stanford,
Caldwell,	Lewis,	Stockton,
Calhoun,	Lovett,	Sturges,
Champion,	Lowndes,	Tallmadge,
Cilley,	M'Kee,	Taylor,
Clarke,	M'Kim,	Thompson,
Crawford,	M'Lean,	Vose,
Creighton,	Miller,	Ward, of Mass.
Crouch,	Moore,	Ward, of N. J.
Culpeper,	Moseley,	Webster,
Cuthbert,	Markell,	Wheaton,
Davenport,	Oakley,	White,
Davis, of Mass.	Ormsby,	Wilcox,
Duval,	Pearson,	Wilson, of Mass.
Ely,	Pickering,	Winter,
Forney,	Pitkin,	Yancey—86.
Gaston,	Pleasants.	

## Those who voted in the negative, are,

Messrs. Alexander,	Messrs. Franklin,	Messrs. Lyle,
Anderson,	Gholson,	Macon,
Barbour,	Goodwyn,	M'Coy,
Bines,	Gourdin,	Nelson,
Bowen,	Griffin,	Newton,
Cannon,	Hall,	Parker,
Chappell,	Harris,	Pickens,
Clopton,	Hawes,	Piper,
Comstock,	Hopkins, of Ky,	Rhea, of Tenn.
Conard,	Hubbard,	Roane,
Dana,	Humphreys,	Sage,
Davis, of Penn.	Hungerford,	Sevier,
Denoyelles,	Ingham,	Seybert,
Desha,	Irwin,	Smith, of Penn.
Earle,	Johnson, of Va.	Tannehill,
Eppes,	Kennedy,	Telfair,
Farrow,	Kershaw,	Udree,
Findley,	Kilbourn,	Wilson, of Penn.
Fisk, of N. Y.	Lefferts,	Wright—58.
Forsyth,		

The House having under consideration the new section added to the bill by the committee of the whole, giving the Congress power, at any time, to appoint a special committee to examine into the state of the bank.

A motion was made by Mr. KILBOURN to amend the same by adding there-to the following:

“And if, upon full investigation, it shall appear that the said corporation have exceeded their powers, or violated any of the provisions or restrictions of this act, it shall be within the power of Congress to declare their charter void.”

This motion was negatived, after debate, and the new section concurred in. All the amendments made in committee of the whole having been agreed to—

On motion of Mr. PICKENS, the House agreed to reconsider the disagreement to Mr. SHARP's motion to amend the bill, by excluding other medium but treasury notes being received in payment of that portion of the subscription on each share, which is proposed to be paid in that way.

And the question being put on now agreeing to this amendment, after debate, the House adjourned.

NOVEMBER 23.

Mr. IRVING, of New York, presented a memorial from sundry persons, (on behalf of five banks in the city of New York) appointed to examine into the state of credit in that city, remonstrating against the passage of the bill before the House of Representatives, for the establishment of a national bank, which they see with alarm, believing this to be the worst possible time for the creation of such an institution, and fearing that it would not relieve, but rather augment, the present embarrassment of public and private credit. They state, also, their impression that treasury notes, at their present interest, fundable at a higher interest, would circulate better, and be less liable to depreciation, than the notes of such a bank. [These objections apply, and are directed to those features principally of the bill which have been stricken out by the House.] The memorial was read, and ordered to lie on the table.

The House resumed the consideration of the bill to "incorporate the subscribers to the Bank of the United States of America."

The question depending yesterday, on Mr. SHARP's motion, was, after further debate, decided in the affirmative.

The bill having been further amended—

A motion was made by Mr. GASTON further to amend the bill by striking out *fifty millions*, the proposed amount of the capital of the bank, and inserting *twenty* in lieu thereof.

This motion was supported by Mr. WEBSTER, in a speech of considerable length; which he had not concluded when the House adjourned.

NOVEMBER 25, 1814.

The House, on motion of Mr. CALHOUN, resumed the consideration of the bill.

The question being on Mr. GASTON's motion to substitute *twenty* for *fifty* millions of dollars, as the amount of the capital of the bank.

Mr. WEBSTER concluded the speech which he commenced on Wednesday, in opposition to the bill as it now stands. In the course of his remarks, to day, he indicated, generally, his views as to the sort of bank which ought to be established. He would have a bank of a limited amount, say twenty millions of capital; he would make it indispensable that it should pay specie, by a provision that all notes not paid in specie, when properly presented, should thenceforth bear a certain interest; and by inflicting a penalty on such directors as should, during the suspension of specie payment, consent to put the notes of the bank in circulation. He was willing the Government should, if others believed it necessary, hold some stock in the bank, but, at the extent, not to exceed one half of the whole amount; the remaining half to be paid in specie, or, at the discretion of the directors, in notes of existing banks, on condition that such banks should agree to resume their specie payments within a given time; and, if it was thought desirable, the Government might, he said, retain the right to subscribe, hereafter, an additional five millions to the capital of the bank. This was, generally, his plan. Upon the whole, he concluded by saying, although there were many points in which the present bill was pre-

ferable to the bill first reported, still, with its present amount of capital, and the great proportion of stock to specie, it was wholly objectionable, in his mind, and he could not vote for it. When Mr. W. sat down,

Mr. LOWNDES, of South Carolina, said, if he conceived any advantage to the nation could result from permitting this discussion to progress, he should not make the motion he was about to offer. But, believing, from the difference of views entertained in different parts of the House, and from the variety of plans which had been offered, that longer discussion would merely consume time without a prospect of the final passage of the bill; and believing, also, that, by a reference to a select committee, a concurrence of the views of all parties might be obtained in favor of one plan, he moved that this bill be referred to a select committee.

Mr. INGHAM, of Pennsylvania, said he was in favor of the recommitment of the bill, because he believed that, in its present form, it would not pass the House, but that a bill might be devised that would meet the views of gentlemen on all sides of the House. It was possible, at least, a combination of the views of different gentlemen might be effected, which might produce great good, and could do no harm. He was, therefore, in favor of the recommitment, as the only means of effecting this desirable object.

Mr. FISK, of New York, said he merely rose to add his wish to that of his friend from Pennsylvania. It was as certain as any thing yet in suspense could be, that the bill would not pass the House in its present shape. That it might be kept in possession of the House, and not destroyed without an effort to preserve it, he hoped the House would agree to refer it to a select committee for such modification as might appear to be calculated to meet the views of the House. The opinions of gentlemen, on all sides, had been so fully expressed, that the committee, being in possession of them, would be able to mould the bill accordingly.

Mr. CALHOUN, of South Carolina, said it must be obvious, from the course of the debate, if it were not from the nature of the subject, that a great diversity of sentiment existed on this head. No question could exhibit a greater division of sentiment, confined neither to party or locality. As he was extremely anxious that the bank should be established, Mr. C. said he should be averse to throwing any obstacle in the way of the practicability of the measure, and would therefore heartily assent to the motion for recommitment.

The question was then taken on recommitment, and decided in the affirmative without a division.

And Mr. Lowndes, Mr. Fisk, of New York, Mr. Calhoun, Mr. Ingham, Mr. Forsyth, Mr. Oakley, and Mr. Gaston, were appointed the said committee.

NOVEMBER 28.

Mr. LOWNDES, of S. C. from the select committee to whom was committed the bill to incorporate the subscribers to the Bank of the United States of America, reported, that the committee had had said bill under consideration, but not having been able to discover any means of uniting the conflicting opinions on the subject, had, therefore, directed him to report the bill without amendment. Mr. L. also laid before the House a letter obtained from the Secretary of the Treasury, by the committee, on the subject of the amendments made to the bank bill.

[This letter was read. It is written with remarkable frankness, and expresses a decided disapprobation of the issue of treasury notes, proposed by the amendments made to the bill. See page 535.]

A motion was made, by Mr. HANSON, to print the letter; which motion being objected to, was declared not to be in order at this time.

The House proceeded to the consideration of the bill.

The question depending when the bill was referred to a select committee, now recurred. It was on a motion of Mr. GASTON to strike out *fifty* millions (the proposed capital of the bank) and insert *twenty*

This motion was immediately decided, without debate, by the following vote:

For the motion,	-	-	-	-	-	54,
Against it,	-	-	-	-	-	85.

Mr. LOWNDES then moved to amend the bill by striking out *fifty* and inserting *thirty* millions, which question was decided without debate by the following vote:

For the motion,	-	-	-	-	-	76,
Against it,	-	-	-	-	-	67.

So the House determined to reduce the capital of the bank to *thirty* millions.

Mr. LOWNDES then suggested several amendments, to make other parts of the bill correspond with the amendment just made; which were agreed to.

Mr. EASTON then moved an amendment to the bill, and spoke some time in support of it, the object of which was, to require the directors of the bank, at any time when 100,000 dollars should be subscribed and paid in, or held, by citizens of Missouri territory, and when the same shall be required by three-fourths of such stockholders, to establish an office of discount and deposit at St. Louis, in the Missouri territory.

This motion was supported, also, in a cogent manner, by Mr. M'KEE, of Kentucky.

It was, however, negatived, twenty-seven only rising in favor of it.

Mr. HANSON, of Maryland, then moved to strike out the first section of the bill; which he supported by a speech of considerable length. He was opposed to the bill as it now stood, as an inefficient and impracticable measure, not suited to the great exigency of the times.

Mr. CALHOUN, of S. C. followed in reply to some points of Mr. HANSON'S speech, in defence of the bill.

Mr. GROSVENOR, of New York, next took the floor, and made an animated speech against the bill as it now stood, and giving the preference to the bill originally reported by the Committee of Ways and Means.

When Mr. GROSVENOR concluded—

Mr. JOHNSON, of Kentucky, assigning as a reason therefor his anxiety to expedite the public business, and proceed to the adoption of those measures which the times imperiously demand, required the previous question.

The call was sanctioned by a vote of 73 to 71; but some misapprehension of the question having taken place, a second count took place, after some little confusion, and there appeared to be 62 for the previous question, and 70 against it. So the call was not duly sanctioned.

After a few remarks from Mr. MACON and others, as to the effect of striking out the first section of the bill, which some appeared to think would have the effect to destroy the bill,

Mr. HANSON, to save difficulty in that respect, withdrew his motion to strike out the first section of the bill.

Mr. JOHNSON then renewed his demand of the previous question, (which precludes all further amendment as well as debate) which demand was seconded by a vote of 62 to 59.

The previous question was then put in the following form, viz: "Shall the main question be now put?" And decided by yeas and nays as follows:

For the previous question,	-	-	-	-	-	75,
Against it,	-	-	-	-	-	67.

The requisite number having required the main question to be put, it was put on the *engrossing the bill for a third reading*; and was decided as follows:



Those who voted in the affirmative, are,

Messrs. Alexander,  
Alston,  
Bines,  
Bradley,  
Caldwell,  
Calhoun,  
Cannon,  
Chappell,  
Clark,  
Condict,  
Crawford,  
Creighton,  
Crouch,  
Culpeper,  
Cuthbert,  
Duval,

Messrs. Earle,  
Findley,  
Forney,  
Gaston,  
Gourdin,  
Griffin,  
Harris,  
Hasbrouck,  
Irving,  
Kent, of Md.  
Kerr,  
Kershaw,  
Kilbourn,  
King, of N. C.  
Lowndes,  
M'Kee,

Messrs. M'Lean,  
Montgomery,  
Oakley,  
Pearson,  
Pickens,  
Rea, of Penn.  
Rich,  
Robertson.  
Sevier,  
Sharp,  
Skinner,  
Smith, of Vir.  
Taylor,  
Ward, of N. J.  
Winter,  
Yancey—49.

Those who voted in the negative, are,

Messrs. Anderson,  
Avery,  
Barber,  
Bard,  
Baylies, of Mass.  
Bayly, of Va.  
Bigelow,  
Bowen,  
Boyd,  
Bradbury,  
Brigham,  
Brown,  
Burwell,  
Cilley,  
Clopton,  
Comstock,  
Connard,  
Cooper,  
Cox,  
Dana,  
Davenport,  
Davis, of Mass.  
Davis, of Penn.  
Denoyelles,  
Desha,  
Ely,  
Eppes,  
Evans,  
Farrow,  
Fisk, of Vt.  
Fisk, of N. Y.  
Forsyth,  
Franklin,  
Geddes,  
Gholson,

Messrs. Goodwin,  
Grosvenor,  
Hall,  
Hanson,  
Hawes,  
Hopkins, of Ky.  
Hubbard,  
Hufty,  
Humphreys,  
Hungerford,  
Ingersoll,  
Ingham,  
Irwin,  
Jackson, of R. I.  
Johnson, of Va.  
Johnson, of Ky.  
Kennedy,  
Kent, of N. Y.  
King, of Mass.  
Law,  
Lefferts,  
Lewis,  
Lovett,  
Lyle,  
Macon,  
M'Coy,  
M'Kim,  
Miller,  
Moore,  
Moseley,  
Murfrec,  
Markell,  
Nelson,  
Newton,  
Parker,

Messrs. Pickering,  
Piper,  
Pitkin,  
Pleasants,  
Potter,  
John Reed,  
Wm. Reed,  
Rhea, of Tenn.  
Rhone,  
Ruggles,  
Sage,  
Schureman,  
Seybert,  
Sheffey,  
Shipnerd,  
Smith, of Penn.  
Stanford,  
Stockton,  
Strong,  
Sturges,  
Taggart,  
Tannehill,  
Telfair,  
Thompson,  
Udree,  
Vose,  
Ward, of Mass.  
Webster,  
Wheaton,  
White,  
Wilcox,  
Williams,  
Wilson, of Mass.  
Wilson, of Pa.—101.

So the House decided that the bill should not be read a third time—in other words, that it should be rejected.

Mr. FORSYTH, of Geo. then rose, and said he had voted in the majority against the bill; and was, therefore, at liberty to move a reconsideration of the vote just taken. This motion he did make, with a view to retain the bill still in possession of the House, in order to recommit it; that the House might

not be deprived of an opportunity of passing a bank bill during the present session.

This motion gave rise to considerable sensation in the House, as, indeed, had all the proceedings of this day.

The motion was opposed by Mr. MILLER, of N. Y. and Mr. FISK, of Vt. and advocated by Mr. FISK, of N. Y. and Mr. FARROW, of S. C. &c. &c.

At length, Mr. FORSYTH withdrew his motion for the present, intimating that he might renew it to-morrow.

Mr. CALHOUN moved to print the Secretary of the Treasury's letter, read this morning; when the House adjourned.

NOVEMBER 29, 1814.

*Ordered*, That the letter of the Secretary of the Treasury, laid before the House yesterday, by the chairman of the committee, to which was committed the bill to incorporate the subscribers to the Bank of the United States, be referred to the Committee of Ways and Means.

The letter of the Chairman, and the Secretary's reply, are here inserted.

WASHINGTON, *November 27, 1814.*

SIR:

The committee of the House of Representatives, to which the bank bill was recommitted, on Friday last, have directed me to request you to communicate your opinion in relation to the effect which a considerable issue of treasury notes (to which should be attached the quality of being receivable in subscriptions to the bank) might have upon the credit of the Government, and particularly upon the prospects of a loan for 1815.

As the bill, as it was referred to the committee, provides for the subscription of forty-four millions of treasury notes, to form, with six millions of specie, the capital of the bank, any information which you may think proper to give, either in relation to the practicability of getting them into circulation without depreciation, or in regard to their operation on any part of our fiscal system afterwards, will be very acceptable.

I am, sir, very respectfully, your obedient servant,

WM. LOWNDES.

*To the Hon. the Secretary of the Treasury.*

TREASURY DEPARTMENT, *November 27, 1814.*

SIR:

I have the honor to acknowledge the receipt of your letter, requesting, for a committee of the House of Representatives, an opinion upon the following inquiries:

1. The effect which a considerable issue of treasury notes, with the quality of being receivable in subscriptions to a national bank, will have upon the credit of the Government; and particularly upon the prospects of a loan for 1815?

2. The practicability of getting forty-four millions of treasury notes (forming, with six millions of specie, the capital for a national bank) into circulation, without depreciation?

The inquiries of the committee cannot be satisfactorily answered, in the abstract; but must be considered in connexion with the state of our finances and the state of the public credit.

When I arrived at Washington, the treasury was suffering under every kind of embarrassment. The demands upon it were great in amount, while the means to satisfy them were comparatively small; precarious in the collection, and difficult in the application. The demands consisted of dividends upon old and new funded debt, of treasury notes, and of legislative appropriations for the army, the navy, and the current service; all urgent and impor-

tant. The means consisted, first, Of the the fragment of an authority to borrow money, when nobody was disposed to lend, and to issue treasury notes which none but necessitous creditors, or contractors in distress, or commissaries, quartermasters, and navy agents, acting, as it were, officially, seemed willing to accept. Second, Of the amount of bank credits scattered throughout the United States, and principally in the Southern and Western banks, which had been rendered in a great degree useless, by the stoppage of payments in specie, and the consequent impracticability of transferring the public funds from one place, to meet the public engagements in another place. And third, Of the current supply of money from the imposts, from internal duties, and from the sales of public land, which ceased to be a foundation of any rational estimate, or reserve, to provide even for the dividends on the funded debt, when it was found that the treasury notes (only requiring, indeed, a cash payment at the distance of a year) to whomsoever they were issued at the treasury, and almost as soon as they were issued, reached the hands of the collectors, in payments of debts, duties, and taxes; thus disappointing and defeating the only remaining expectation of productive revenue.

Under these circumstances (which I had the honor to communicate to the Committee of Ways and Means) it became the duty of this department to endeavor to remove the immediate pressure from the treasury; to endeavor to restore the public credit; and to endeavor to provide for the expenses of the ensuing year. The only measures that occurred to my mind, for the accomplishment of such important objects, have been presented to the view of Congress. The act authorizing the receipt of treasury notes, in payment of subscriptions to a public loan, was passed, I fear, too late to answer the purpose for which it was designed. It promises, at this time, little relief, either as an instrument to raise money, or to absorb the claims for treasury notes, which are daily becoming due. From this cause, and from other obvious causes, the dividend on the funded debt has not been punctually paid; a large amount of treasury notes has already been dishonored; and the hope of preventing further injury and reproach, in transacting the business of the treasury, is too visionary to afford a moment's consolation.

The actual condition of the treasury, thus described, will serve to indicate the state of the public credit. Public credit depends essentially upon public opinion. The usual test of public credit is, indeed, the value of the public debt. The faculty of borrowing money is not a test of public credit: for a faithless Government, like a desperate individual, has only to increase the premium, according to the exigency, in order to secure a loan. Thus public opinion, manifested in every form, and in every direction, hardly permits us, at the present juncture, to speak of the existence of public credit; and yet, it is not impossible that the Government, in the resources of its patronage and its pledges, might find the means of tempting the rich and the avaricious to supply its immediate wants. But, when the wants of to-day are supplied, what is the new expedient that shall supply the wants of to-morrow? If it is now a charter of incorporation, it may then be a grant of land; but, after all, the immeasurable tracts of the western wild would be exhausted in successive efforts to obtain pecuniary aids, and still leave the Government necessitous, unless the foundations of public credit were re-established and maintained. In the measures, therefore, which it has been my duty to suggest, I have endeavored to introduce a permanent plan for reviving the public credit; of which the facility of borrowing money in anticipation of settled and productive revenues, is only an incident, although it is an incident as durable as the plan itself. The outline seemed to embrace whatever was requisite; to leave no doubt upon the power and the disposition of the Government, in relation to its pecuniary engagements; to diminish, and not to augment, the amount of the public debt in the hands of individuals; and to create general confidence, rather by the manner of treating the claims of the present class of creditors, than by the manner of conciliating the favor of a new class.

With these explanatory remarks, sir, I proceed to answer, specifically, the questions which you have proposed.

1. I am of opinion that a considerable issue of treasury notes, with the quality of being receivable in subscriptions to a national bank, will have an injurious effect upon the credit of the Government, and also upon the prospects of a loan for 1815.

Because it will confer, gratuitously, an advantage upon a class of new creditors, over the present creditors of the Government, standing on a footing of at least equal merit.

Because it will excite general dissatisfaction among the present holders of the public debt; and general distrust among the capitalists, who are accustomed to advance their money to the Government.

Because a quality of subscribing to the national bank, attached to treasury notes exclusively, will tend to depreciate the value of all public debt, not possessing that quality; and whatever depreciates the value of the public debt in this way, must necessarily impair the public credit.

Because the specie capital of the citizens of the United States, so far as it may be deemed applicable to investments in the public stocks, has already, in a great measure, been so vested; the holders of the present debt will be unable to become subscribers to the bank (if that object should, eventually, prove desirable) without selling their stock at a depreciated rate, in order to procure the whole amount of their subscriptions in treasury notes; and a general depression in the value of the public debt will inevitably ensue.

Because the very proposition of making a considerable issue of treasury notes, even with the quality of being subscribed to a national bank, can only be regarded as an experiment, on which it seems dangerous to rely. The treasury notes must be purchased, at par, with money; a new set of creditors are to be created; it may, or it may not, be deemed an object of speculation by the money holders to subscribe to the bank; the result of the experiment cannot be ascertained, until it will be too late to provide a remedy in the case of failure; while the credit of the Government will be affected by every circumstance which keeps the efficacy of its fiscal operations in suspense or doubt.

Because the prospect of a loan for the year 1815, without the aid of a bank, is faint and unpromising; except, perhaps, so far as the pledge of a specific tax may succeed; and then, it must be recollected that a considerable supply of money will be required for the prosecution of the war, beyond the whole amount of the taxes to be levied.

Because, if the loan for the year 1815 be made to depend upon the issue of treasury notes, subscribable to the national bank, it will probably fail, for the reasons which have already been suggested; and, if the loan be independent of that operation, a considerable issue of treasury notes, for the purpose of creating a bank capital, must, it is believed, deprive the Government of every chance of raising money in any other manner.

2. I am of opinion that it will be extremely difficult, if not impracticable, to get forty-four millions of treasury notes (forming, with six millions of specie, the capital of a national bank) into circulation, with or without depreciation.

Because, if the subscription to the bank becomes an object of speculation, the treasury notes will probably be purchased at the treasury and at the loan offices, and never pass into circulation at all.

Because, whatever portion of the treasury notes might pass into circulation, would be speedily withdrawn, by the speculators, in the subscription to the bank, after arts had been employed to depreciate their value.

Because it is not believed that, in the present state of the public credit, forty-four millions of treasury notes can be sent into circulation. The only difference between the treasury notes now issued and dishonored and those proposed to be issued, consists in the subscribable quality; but reasons have been already assigned for an opinion, that this difference does not afford such confidence in the experiment, as seems requisite to justify a reliance upon it, for accomplishing some of the most interesting objects of the Government.

I must beg you, sir, to pardon the haste with which I have written these

general answers to your inquiries. But, knowing the importance of time, and feeling a desire to avoid every appearance of contributing to the loss of a moment, I have chosen rather to rest upon the intelligence and candor of the committee, than to enter upon a more labored investigation of the subject referred to me.

I have the honor to be, very respectfully, sir, your most obedient servant,

A. J. DALLAS.

WILLIAM LOWNDES, Esquire.

NOVEMBER 29, 1814.

Mr. KILBOURN, of Ohio, said he had ever considered it to be the interest of the United States that a national bank should be established, for the convenient management of its finances. It was with satisfaction he found that to be the opinion of a great majority of the House, by the vote some time ago, on the proposition that it was expedient to establish a national bank. The project before the House having been rejected, he held in his hand a resolution embracing a sketch of a plan, which, if approved, might be put into the shape of a bill. Mr. K. then offered his resolution for consideration.

☉ [The resolution embraced the same plan, with a few variations, as that contained in the bill which was yesterday rejected by the House.]

This motion the SPEAKER pronounced to be out of order, as *in substance and matter* the same as that already rejected by the House, and which, therefore, could not now be resumed, unless by a vote of reconsideration to-day.

Mr. KILBOURN remarked, that he had not understood that his motion would be considered by the chair out of order, or he would not have proposed it. He the more readily withdrew it, because he understood that it was yet intended to move a reconsideration of the vote of yesterday.

[No reconsideration was moved to-day of the national bank bill, which was, therefore, finally rejected in the House, but revived in the Senate.]

Mr. KILBOURN's motion was as follows:

*Resolved*, That the Committee of Ways and Means be instructed to prepare, in due form, and report to this House, a bill to establish a national bank, of which the following shall be the principal or prominent features, viz: It shall be called the National Bank of the United States. It shall be seated in the city of Philadelphia, but may have branches throughout the Union. The capital stock thereof shall be fifty millions of dollars, divided into five hundred thousand shares, of one hundred dollars each. Thirty millions of the capital may be subscribed by individuals, companies, and corporations; and twenty millions thereof shall be subscribed by the Secretary of the Treasury, on behalf of the United States. The thirty millions, subscribed by individuals, companies, and corporations, shall be paid at proper periods, as follows, viz: Six millions in specie, eighteen millions in stock created since the year 1811, and six millions in treasury notes issued since the commencement of the war; that is to say: on each share twenty dollars in specie, sixty dollars in stock, and twenty dollars in treasury notes. The twenty millions subscribed for the United States, shall be paid in treasury notes, hereafter to be issued, or in stock of the United States, to be hereafter created. For the management of the bank, there shall be fifteen directors, nine of whom shall be elected by the individual stockholders, and six shall be nominated by the Secretary of the Treasury, and appointed by the President of the United States. The board of directors shall appoint the president, and all other officers and servants of the principal bank, and of the branches. The charter to continue twenty years; and no other bank charters to be granted by Congress during that time, except to the banking associations now formed within the District of Columbia. Subscriptions to be opened in one or more places in every State

and Territory, and in the District of Columbia, under the care of proper superintendents. The bank shall go into operation so soon as \$1,200,000 [as intended *twelve* millions of dollars] in due proportion of specie, stock and treasury notes, is paid in upon the subscriptions. The bank shall be authorized to receive, upon all loans it shall make, an interest at the rate of five per cent. per annum, and no more. When the subscriptions shall be filled to the amount of fifty millions, and the same be paid in, the bank may be required to loan to the Government \$25,000,000, and, at any time prior to the completing of that amount of subscription, it may be required to loan to Government in that proportion, to the amount actually subscribed and paid in. It shall be the right and duty of the Secretary of the Treasury to inspect all the books of business of the bank, and Congress may appoint committees for that purpose. And the President of the United States shall be empowered, in certain cases, and during certain limited periods, to authorize or direct the suspension of specie payments at the bank, or to substitute therefor, certain treasury notes; which suspension, or substitution, with the causes thereof, he shall make public by proclamation; and the same in like manner to recall and revoke, when the cause or causes shall cease to operate; or, in case of their continuance, to lay the same before Congress at the next session thereafter, that they may take such measures thereon as shall appear to them expedient.

Had the foregoing been received and adopted by the House, he intended to have added the following proposition, viz: Congress shall have power, when they shall deem it expedient, to extend the capital of the bank to \$60,000,000, by authorizing a further subscription, on the part of the United States, of \$10,000,000, payable in six per cent. stock of the United States; and in such case, there shall be appointed, as above, on behalf of the Government, three additional directors in the board.

13TH CONGRESS, }  
3d Session. }

IN SENATE.

SEPTEMBER 30, 1814.

Mr. GERMAN presented the petition of David M. Clarkson, and others, citizens of New York, praying the establishment of a national bank, for reasons therein stated; and the petition was read.

OCTOBER 31, 1814.

On motion by Mr. SMITH,

*Resolved*, That the petition of David M. Clarkson, and others, citizens of New York, praying the establishment of a national bank, presented the 30th ultimo, be referred to a select committee, to consist of five members, to consider and report thereon by bill or otherwise.

*Ordered*, That Messrs. King, Smith, Taylor, Bibb, and Mason, be the committee.

On the 2d December, Mr. King, from the said committee, reported a bill to incorporate the subscribers to the Bank of the United States of America; which then had its first reading.

A bill to incorporate the subscribers to the Bank of the United States of America.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a Bank of the United States of America shall be established, the capital stock of which shall be fifty millions of dollars, and no more, divided into one hundred thousand shares, of five hundred dollars each share, and that subscriptions for forty millions of dollars, towards constituting the said capital stock, shall be opened on the



— Monday of — next, at the following places, viz: Boston, New York, Philadelphia, Baltimore, Richmond, Charleston, and Pittsburg, under the superintendance of the following persons, as commissioners to receive the same: at Boston, James Lloyd, Thomas Perkins, and William Gray; at New York, —; at Philadelphia, Jared Ingersoll, Thomas M. Willing, Stephen Girard, Chandler Price, Anthony Taylor; at Baltimore, James A. Buchanan, Henry Payson, William Wilson; at Richmond, Benjamin Hatcher, John Brockenborough, William Preston; at Charleston, John C. Faber, John Potter, James Carson; at Pittsburg, George Robinson, Samuel Robert, and Henry Baldwin: which subscriptions shall continue open every day, from the time of opening the same, from ten o'clock, in the forenoon, until four o'clock, in the afternoon, until the Saturday following, at four o'clock, in the afternoon, when the same shall be closed; and, immediately thereafter, the commissioners, or any two of them, at the respective places aforesaid, shall cause two transcripts, or fair copies of such subscriptions, to be made, one of which they shall send to the Secretary of the Treasury, one they shall retain, and the original shall, within three days from the closing of the same, be, by the said commissioners, transmitted to the said commissioners at Philadelphia, or to one of them; and, on the receipt thereof, the said commissioners at Philadelphia, or any three of them, shall, immediately thereafter, convene, and proceed to take an account of the said subscriptions; and if more than the amount of forty millions of dollars shall have been subscribed, then the said last mentioned commissioners shall apportion the same among the several subscribers, according to their several and respective subscriptions: *Provided, however,* That such commissioners shall, by such apportionment, allow and apportion to each subscriber, at least, one share; and, in case the aggregate amount of the said subscriptions shall exceed forty millions of dollars, the said commissioners, after having apportioned the same, as aforesaid, shall cause lists of the said apportioned subscriptions to be made out, including, in each list, the apportioned subscription for the place where the original subscription was made, one of which lists shall be transmitted to the commissioners, or to one of the commissioners, under whose superintendance such subscriptions were originally made, that the subscribers may ascertain from them the number of shares apportioned to such subscribers, respectively; and if the amount of forty millions of dollars shall not be subscribed, during the period aforesaid, at all the places aforesaid, the subscription, to complete the said sum, shall afterwards be, and remain open at Philadelphia, under the superintendance of the said commissioners appointed at that place, and the subscription may be then made by any corporation, copartnership, or person, for any number of shares not exceeding the amount required to complete the said sum of forty millions of dollars; and in case of the death, or refusal to serve, of any of the commissioners, aforesaid, it shall be lawful for the President of the United States to supply the vacancy, or vacancies, thus created, by appointing some suitable person, or persons."

Sec. 2. *And be it further enacted,* That it shall be lawful for any person, copartnership, or body politic, to subscribe for so many shares of the said capital stock of the said bank, as he, she, or they, shall think fit, not exceeding one thousand shares, except as is hereinafter provided for the subscription on behalf of the United States; and the sums respectively subscribed, except on behalf of the United States, as is hereinafter provided, shall be payable in the manner following; that is to say: five millions of dollars thereof in gold or silver coin of the United States, or of foreign coin at the value heretofore established by the act of Congress, entitled an "Act regulating the currency of foreign coins," passed the 10th April, 1806; twenty-seven millions of dollars thereof in gold or silver coin, as aforesaid, or in the public debt of the United States, contracted by virtue of the act of Congress, entitled "An act authorizing a loan for a sum not exceeding eleven millions of dollars," passed the fourteenth day of March, one thousand eight hundred and twelve, or contracted, or to be contracted, by virtue of any subsequent act and acts of Congress, heretofore passed, authorizing a loan or loans; and eight millions of

dollars thereof in gold or silver coin, or in treasury notes, issued under the act of Congress, entitled "An act to authorize the issuing of treasury notes," passed the thirtieth day of June, one thousand eight hundred and twelve, or issued, or to be issued, under the authority of any subsequent act or acts of Congress, authorizing or which shall authorize treasury notes to be issued, previously to the final closing of the subscriptions to the said bank. And the said payment shall be made and completed in the sums, and at the times hereinafter declared; that is to say: at the time of subscribing, there shall be paid twenty-two dollars and fifty cents on each share, in gold or silver coin, forty dollars in the treasury notes, aforesaid, and one hundred and thirty-seven dollars and fifty cents in the public debt of the United States, contracted, or to be contracted, as aforesaid. At the expiration of four calendar months, after the time of subscribing, there shall be paid the further sum of twenty dollars, on each share, in gold or silver coin, thirty dollars in the treasury notes aforesaid, and one hundred dollars in the public debt of the United States, contracted, or to be contracted, as aforesaid. At the expiration of six calendar months from the time of subscribing, there shall be paid the further sum of twenty dollars, in gold or silver coin, thirty dollars in the treasury notes, aforesaid, and one hundred dollars in the public debt of the United States, contracted, or to be contracted, as aforesaid. And the subscriptions, in public stock and treasury notes, as aforesaid, shall be taken and credited for the principal and so much of the interest thereof, respectively, as shall have accrued on the day of subscribing the same. And, at the time of subscribing to the capital stock of the said bank, as aforesaid, each and every subscriber shall deliver to the commissioners, at the place of subscribing, as well the specie amount of their subscriptions, respectively, as the certificates of stock for the stock proportion of their subscriptions, respectively, together with a power of attorney authorizing the said commissioners, or a majority of them, to transfer the said stock, in due form of law, to "The President, Directors, and Company, of the said Bank of the United States of America," as soon as the said bank shall be organized, and, also, treasury notes for the proportion of the subscriptions, respectively, payable in treasury notes, as aforesaid: *Provided always*, That if, in consequence of the apportionment of shares, in the said bank, among the subscribers, in the case and in the manner hereinbefore prescribed, any subscriber shall have delivered to the commissioners, at the time of subscribing, a greater amount of specie, stock, and treasury notes, than shall be necessary to complete the payments for the share, or shares, to such subscriber, apportioned as aforesaid; the commissioners shall only retain so much of the said money, stock, and treasury notes, as shall be necessary to complete such payments, and shall, forthwith, return, on application for the same, the surplus thereof to the subscriber lawfully entitled thereto. And the commissioners, respectively, shall deposit the gold and silver, certificates of stock, and treasury notes, by them, respectively, received, as aforesaid, from the subscribers to the said bank, in some place of secure and safe keeping, so that the same may, and shall, be specifically delivered and transferred, as the same were, by them, respectively, received, to the said President, Directors, and Company, of the said Bank of the United States of America, or to their order, as soon as shall be required after the organization of the said bank.

SEC. 3. *And be it further enacted*, That, at the opening of the subscriptions to the capital stock of the Bank of the United States of America, the Secretary of the Treasury shall subscribe, or cause to be subscribed, on behalf of the United States, to the said capital stock of the said bank, the amount of ten millions of dollars, to be paid in public stock, bearing an interest of four per cent. per annum, from the time of subscribing the same, and redeemable in any sums, and at any periods, which the Government may deem fit; and the certificates of such public stock, the Secretary of the Treasury shall cause to be prepared and made in the usual form, and shall pay and deliver the same to the President and Directors of the said bank, at the expiration of

three calendar months after the time of opening the said subscription to the capital stock of the said bank, as aforesaid.

SEC. 4. *And be it further enacted*, That whenever and as often as any of the treasury notes, subscribed as aforesaid to the said capital stock of the said bank, shall be due and payable, it shall be lawful for the Secretary of the Treasury (and he is hereby authorized and required) to pay and redeem the same, principal and interest, by causing certificates of public stock for an equal amount, bearing an interest of six per cent. per annum, and redeemable in any sums, and at any periods, which the Government may deem fit, to be prepared and made in the usual form, and the same to be delivered to the president and directors of the said bank, in satisfaction and discharge of such treasury notes.

SEC. 5. *And be it further enacted*, That the subscribers to the said Bank of the United States of America, their successors and assigns, shall be, and are hereby created a corporation and body politic, by the name and style of "the President, Directors, and Company, of the Bank of the United States of America," and shall so continue until the third day of March, in the year one thousand eight hundred and thirty-five; and by that name shall be, and are hereby made able, and capable in law, to have, purchase receive, possess, enjoy, and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of whatsoever kind, nature, and quality, to an amount not exceeding in the whole fifty-five millions of dollars, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, alien, or dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts and places whatsoever; and also to make, have, and use, a common seal, and the same to break, alter, and renew, at their pleasure; and also to ordain, establish, and put in execution, such by-laws and ordinances and regulations, as they shall deem necessary and convenient, for the government of the said corporation, not being contrary to the constitution and laws of the United States; and generally to do and execute all and singular the acts, matters, and things, which to them it shall or may appertain to do; subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed and declared.

SEC. 6. *And be it further enacted* That, for the management of the affairs of the said corporation, there shall be twenty-five directors, who shall be elected at the banking house in Philadelphia, on the first Monday of January, in each year, by the stockholders or proprietors of the capital stock of the said corporation, and by a plurality of votes then and there actually given, according to the scale of voting hereinafter prescribed. And the directors, so duly chosen, shall be capable of serving, by virtue of such choice, until the end or expiration of the first Monday in January next ensuing the time of such election, and no longer: *Provided always*, That the first election and appointment of directors shall be at the time, and for the period hereinafter declared.

SEC. 7. *And be it further enacted*, That, as soon as the sum of thirteen millions two hundred thousand dollars, in gold and silver coin and in the public debt and treasury notes, shall have been actually received on account of the subscriptions to the said capital stock, (exclusively of the subscription aforesaid on the part of the United States) notice thereof shall be given by the persons under whose superintendence the subscriptions shall have been made at Philadelphia, in at least two public newspapers, printed in each of the places where subscriptions shall have been made; and the said persons shall, at the same time, and in like manner, notify a time and place, within the said city of Philadelphia, at the distance of at least twenty days from the time of such notification, for proceeding to the election of directors as aforesaid; and it shall be lawful for such election to be then and there made. And the persons who shall be then and there chosen as aforesaid, shall be the first directors, and shall proceed to elect one of their number president of the said corporation, and they shall be capable of serving, by virtue of such choice, un-

til the end and expiration of the first Monday of January next ensuing the time of making the same, and shall forthwith, thereafter, commence the operations of the said bank, at the said city of Philadelphia: *Provided always*, That, in case it should, at any time, happen that an election of directors and president of the said corporation should not be made upon any day when, in pursuance of this act, they ought to be made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day to hold and make an election of directors and president of the said corporation, (as the case may be) in such manner as shall have been regulated by the by-laws and ordinances of the said corporation; and until such election be so made, the directors and president, for the time being, shall continue in office: *And provided, also*, That, in case of the death, resignation, or removal, of the president of the said corporation, the directors shall proceed to elect another president: *And provided, also*, That, in case of the death, resignation, or absence from the United States, or removal of a director from office, the vacancy shall be supplied by the stockholders.

SEC. 8. *And be it further enacted*, That the directors, for the time being, shall have power to appoint such officers, clerks, and servants under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services, respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities, for the well governing and ordering of the affairs of the said corporation, as shall be prescribed, fixed, and determined, by the laws, regulations, and ordinances of the same.

SEC. 9. *And be it further enacted*, That the following rules, restrictions, limitations, and provisions, shall form, and be fundamental articles of the constitution of said corporation, to wit:

1. The number of votes to which the stockholders shall be entitled, in voting for directors, shall be according to the number of shares he, she, or they, respectively, shall hold, in the proportions following, that is to say: for one share and not more than two shares, one vote; for every two shares above two and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote. But, no person, copartnership, or body politic, shall be entitled to a greater number than thirty votes; and after the first election, no share, or shares, shall confer a right of voting, which shall not have been holden three calendar months previous to the day of election. And stockholders, actually resident within the United States, and none other, may vote in elections by proxy.

2. Not more than three-fourths of the directors in office, at the time of an annual election, shall be elected for the next succeeding year, and no person shall be a director more than two out of four years; but the director who shall be the president at the time of an election, may always be re-elected.

3. None but a resident citizen of the United States, and holding, at the time of his election, not less than ten shares, bona fide in his own right, shall be a director; and, if any director shall cease to be a stockholder to that amount, he shall cease to be a director.

4. No director shall be entitled to any emolument. The stockholders may make such compensation to the president, for his extraordinary attendance at the bank, as shall appear to them reasonable.

5. Not less than seven directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness, or necessary absence, in which case his place may be supplied by any other director whom he, by writing under his hand, shall depute for the purpose. And the director, so deputed, may do and transact all the necessary business belonging to the office of the president of the said corporation, during the continuance of the sickness, or necessary absence of the president.

6. A number of stockholders, not less than sixty, who, together, shall be

proprietors of one thousand shares or upwards, shall have power, at any time, to call a general meeting of the stockholders, for purposes relative to the institution, giving at least ten weeks' notice, in two public newspapers of the place where the bank is seated, and specifying in such notice the object or objects of such meeting.

7. Every cashier, or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with a condition for his good behavior, and the faithful performance of his duties to the corporation.

8. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation, in relation to the convenient transacting of its business, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales, upon judgments which shall have been obtained for such debts.

9. The total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, over and above the debt, or debts, due for money deposited in the bank, shall not exceed the sum of fifty millions of dollars, unless the contracting of any greater debt shall have been previously authorized by a law of the United States. In case of excess, the directors under whose administration it shall happen, shall be liable for the same, in their natural and private capacities; and an action of debt may in such case be brought against them, or any of them, their, or any of their heirs, executors, or administrators, in any court of record of the United States, or either of them, by any creditor, or creditors, of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement, to the contrary notwithstanding. But, this provision shall not be construed to exempt the said corporation, or the lands, tenements, goods, or chattels of the same, from being also liable for, and chargeable with, the said excess. Such of the said directors who may have been absent when the said excess was contracted, or created, or who may have dissented from the resolution or act, whereby the same was contracted, or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the President of the United States, and to the stockholders, at a general meeting, which they shall have power to call for that purpose.

10. The said corporation shall not, directly nor indirectly, deal or trade in any thing except bills of exchange, gold or silver bullion, or in the sale of goods, really and truly pledged for money lent, and not redeemed in due time, or goods which shall be the proceeds of its lands. It shall not be at liberty to purchase any public debt whatsoever; nor shall it take more than at the rate of six per cent. per annum, for or upon its loans or discounts.

11. The said corporation shall not, during the continuance of the present war between the United States and Great Britain, sell any portion of the public debt, constituting a part of its capital stock aforesaid; nor, after the war, at a price less than its par value; nor at any time, to an amount exceeding one moiety of the public debt so constituting a part of its capital stock, without the consent of Congress.

12. No loan shall be made by the said corporation, for the use or on account of the Government of the United States, to an amount exceeding five hundred thousand dollars, or of any particular State, to an amount exceeding fifty thousand dollars, or of any foreign prince, or state, unless previously authorized by a law of the United States. But the said corporation shall be bound to lend to the Government of the United States, reimbursable at their pleasure, thirty millions of dollars, at an interest not exceeding six per centum per annum, in such sums, and at such periods, as may be made convenient to the Government of the United States, whenever any law or laws of the United States shall authorize and require such loan or loans.

13. The stock of the said corporation shall be assignable, and transferable, according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same.

14. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and his, her, or their executors or administrators, and of his, her, or their assignee or assignees, and the executors or administrators of such assignee or assignees, and so as absolutely to transfer and vest the property thereof, in each and every assignee or assignees successively, and to enable such assignee or assignees, and his, her, or their executors or administrators, to maintain an action thereupon in his, her, or their own name or names. And the bills or notes which may be issued by order of the said corporation, signed by the president, and countersigned by the principal cashier, or treasurer thereof, promising the payment of money to any person or persons, his, her, or their order, or to bearer, although not under the seal of the said corporation, shall be binding and obligatory upon the same, in the like manner, and with the like force and effect, as upon any private person or persons, if issued by him, her, or them, in his, her, or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons, that is to say: those which shall be payable to any person or persons, his, her, or their order, shall be assignable by endorsement, in like manner, and with the like effect, as foreign bills of exchange now are, and those which are payable to bearer, shall be assignable and negotiable by delivery only.

15. Half yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors advisable; and once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of profits, if any, after deducting losses and dividends. If there shall be a failure in the payment of any part of any sum subscribed by any person, copartnership, or body politic, the party failing shall lose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

16. The directors of said corporation shall be bound to establish a competent office of discount and deposite in the District of Columbia, whenever any law of the United States shall require such establishment, and it shall be lawful for the said directors to establish offices wheresoever they shall think fit, within the United States, for the purposes of discount, deposite, and distribution, or for the purposes of deposite and distribution only; and upon the same terms, and in the same manner, as shall be practised at the bank; and to commit the management of the said offices, and the business thereof, respectively, to such persons, and under such regulations, as they shall deem proper, not being contrary to law or the constitution of the bank. Or, instead of establishing such offices, it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank or banks, at any place or places, that they may deem safe and proper, to manage and transact the business proposed as aforesaid, to be managed and transacted by such offices, under such agreements, and subject to such regulations, as they shall deem just and proper. But the managers or directors of every office of discount, deposite, and distribution, established as aforesaid, shall be annually appointed by the directors of the bank, to serve one year; each of them shall be a citizen of the United States, and shall hold, at the time of his appointment, not less than five shares in the said bank, bona fide in his own right; and if he shall cease to be a stockholder to that amount, he shall cease to be a manager or director of such office of discount, deposite, and distribution; and not more than three-fourths of the said managers or directors in office at the time of an annual appointment, shall be reappointed for the next succeeding year;



nor shall any person be a manager or director for more than two out of four years, but the president may be always reappointed.

17. The said corporation, all offices of discount, deposite, and distribution, and of deposite and distribution only, which shall be established by the said directors as aforesaid, and all banks by the said directors employed, in lieu of such offices as aforesaid, shall be bound to receive, upon deposite, the treasury notes of the United States, which have been or may be hereafter issued, by virtue of any law or laws of the United States. But it shall be optional with the said corporation to pay and discharge the checks or drafts of the persons making such deposite in treasury notes, for the amount thereof, either in gold or silver coin, or in the notes of the bank, or in treasury notes. And all banks by the said directors employed as aforesaid, in lieu of the offices aforesaid, shall be further bound to receive, on deposite, and to circulate the notes of the said corporation on the same terms, and in the same manner, as the notes of the said banks respectively are received and circulated; and, from time to time, to issue and exchange for the said notes of the said corporation, other notes of the said corporation, or the notes of the said banks, respectively, or treasury notes, at the option of the person applying for such issue or exchange.

18. During the continuance of the present war between the United States and Great Britain, all the notes of the said corporation, whether payable at the seat of the bank in Philadelphia, or elsewhere, shall be payable in other notes of the said corporation, in treasury notes, or in gold and silver coin, at the bank in the city of Philadelphia only, at the option of the applicant. At all the offices of discount, deposite, and distribution, and of deposite and distribution only, and at all the banks employed in lieu of such offices, the notes of the said corporation, during the continuance of the said war, shall be payable in other notes of the said corporation, or in treasury notes only. And the said corporation shall, at all times, distribute among the offices and banks aforesaid, a sufficient sum in the various denominations of the notes of the said corporation, and in treasury notes, to answer the demand therefor, and to establish a sufficient circulating medium throughout the United States and the territories thereof; and the treasury notes to be distributed and circulated, the Secretary of the Treasury shall cause to be delivered, from time to time, to the said bank in Philadelphia; and the same shall be distributed and circulated by the said bank, under directions, in that behalf, given by the said Secretary.

19. The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same; of the moneys deposited therein; of the notes in circulation; and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statement: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

Sec. 10. *And be it further enacted*, That, if the said corporation, or any person or persons for or to the use of the same, shall deal or trade in buying or selling any goods, wares, merchandise, or commodities, whatsoever, contrary to the provisions of this act, all and every person and persons by whom any order or direction for so dealing or trading shall have been given, and all and every person and persons who shall have been concerned as parties or agents therein, shall forfeit and lose treble the value of the goods, wares, merchandises, and commodities, in which such dealing and trade shall have been; one-half thereof to the use of the informer, and the other half thereof to the use of the United States, to be recovered in any action at law with costs of suit.

Sec. 11. *And be it further enacted*, That, if the said corporation shall advance or lend any sum of money for the use, or on account, of the Government of the United States, to an amount exceeding five hundred thousand dollars, or of any particular State, to an amount exceeding fifty thousand dollars, or of

any foreign Prince or State, (unless previously authorized thereto by a law of the United States) all and every person and persons, by, and with whose order, agreement, consent, approbation, and connivance, such unlawful advance or loan shall have been made, upon conviction thereof, shall forfeit, and pay for every such offence treble the value or amount of the sum or sums which shall have been so unlawfully advanced or lent; one-fifth thereof to the use of the informer, and the residue thereof to the use of the United States.

SEC. 12. *And be it further enacted*, That the bills or notes of the said corporation, originally made payable, or which shall have become payable, on demand, during the continuance of the present war between the United States and Great Britain, in gold and silver coin, at the seat of the bank in Philadelphia, and which, during the continuance of the said war, are made payable elsewhere, on demand, in other notes of the said corporation, or in treasury notes as aforesaid, and which, after the termination of the said war, shall be made generally payable on demand, in gold or silver coin, shall be receivable in all payments to the United States.

SEC. 13. *And be it further enacted*, That if, during the continuance of the present war between the United States and Great Britain, and a period of one year after the termination of the said war, demands shall, at any time or times, be made upon the said corporation, for gold and silver coin, to an amount, and under circumstances, which induce a reasonable and probable belief, that the said gold and silver coin is intended to be exported from, and out of, the United States, so as greatly to diminish or endanger the specie capital of the Government and country, as well as of the said corporation; or that the said gold and silver coin is intended to be wilfully withdrawn from circulation, so as greatly to embarrass, obstruct, and discredit the pecuniary transactions of the People and the Government, as well as of the said corporation; or that the said gold and silver coin is demanded, in consequence of a wilful and sinister accumulation of the bills and notes of the said corporation, with the intention to impair or destroy the credit of the said corporation; then, and in every such case, and as often as such cases shall occur, it shall be lawful for the directors of the said corporation, to suspend its payments in specie, and their duty forthwith, to represent the same to the President of the United States. And it shall be thereupon lawful for the President of the United States to direct the said corporation to resume, or to continue to suspend, its payments in specie, for such time as he shall deem expedient; and the said corporation shall resume, or continue to suspend, its payments in specie, according to such directions. And the President of the United States shall cause a statement of the proceedings, in all such cases, to be laid before Congress, if in session, immediately; if not in session, then within ten days after the next meeting of Congress; and such suspension may continue until removed by Congress, or by the President.

SEC. 14. *And be it further enacted*, That, during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall do and perform the several and respective duties of the commissioners of loans for the several States, or of any one or more of them, at the times, in the manner, and upon the terms, to be prescribed by the Secretary of the Treasury.

SEC. 15. *And be it further enacted*, That no other bank shall be established by any future law of the United States, during the continuance of the corporation hereby created; for which the faith of the United States is hereby pledged: *Provided*, Congress may renew existing charters for banks in the District of Columbia, not increasing the capital thereof; and may grant charters, if they deem it expedient, to any banking associations now in operation in the said District, and renew the same, not increasing the capital thereof. And, notwithstanding the expiration of the term for which the said corporation is created, it shall be lawful to use the corporate name, style, and capacity, for the purpose of suits, for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, real, personal, and mixed, but not for any other purpose, or in

any other manner whatsoever; nor for a period exceeding two years after the expiration of the said term of incorporation.

DECEMBER 5, 1814.

The bill was read a second time, and considered by the Senate as in committee of the whole.

Mr. MASON moved to strike out, from the first section, the word "fifty," and insert "twenty," in lieu thereof, thereby reducing the proposed amount of the capital stock from fifty to twenty millions of dollars; which motion was debated on this and the two following days; and, on the 7th,

The question was taken on Mr. MASON's motion, and decided as follows: Yeas, 13; Nays, 18.

Those who voted in the affirmative, were,

Messrs. Brown, Daggett, Dana, Fromentin, German, Goldsborough, Gore, Horsey, Hunter, King, Lambert, Mason, Thompson.

Those who voted in the negative, were,

Messrs. Anderson, Bibb, Bledsoe, Brent, Chase, Condit, Gaillard, Lacock, Morrow, Roberts, Robinson, Smith, Tait, Taylor, Turner, Varnum, Walker, Wharton.

So the motion was lost.

The bill proposed that subscriptions be forthwith opened for *forty* millions of the capital stock.

Mr. MASON moved to strike out "forty," and insert "thirty," in lieu thereof; and,

A division of the question being required by Mr. DANA,

The question on striking out the word "forty" was negatived, by precisely the same vote as that just recorded.

After making further progress in the bill, the Senate adjourned.

DECEMBER 8, 1814.

On motion by Mr. KING, to strike out of section second, after the word "States," the following words: "or in the public debt of the United States, contracted by virtue of the act of Congress, entitled 'An act authorizing a loan for a sum not exceeding eleven millions of dollars,' passed the 14th day of March, 1812, or contracted, or to be contracted, by any subsequent act and acts of Congress, heretofore passed, authorizing a loan or loans," and insert in lieu thereof, "or in any public debt of the United States, bearing, at the time of payment, an interest of six per centum annually;"

It was determined in the negative: Ayes, 11; Noes, 19.

On motion by Mr. FROMENTIN, to strike out of the second section, line twenty-seven, after the word "paid," the word "twenty," and insert, in lieu thereof, the word "sixty," it was, by a vote of ten to nineteen, determined in the negative.

On motion by Mr. KING, to add a new section to the bill, as follows:

"SEC. 16. *And be it further enacted*, That, if the said corporation shall do, or cause or permit to be done, or transacted, on its behalf, or for its use, any matter or thing injurious to the public welfare, and not authorized by this act, or shall neglect to do any matter or thing, which it shall be the duty of the said corporation to do, it shall, in each and every such case, be competent and lawful for Congress to repeal so much of this act as allows the notes of this corporation to be received in payment to the United States;"

It was determined in the negative: Yeas 13, Nays 18.

On motion by Mr. GERMAN, to add a new section to the bill, as follows:

"*And be it further enacted*, That Congress may repeal so much of this act as relates to the payment of the public revenue in the bills of the said bank;"

It was determined in the negative: Yeas 10, Nays 21.

And the bill was reported to the House amended.

On the question, "Shall the bill be engrossed and read a third time, as amended?"

It was determined in the affirmative, as follows: Yeas 18; Nays 13.

Those who voted in the affirmative, were,

Messrs. Anderson, Bibb, Bledsoe, Brent, Chase, Condit, Gaillard, Lacock, Morrow, Roberts, Robinson, Smith, Tait, Taylor, Turner, Varnum, Walker, Wharton.

Those who voted in the negative, were,

Messrs. Brown, Daggett, Dana, Fromentin, German, Goldsborough, Gore, Horsey, Hunter, King, Lambert, Mason, Thompson.

DECEMBER 9, 1814.

The question, "Shall the bill pass?" was decided by the following vote: Yeas 17; Nays 14.

Those who voted in the affirmative, were,

Messrs. Anderson, Bibb, Bledsoe, Brent, Chase, Condit, Lacock, Morrow, Roberts, Robinson, Smith, Tait, Taylor, Turner, Varnum, Walker, Wharton.

Those who voted in the negative, were,

Messrs. Brown, Daggett, Dana, Fromentin, Gaillard, German, Goldsborough, Gore, Horsey, Hunter, King, Lambert, Mason, Thompson.

So the bill was passed, and sent to the House of Representatives for concurrence.

#### HOUSE OF REPRESENTATIVES.

DECEMBER 9, 1814.

The bill from the Senate was received, and on the following day referred to the Committee of Ways and Means.

DECEMBER 14, 1814.

Mr. FISK, of New York, from the Committee of Ways and Means, reported a number of amendments to the bill from the Senate, "to incorporate the subscribers to the Bank of the United States of America;" which were read, and, with the bill, referred to a committee of the whole.

DECEMBER 23, 1814.

On motion of Mr. FISK, of New York, the House resolved itself into a committee of the whole, Mr. MACON in the chair, on the bill.

The first section contains the leading principles of the bill, substantially as follows: The capital to consist of fifty millions of dollars, to be divided into an hundred thousand shares, of five hundred dollars each; subscriptions for forty millions whereof to be opened on the third Monday of January next, at Boston, New York, Philadelphia, Richmond, Charleston, and Pittsburg. [The amendments proposed to this section, by the Committee of Ways and Means, contemplate an extension of the number of places of subscription, &c.] Before the question was stated on these amendments,

Mr. CLOXTON, of Virginia, moved to strike out the first section of the bill, and said: I have made this motion, Mr. Chairman, at this stage of the discussion, as being at the most proper time to try the general principle of the bill, because I cannot, under my present convictions, vote for this or any other bill to establish a bank, and therefore wish to state to this committee the ground of constitutional objection which I have to it. The objection is not one which admits a right to legislate on the subject proposed, but would prescribe the precise extent to which it might be exercised, and beyond which

it ought not to be exercised; but it is an objection grounded on a thorough belief, the result of deliberate examination of the constitution, and reflection thereon, that there does not exist in this body any manner of right to legislate on the subject at all; that no sort of authority to do so is vested in it, either by express grant, or as incidental to any express grant.

I should, indeed, have been glad if some gentleman who patronizes this scheme, would have presented to us his views of the authority which he conceives the constitution has given to pass such a bill as this, that if I had been convinced of having been heretofore in error, I might have been left free to decide upon the measure accordingly as it should appear to be expedient or otherwise: but no gentleman having done so, in the course of a long discussion of the bill on the same subject, which was before this body some time ago, when I was in a very low state of health; and expecting that the same silence, in that respect, will be observed upon this bill, I am left to presume altogether as to the ground on which the friends of the scheme rest for their authority; and, being left so to presume, I cannot conceive of any part of the constitution on which they can rely for authority, other than the concluding clause of the eighth section of the first article of the constitution, commonly called the *sweeping* clause, in the following words: "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers," &c.: because there is no other part of the constitution, that I know of, which can afford even a shadow of pretext for exercising such a power as is now proposed to be exercised by the bill before you: because, upon every occasion which has heretofore occurred, when a right has been claimed to exercise a distinct power or powers, not expressly granted, for the avowed purpose of carrying into execution other powers that are so granted, that clause has been always resorted to; and more especially, because the Secretary of the Treasury, the original parent of this scheme, in his letter to the chairman of the Committee of Ways and Means, of the 17th of October last, after *modestly* suggesting the propriety of a change of opinion respecting the constitution, to suit the "difference of times and circumstances," wound up his recommendation of the scheme with a declaration of his "opinion, that, in these times, it will not only be useful in promoting the general welfare, but that it is necessary and proper for carrying into execution some of the most important powers constitutionally vested in the Government;" thus using the most operative words of that clause, the words "necessary and proper for carrying into execution," &c., and evidently thereby inviting the attention of the members of this body to the clause, as being of singular importance in guiding their deliberations on this subject.

It would seem, sir, nevertheless, that even in the mind of the Secretary himself, there existed at least some doubt whether a power to establish the proposed bank is *itself* constitutionally vested in Congress, for he does not say that it is, but only, that, in his opinion, "the establishment of a national bank is necessary and proper for carrying into execution" some powers that are constitutionally vested in the Government, as if he intended to confine the *actual constitutional investiture* to powers *expressly* granted. If he did intend so to confine it, he was thus far correct; for no power whatever is constitutionally vested in this body that is not expressly granted to it.

Let the opinion of the Secretary on this point be what it may, his letter will not, cannot, induce me to participate in the exercise of a power which, I verily believe, is not, in any manner whatever, vested in this body. Even if the measure proposed should seem ever so expedient, which, however, is far from appearing to me to be the case with respect to the proposed institution; but, on the contrary, should it be established, I fear it may ultimately turn out to be a dangerous, a very dangerous political machine to this country, even if some temporary advantages should be derived from it; if some of the difficulties under which the Government is said to labor, should, for the present, be obviated—difficulties, I am constrained to say, which might have been prevented by timely provisions, by other means not in any way conflicting with the constitution, which might have precluded that great necessity, as it is re-

presented to be, and now spoken of by some gentlemen, as, in their opinion, so imperiously calling for such an institution as the one proposed. But, sir, I am not prepared, nor am I willing, to admit that the Government is in such a desperate situation as to render the proposed bank *necessary* for its relief or accommodation, even if the right to establish the institution was unquestionable. I deny that such necessity does exist. On this occasion, therefore, as on others, I take the liberty to decide according to the dictates of my own judgment. If, in this instance, I judge upon mere visionary speculation, in respect to the constitution, let the observations I am about to offer to the committee determine.

In tracing the features of the federal constitution, Mr. Chairman, I have always found that they present themselves to my mind as being rooted in one great fundamental principle, which is, that *all the powers at the command of this Government are those only which are delegated to it*. This principle is expressly recognised by an amendment to the constitution, adopted at a very early period after the constitution was carried into operation. The term "delegated," as used in that amendment, I consider to be a peculiar phrase of special, distinct, definite meaning, and when applied to any particular power, not fairly susceptible of implication or involution of any distinct power, other than the power to which it is immediately and directly applied. In other words, sir, I understand the term to mean that the powers "delegated," are those only which are specifically designated by express grants. The *delegation* of the powers of this Government comprehends, then, no more than what are distinctly expressed in the *delegation* or series of positive grants.

A sort of powers, however, has been much and often spoken of, the true nature and extent of which, perhaps, have not been always distinctly and clearly understood, if, indeed, the existence of any powers at all, under that denomination, ought to be admitted; I allude to what are called incidental powers. The broadest latitudinarians, in relation to the powers of this body, have never, that I know of, extended their notions of its powers farther than to these two species—the powers strictly denominated "delegated" powers, or powers "expressly granted," and what they call "incidental" powers. This notion of incidental powers, is deduced altogether from the same concluding clause of the 8th section of 1st article of the constitution, as being "necessary and proper" for carrying into execution the express powers specified in the preceding clauses of that section; and very much, if not the whole, of the diversity of opinion, which has prevailed in relation to the powers constitutionally vested in Congress, has proceeded, perhaps, from the difference between the construction given to that clause by some, and the construction given to it by others.

According to my understanding of the word "incidental," I take it to be an adjective, not only in point of grammar strictly, but that, if it can properly be applied to any power at all, it can be applied only to a power which is *itself* but the adjective or adjunct of another power to which it belongs, and has no existence separate from that power. In my opinion, then, what is commonly called incidental powers, are not real, distinct powers, but rather modes of exercising the express powers to which they belong or are incident. Whence, sir, I consider myself perfectly justifiable in the declaration, that the clause in the constitution, which has been mentioned, and by which alone, it is generally thought, the exercise of those supposed incidental powers is authorized, does not embrace any distinct substantive power at all. The power now proposed to be exercised, in passing the bill before you, I consider to be a distinct substantive power, as clearly as any power can be, and therefore not embraced in that clause. It is not expressly granted, as must be admitted by every body; whence it is evident to my mind, that it is not, in any manner whatever, vested in this body, and therefore cannot be constitutionally exercised by this body.

Firmly, then, as the Secretary of the Treasury, or other advocates of this bill, may conceive the doctrine they entertain in favor of it to be supported by the clause of the constitution which has been mentioned, I must beg leave



to differ from them entirely in opinion. I consider it affording no solid, no substantial support at all to such a doctrine; and never, in my opinion, was an appellation more improperly bestowed upon any thing, than the appellation which has been bestowed upon that clause. On account, then, of the very extensive latitude of construction given to the clause, ascribing to it abundantly more force than it actually possesses, I have been inclined to think that it might have been better, perhaps, if the clause had never been inserted in the constitution; or, at least, that part of it which relates to the several grants of power specified in the preceding clauses of the section. For, so far from sweeping—by which, it would seem, is meant (if, indeed, the appellation is designed to mean any thing) a carrying along with it powers not specified in the enumeration of grants immediately preceding the clause—it carries along with it nothing at all. It imparts not a scintilla of power to Congress which the preceding enumeration does not grant. If, then, by the ascription to it of the sweeping quality, be really meant that it imparts to Congress powers other than those enumerated in the preceding clauses of the section, which are distinct from, and additional to them, indefinite in number and extent, a little reflection, I should imagine, might convince any one that such construction must involve dangerous consequences—that such would be a sweeping quality, indeed—that it might sweep away, not only all the restrictions intended by the specification of those particular grants of power, but also every vestige of authority reserved to the States. Yes, sir, such must be its quality, such the extent of its force, if it be allowed that the clause conveys to Congress any real substantive powers not contained in the special grants enumerated. For if it be admitted that it conveys any such additional powers at all, since they are not defined, they would consequently be *general* as well as *unlimited*. To give to the clause, then, the full force which the appellation by which it has been distinguished, were it a proper appellation for it, would be, in fact, to give to Congress general, unlimited, discretionary powers. I presume, sir, that nothing would be hazarded by the declaration, were I to take upon myself to affirm, that not a single member of this honorable body will admit that it contains a grant of such *general, discretionary* powers. Hence, sir, it is clear to my mind, that those who ascribe to the clause in question the quality which seems to have been ascribed to it, must be involved in the dilemma of either advocating so great an extent of power as existing in this body, as would render altogether useless and nugatory the *special grants* of power enumerated in the constitution, and, therefore, much more power than they would really be willing to allow it to convey; or of admitting, at last, that it conveys none at all more than what the enumeration of itself grants without that clause. Hence, too, it is equally clear to me, that, so far from conferring on this body any real powers additional to those described in the preceding enumeration, the clause is merely the recognition of a general principle, necessarily inherent in each grant of power, that Congress, *being invested with the power*, may use, or authorize by law a use of the natural appropriate means of carrying the power into execution, for which purpose alone such means can be used, the application of them depending entirely upon the exercise of the power granted, and without which right all the several grants expressed, would be merely so many naked grants, and would convey to this body no such powers as the grants purport to convey.

Permit me, sir, to illustrate the position I have now advanced, by a reference to one of the special grants of power enumerated. I say *one* of them, because it would be unnecessary to trouble the committee with any more, although observations similar to those about to be made on the one selected, might be made upon all, or nearly all of them, tending equally to establish the truth of the position, but which would require more time than, perhaps, it might be either convenient or agreeable to the committee to be detained; and because it is believed that the observations on one of them, may suffice for my purpose as amply as if I were to trouble the committee with similar remarks on all of them. I will take the first grant, enumerated in these words: "Congress shall have power to lay and collect taxes, duties, imposts, and excises,"

&c. To this grant let the clause in question be applied, and the recognition of the principle I have mentioned, may, I think, be clearly perceived. What is its operation? The words of the grant expressly confer on Congress a specific power to lay and collect taxes, duties, imposts, and excises. Now, sir, does this grant operate no further than merely to authorize Congress to provide, by law, that "taxes, duties," &c., on certain articles, at certain rates, or to certain amounts, shall be laid and collected, and to do no more? To confine its operation to this limit, would be to ascribe no efficient meaning, to give no force at all to the words *lay and collect*. But they certainly have such meaning—they certainly have some force; and, from the operation of the general principle, such as I have alluded to, which is necessarily inherent in the grant of "*power to lay and collect taxes, duties,*" &c., Congress becomes vested with a right to authorize, by law, a use of the natural, appropriate means of causing taxes, duties, &c., to be laid and collected, which, in fact, is nothing more than an efficient exercise of the simple "*power to lay and collect taxes, duties,*" &c.; such as to authorize, by law, the establishment of custom houses, rules for the entrances and clearances of vessels, the employment of public armed vessels about the mouths of rivers, or other inlets and outlets, and on the coasts, to prevent smuggling and evasions of duties directed by law to be laid on imports, the appointments of collectors, inspectors, and other necessary officers for collection of the revenues arising therefrom, and conveyance of them into the treasury: so also in relation to the system of internal taxation lately established, and now enlarged, as appropriate means of carrying the system into effect, the appointments of a commissioner of that revenue, collectors, assessors, and other necessary officers, and rules of proceeding in every case of taxation, have been all authorized by law, for the purposes of levying the taxes and bringing them into the use of the Government.

Now, sir, I beg leave to ask, would not Congress have had a constitutional right to make laws authorizing all the several proceedings I have just noticed, if the clause, which has been cited, had never been inserted at the end of the section which has been mentioned? Can there exist any doubt respecting its authority to have done so? It seems to me that not a shadow of ground for doubting its authority would have existed; but that the words "*shall have power to lay and collect taxes, duties, imposts, and excises,*" convey to this body the same extent of authority as the grant would, if it had been expressed that Congress shall have power to lay and collect taxes, duties, imposts, and excises, by making the necessary and proper laws for laying and collecting them. For a legislature cannot lay and collect taxes, duties, imposts, or excises, but by making some law or laws for laying and collecting them; that is to say, some law or laws appropriate to the purposes of laying and collecting them.

The "*power to lay and collect taxes, duties, imposts, and excises,*" is the same, then, as a power to make laws which shall be "*necessary and proper*" to lay and collect taxes, duties, imposts, and excises. But to make laws which shall be "*necessary and proper*" to lay and collect taxes, duties, &c., is the same as to make laws which shall be "*necessary and proper for carrying into execution*" the power to lay and collect taxes, duties, &c. Hence, then, a power to make laws which shall be "*necessary and proper for carrying into execution*" the power to lay and collect taxes, duties, imposts, and excises, is the same as, and can be no more than, the simple power "*to lay and collect taxes, duties, imposts, and excises.*" It is evident, therefore, to my mind, sir, that what have been generally called powers incidental to express powers, are not real, distinct powers, but nothing more than modes of exercising the express powers to which they belong, or using the natural, appropriate means of carrying them into execution, which are the only purposes for which the means are required, and to which only they can be applied, the objects on which they can operate being those only on which the express powers, to which they respectively belong, are exercised; that nothing more is comprehended within the meaning of the words "*to make all laws which*"

shall be necessary and proper for carrying into execution the foregoing powers," &c., contained in the clause which has been characterized as the sweeping clause, and to which so extensive a scope has been given.

Now, Mr. Chairman, if the words "to make all laws, which shall be necessary and proper," instead of having been inserted at the end of the section, had been inserted in the first grant, between the word "power" and the words "to lay and collect taxes, duties," &c. so as to have made the clause read thus: "Congress shall have power to make all laws which shall be necessary and proper to lay and collect taxes, duties," &c. would any gentleman contend that Congress, under this grant, so modified, would have a constitutional right to exercise, as the means of laying and collecting taxes, duties, &c., a distinct substantive power, not expressed in the grant, and not necessarily belonging to the power of laying and collecting taxes, duties, &c., but which could be exercised independently of the exercise of that power, and operate on objects not at all connected with the exercise of it? Surely not: yet, it is the same thing to contend that those words of the clause, at the end of the section, contain a grant of such power; for, they apply to each special grant of power enumerated in the same manner, and only in the same manner, as if they had been incorporated into the body of each grant, respectively. Nothing can be more clear and evident than that the words so apply, and so only. Nevertheless, sir, this famous clause has been so construed, and I suppose, still is so construed as to give to Congress separate, distinct, and substantive powers, not expressed in the enumeration of grants. Expediency is made the basis of such construction; and, from an opinion entertained by some gentlemen, that the proposed banking institution may afford a useful engine to the Government in its financial arrangements; though the correctness of that opinion is controverted by others, and is, upon the whole, extremely problematical: yet, from *their* opinion merely of its expediency, a right to establish the institution is claimed, and now in rapid exercise; although nothing can be more evident, than that, to do so, is to exercise a distinct, substantive power, not contained in the enumeration; a power as distinct and substantive as any of those enumerated are, with respect to the others, on the list. This observation leads me, sir, and, indeed, almost irresistibly impels me, to bring to the notice of the committee, one particular grant of power enumerated, so extremely apt, in my opinion, and well fitted is it for a further illustration of the principles I contend for. It is the power "to establish post offices and post roads."

Here, sir, is a power distinctly expressed in the enumeration, of so much importance to the Government, in affording ready, convenient, and expeditious means of conveyance of intelligence, to and from every department, every branch, and every individual member of every branch and department of the Government, as well as to and from the citizens of the United States at large, as to render it almost absolutely necessary for carrying on the affairs of the Government. Yet, we see this power expressly designated in the enumeration. Why do we see it here expressly designated? For this very obvious and undeniable reason—that it is a power completely substantive in its nature; distinct and separate from, and independent of, all others enumerated. Whence the framers of the constitution, from a consideration of its great importance to the General Government, and the manifest propriety of vesting it in this Government, took care to insert it in the enumeration of express grants—well knowing that it could not, by any possible just construction, be considered as the incident of any of those express grants; and, consequently, that, however *necessary* and *proper* it might be for carrying on the affairs of the Government, such a power could not be constitutionally exercised, unless inserted amongst the express grants.

Now, Mr. Chairman, I will seriously, I will solemnly, address myself to the members of this honorable body, and ask, will any gentleman undertake to say, that the power to establish such an institution as the one now proposed; an institution of such vast moment, involving interests so deep, so extensive, so fathomless, indeed, as almost to baffle the powers of human language to describe them; an institution which, if established, as was said, and justly

said, by a gentleman from New York, (Mr. OAKLEY) some time ago, in relation to the bill on the same subject, then under discussion, will be likely to wield the destinies of this nation for ages to come? I say, sir, will any gentleman undertake to affirm that a power to establish such a monstrous institution as this, is not a power as completely substantive in its nature, as the power to establish post offices, and to direct that the mails shall be carried on certain roads? Sir, is the sun, shining in his meridian splendor, clearer to the eye, than it must be to every mind, high and low, wise and ignorant, that a power to create so terrific and stupendous an establishment as this, is no less a substantive power, and no less distinct and separate from, and independent of, all others, whatever, than is the power to establish post offices and post roads? Sir, this is too clear and too plain to need any illustration. It would be but an idle waste of time, indeed, to trouble the committee with any observations upon it, with a view of attempting to prove more clearly that it is such a power; and, if gentlemen are determined to assume the power, the exercise of it will be totally unconnected with that of any of the express powers enumerated in the constitution, and its operation is independent of *their* operation, as the power itself is independent of all those express powers. These are the characteristic properties of a distinct, substantive power. Strange, I think, must be the construction, then, which interprets it to be a power merely incidental to either of those express powers, and, since it is not itself one of them, my impressions are irresistible, that it is not in any manner vested in this body, and therefore cannot be constitutionally exercised by it.

Sir, if the doctrine, under which this power is assumed and exercised, should be generally tolerated and sanctioned; if this vast unlimited latitude of construction should become the established construction of the clause in the constitution, which has been so often referred to, what will become of the great landmarks of the constitution? Will they not, in effect, be all levelled with the ground? Will not the wide unbounded ocean of human affairs be then laid open to this restricted Federal Legislature, (as every body, who pretends to know any thing of the principles of the constitution, acknowledges it to be) to select from them such subjects as it may choose, as *bases* of its laws? Surely, sir, it will. All the restrictions contained in the constitution, which have been marked out by the specification of particular powers, as limitations to Congress, in legislating for these United States, will be swept away—will be annihilated; and there will be nothing to hinder a course of legislation from being pursued without restraint, without any limitation, whatever, but its own discretion, as to what it may determine upon as *necessary* or *proper* to be done. Sir, can a single object fall within the compass of the human imagination, which may not be also drawn within the scope of this boundless construction, and, according to it, be deemed a legitimate subject of congressional legislation? Not one, sir. Every possible object of human legislation, not palpably repugnant to the first principles of our nature, of which the mind can conceive, under this very extensive construction, may as well, and as rightfully, form a basis of legislation for this body, as the subject on which it is now acting. Admit this doctrine as correct, and in vain, sir, has your constitution been framed upon the principle that “the powers, not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or the People.” In vain has this hallowed principle been solemnly recognised, and expressly incorporated into the constitution, by way of amendment. In vain have the People of these States confided in this great fundamental principle as a solemn and safe guarantee of their State sovereignties. There is not a single power, heretofore considered as reserved, and heretofore deemed sacred to the States, which may not be as rightfully exercised by this body, as the power now proposed to be exercised by it: for, I aver that not a single power is more completely reserved to the States, under the constitution, than this power is; that, if this power is not reserved, no power, whatever, is reserved to them; and it would be preposterous, indeed, to talk or think of reserved powers at all. But, sir, I under-

take to aver that this power is not delegated to this body, either expressly or incidentally, and I do consider an exercise of it, by this body, as an unauthorized assumption—as an usurpation not only not warranted, but absolutely forbidden to it by the constitution. I assert, then, that this monstrous construction operates no less than a complete reversal of the great and essential principle which has been spoken of—introduces the fatal, destructive one, that *all* powers, whatever, are delegated to the United States, which are not expressly reserved to the States; and, in effect, converts this Government of *special, defined, express* powers, into one entire consolidated government, of *general, undefined* powers.

Let this alarming doctrine be fully confirmed and established, what a fatal verification will it be of the presages of some of our venerable statesmen, whose mortal remains have long since been mouldering in the grave! At the ever memorable and important epoch when the People of these States were called upon to deliberate on the great and interesting question relating to the adoption of this constitution, the minds of many were impressed with serious, with solemn, and with awful apprehensions, mingled with no small degree of alarm, that the very clause in the eighth section of the first article of the constitution, which has been so often cited, might be resorted to as a ground for legislating to an extent never contemplated by the framers of the constitution as being within the scope of its true and legitimate meaning. It was feared that the term “necessary,” contained in the clause, though qualified and restricted in its meaning by the addition of the term “proper,” from the union and combination of which two qualities, it was manifestly intended to apply the clause to the making of such laws only, as should have an *immediate* relation to, and a *natural, intimate* connexion with, the enumerated express powers, as means or instruments of carrying them efficiently into execution, might, nevertheless, be so perverted as to have a construction given to the clause, not confined to the limits embraced within that intention, but arbitrarily extended to laws having no manner of relation to, and no sort of *natural* connexion with, any of those express powers; that such a principle of construction, once established, the time might come when it would expand itself to the widest circuit of human discretion. The American People, in general, were satisfied, however, to receive the constitution as proposed, with that clause in it, resting their hopes upon the principles and structure of it, that these were sufficiently clear and explicit to guard against the abuses and dangers so much apprehended by some.

Now, Mr. Chairman, will the thirteenth Congress of the United States—fatally to those hopes—fatally to the pleasing expectations then entertained by the People who adopted this constitution—will they so soon verify the presages which have been alluded to? Will they, in the re-establishment of so dangerous a precedent, which was thought to have been happily demolished but three or four years ago, by a refusal to re-charter a similar institution; will they, I say, at so early a period after that event, by a creation of the proposed huge mammoth institution, sufficiently capacious to swallow up four or five of the former establishment; thus, hermetically seal and secure, perhaps forever, the ground work of future assumptions of power, and this, too, by adopting a measure, *of itself* fraught with inconceivable danger, the natural tendency of which will be gradually, at least, if not rapidly, (and if such a sad misfortune must befall this country, I pray that it may be but gradual!) to break down the barriers of the constitution, and sweep away the restrictions and limitations of power, marked out by the specification of particular grants, as designated in the constitution? Sir, should such a state of things ever arrive—should such ever be the condition of this country, when this Legislature should so entirely change its true character—when it should no longer confine its proceedings to the limits of its “delegated” powers, and the great leading principles of the constitution—when these principles should be disregarded, and cease to have any force, who could undertake to say how far an evil of such great magnitude might not progress? No man, I undertake to affirm, could prophetically explore the full extent of its progress.

It is not much to be wondered at, perhaps, that gentlemen should differ in opinion as to the extent to which a power, though expressly granted, ought to be exercised, when that power is in its nature limited, or qualified by the terms of the grant, to which different gentlemen may give different constructions, as on several recent occasions we have witnessed. But, when a power is assumed, which is not even mentioned in the constitution, I must confess, sir, it appears to me as something much more extraordinary. If an erroneous construction in the first case should prevail at one time, the evil will be remedied, perhaps, by a more correct construction at another time, the express power being always a fixed, *defined* standard, to which the mind can resort; and, therefore, the precedent is not likely to be as durable and dangerous as in the latter case, where a mere arbitrary interpretation, or opinion, having, at any time, prevailed, upon the general ground of necessity or expediency, without any such fixed, *defined* standard to judge by; one assumption is much more likely to form a durable precedent for future similar assumptions from time to time, in succession, and, consequently, so much the more dangerous. If, therefore, it be not too late—if gentlemen have not irrevocably made up their minds upon this subject, I would beseech this honorable assembly to consider—to pause for a while—to meditate on a subject of such vast magnitude, before they come to such irrevocable decision in favor of it, and not precipitately hurry into the adoption of a measure so big with momentous, incalculable consequences—consequences, the extent of which the keenest foresight of man cannot now discern—the baneful influences of the evils of which may be such as the most eagle eyed statesman our country produces, may not be able to trace, until they shall have extended themselves beyond the reach of any practicable remedy!

The question being about to be put on Mr. CLOFTON's motion, without debate,

Mr. GASTON, of North Carolina, took the floor. Among the most alarming indications of the times, he remarked, was the apathy which pervaded the House on this occasion; an apathy resembling the numbness which generally precedes mortal dissolution, under the influence of which a question of such importance as this was about to be taken without debate, and almost without deliberation. If the bill would produce that effect which its friends predicted, it would prove a beneficial and valuable institution; if fraught with the mischiefs which he saw in it, its passage would bring with it certain destruction to the nation. He took it for granted, from the course of proceedings which had taken place in the house, when this subject was before under consideration, that all hope of obtaining a bank, at all resembling what banks have heretofore been, must now cease; and that the institution embraced by this bill, if it passed, would be a mere paper bank, and nothing else, from which no benefit could result to the Government or the community. He examined the character of this bill, and particularly objected to the extent of the capital; the limited proportion of specie to be employed in it; and the power to suspend specie payments. Upon a full view of all its features, he denied that it would restore public credit, or establish an adequate circulating medium, the purposes which its friends hoped it would accomplish. It would, on the contrary, from the moment of its establishment, give birth to a monstrous scene of stock jobbing and speculation, always detrimental to the public credit. By a system of rigid economy, and carrying into effect the taxes agreed to by the House, he said, he had some hope that the Government would weather the storm with which it was assailed, without national bankruptcy; but, if Congress passed a bill of this kind, he conscientiously believed it would not be possible to avoid the evil; and that, if they passed this, they might as well, at the same time, pass a bill of national bankruptcy.

Mr. M'KIM, of Maryland, said, without saying how he should vote on the final question, he should vote against the motion to strike out the first section of the bill, in the present stage of it, from motives of respect to the co-ordinate



branch of the Legislature, from which the bill came, and to those who advocated the bill in this House.

The motion to strike out the first section of the bill was then decided in the negative, by the following vote:

For striking it out, . . . . .	50,
Against it, . . . . .	71.

Mr. FISK then briefly explained the character of this bill, and in what respect the amendments proposed by the committee would change the features of it. The bill, as it came from the Senate, and as it now stands, proposes that the forty millions to be subscribed by individuals, shall be at the rate of twenty-seven millions of dollars in war stock, five millions in specie, and eight millions in treasury notes; and that subscriptions shall be opened in Boston, Baltimore, New York, Philadelphia, Richmond, Charleston, and Pittsburg. The committee had recommended to reduce the proportion subscribable by individuals, to thirty-five millions, of which twenty to be in public stock, five in specie, and ten in treasury notes. The details of the bill, being nearly the same as those of the bill originally reported in this House, were not proposed to be changed, except that the committee had recommended that books of subscription should be opened at one place in every State, in conformity with what appeared to be the sentiment of the House when the bill was before under consideration.

The amendments proposed by the Committee of Ways and Means to the bill, were separately considered, and agreed to by a considerable majority.

The committee proceeded in further consideration of the bill; rose, after 4 o'clock, reported progress, and obtained leave to sit again.

DECEMBER 24, 1814.

On motion of Mr. FISK, of New York, the House again resolved itself into a committee of the whole, Mr. MACON, of North Carolina, in the chair, on the bill.

The whole of the day was consumed in the discussion of the details and propositions to amend this bill, without giving birth to any material amendments.

The amendments made in the committee, were reported to the House, and agreed to, before the House adjourned.

As amended, the bill exhibited the following features, viz:

The capital to consist of fifty millions of dollars, divided into shares of five hundred dollars each, subscribable and payable as follows: by the Government, in stock, to bear an interest of four per cent. per annum, fifteen millions; by individuals, the remaining thirty-five millions, payable as follows, viz: five millions in specie, ten millions in treasury notes, and twenty millions in what is usually called the war stock. The bank to commence its operations so soon as eleven millions five hundred thousand dollars are paid in, in the proportions before mentioned, of specie, treasury notes, and stock.

Other amendments were proposed to the bill; when the House adjourned, at dusk, without taking a question on the bill's going to a third reading.

DECEMBER 26, 1814.

The House proceeded to consider the amendments reported by the committee of the whole house; and, the amendments being further amended, were concurred in by the House, except that which goes to add a new section to the bill, which was concurred in, by a subsequent vote; Yeas 95, Nays 36; which section is as follows:

SEC. 14. *And be it further enacted*, That it shall at all times be lawful for a committee, of either House of Congress, appointed for that purpose, to inspect the books, and to examine into the proceedings of the corporation hereby

created; and to report whether the provisions of this charter have been by the same violated or not: and whenever any committee, as aforesaid, shall find and report, or the President of the United States shall have reason to believe, that the charter has been violated, it may be lawful for Congress to direct, or the President to order, a scire facias to be sued out of the circuit court, for the district of Pennsylvania, in the name of the United States, which shall be executed upon the President of the corporation, for the time being, at least fifteen days before the commencement of the term of said court, calling on the said corporation to show cause wherefore the charter, hereby granted, shall not be declared forfeited: and it shall be lawful for the said court, upon the return of the said scire facias, to examine into the truth of the alleged violation, and, if such violation be made appear, then to pronounce and adjudge that the said charter is forfeited and annulled: *Provided, however,* Every issue of fact, which may be joined between the United States and the corporation aforesaid, shall be tried by jury; and it shall be lawful for the court, aforesaid, to require the production of such of the books of the corporation, as it may deem necessary for the ascertainment of the controverted facts; and the final judgment of the circuit court aforesaid, shall be examinable in the Supreme Court of the United States, by writ of error, and may be there reversed or affirmed, according to the usages of law.

DECEMBER 27, 1814.

The House then resumed the consideration of the bill:

A motion was made by Mr. HALE to amend the bill, by striking out the thirteenth section of the bill, which authorizes occasional suspensions of payments in specie by the bank. Whereupon,

Mr. INGERSOLL, of Pa. required the previous question, (which precludes all further debate or amendment of the bill.)

This call being duly sustained, the previous question was taken and decided, as follows:

For taking the main question, . . . . .	72.
Against taking it, . . . . .	70.

The previous question having thus been decided in the affirmative, a motion was made by Mr. WEBSTER, to lay the bill and amendments on the table.

The Chair decided, (Mr. MACON, in the absence of Mr. CHEVES, occupying the chair,) that the motion was not in order; inasmuch as, the House having decided that the main question shall be now put, no other motion can obtain, unless a motion to adjourn.

An appeal was taken from this decision of the chair; which, after some debate, was confirmed, by yeas and nays, by the following vote:

In favor of the chair, . . . . .	108.
Against it, . . . . .	36.

An inquiry was then made as to what question was before the House: the Speaker decided the *main question* to be, "shall the amendments agreed to be engrossed, and the bill be read the third time?"

Mr. GASTON, of N. C. then took an appeal from the decision of the Chair. (Mr. MACON still occupying it.) He contended, that the *main question* was that on the amendment under discussion, when the previous question was called.

[This question has more than once been decided in the same manner, by the present and late Speaker, and affirmed with much solemnity.]

After some debate, the decision of the Chair was affirmed by the following vote:

In favor of the decision, . . . . .	91.
Against it, . . . . .	52.

The main question, viz. Shall the amendments be engrossed, and, together with the bill, be read a third time? was then put, and decided as follows:

Those who voted in the affirmative, are,

Messrs. Alexander,	Messrs. Fisk, of N. Y.	Messrs. Moore,
Alston,	Forney,	Murfree,
Anderson,	Forsyth,	Nelson,
Archer,	Gourdin,	Ormsby,
Avery,	Griffin,	Parker,
Bard,	Harris,	Pickens,
Barnett,	Hasbrouck,	Pleasants,
Bines,	Hawes,	Rea, of Penn.
Bradley,	Hawkins,	Rhea, of Tennessee,
Brown,	Hopkins, of Ken.	Rich,
Caldwell,	Hubbard,	Ringgold,
Calhoun,	Ingersoll,	Robertson,
Cannon,	Ingham,	Sage,
Chappell,	Irving,	Sharp,
Clark,	Irwin,	Skinner,
Clendenin,	Kent, of Maryland,	Smith, of Penn.
Comstock,	Kerr,	Smith, of Virginia,
Conard,	Kershaw,	Strong,
Creighton,	Kilbourn,	Tannehill,
Cuthbert,	King, of N. Carolina,	Taylor,
Dana,	Lefferts,	Telfair,
Davis, of Penn.	Lowndes,	Udree,
Denoyelles,	Lyle,	Ward, of N. Jersey,
Duval,	M'Coy,	Williams,
Earle,	M'Kee,	Wilson, of Penn.
Farrow,	M'Lean,	Yancey.—80.
Findley,	Montgomery,	

Those who voted in the negative, are,

Messrs. Baylies, of Mass.	Messrs. Gholson,	Messrs. John Reed,
Bigelow,	Hale,	William Reed,
Bowen,	Hall,	Ruggles,
Boyd,	Henderson,	Schureman,
Bradbury,	Humphreys,	Seybert,
Brigham,	Jackson, of R. I.	Sheffy,
Butler,	Johnson, of Vir.	Sherwood,
Caperton,	Kennedy,	Shipherd,
Champion,	King, of Mass.	Slaymaker,
Cilley,	Law,	Stanford,
Clopton,	Lovett,	Stockton,
Cooper,	Macon,	Thompson,
Cox,	Miller,	Vose,
Crawford,	Moseley,	Ward, of Mass.
Davenport,	Markell,	Webster,
Davis, of Mass.	Newton,	Wheaton,
Desha,	Oakley,	White,
Ely,	Pearson,	Wilcox,
Evans,	Pickering,	Wilson, of Mass.
Franklin,	Pitkin,	Winter—62.
Gaston,	Potter,	

So the bill was ordered to be read a third time, to-morrow; and the House adjourned.

DECEMBER 28, 1814.

The bill was taken up for a third reading, as amended:

Mr. GASTON, moved, that the bill be re-committed to the Committee of Ways and Means, with instructions to report an amendment to the second section, authorizing twenty millions of dollars (therein directed to be paid in gold or silver coin, or in public debt of the United States, contracted under the act of Congress of the 14th March, 1812, or subsequent acts,) to be paid in

gold or silver coin; or in any public debt of the United States, contracted, or to be contracted, which at the time of payment shall bear an accruing interest of six per centum, per annum; and to extend the time of opening the subscriptions at New Orleans, Lexington, and Chillicothe; and also, to strike out so much of the eighteenth fundamental rule, as directs that all the money payments, made by said bank, during the present war, shall be made at Philadelphia.

And the question being taken thereon, it passed in the affirmative: Yeas 79, Nays 76.

DECEMBER 29, 1814.

Mr. ARCHER, of Maryland, from the Committee of Ways and Means, to whom the bill was re-committed, reported three amendments thereto, in conformity to the instructions of the House.

The first amendment proposes to substitute the *second Monday in February* for the *third Monday in January*, as the day on which the books of subscription to the bank shall be opened.—*Agreed to.*

The second amendment proposes to strike out so much of the bill as describes the (war) stock which shall be subscribable to the bank, and in lieu thereof to insert, "any public debt of the United States contracted, or to be contracted, which, at the time of payment, shall bear an accruing interest of six per centum per annum."

After a few words from Mr. GASTON and Mr. OAKLEY, expressive of a hope that this amendment would pass, and from Mr. INGHAM and Mr. DESHA, to the contrary, the question on this amendment was decided, without debate, by the following vote:

For the amendment,	-	-	-	-	-	72,
Against it,	-	-	-	-	-	73.

So the House refused to accept this amendment.

The other amendment proposes to strike out that part of the eighteenth rule which restricts the payment of the notes in specie to such as are presented at the principal bank.

The adoption of this amendment was opposed by Mr. ARCHER, Mr. FORTSYTH, Mr. INGHAM, Mr. HAWKINS, and others, on the ground, generally, that the provision would not, in fact, be effectual, because it would be in the power of the bank, notwithstanding such provision, to issue notes payable at the principal bank; but, if it would be operative, its effect would be injurious in the highest degree, inasmuch as it would, in a very few days after the bank commenced operation, compel it to cease payment in specie, owing to its liability to pay it at so many points, and the great demand for specie now existing, and likely to continue during the war, to the end of which this proposition was limited.

The amendment was supported by Mr. SHARP and Mr. OAKLEY, and others, on the ground, principally, that it would be infinitely better that the notes should bear on their face their actual value, and place of payment, than that they should purport to be payable at places at which in fact they would not be payable in specie. If made payable at Philadelphia only, the persons receiving the paper would know its real value, and not under a deceptive aspect of being payable at any of the branches, where in fact no payment in specie was to be made, &c. It was also objected to the bill, as it stood, that it would drain all the specie in the country, to accumulate it at Philadelphia.

The question on the amendment resulted, by Yeas and Nays, as follows:

For the amendment,	-	-	-	-	-	76,
Against it,	-	-	-	-	-	76.

The Speaker (Mr. CHEVES) decided it in the affirmative by his casting vote.

Mr. FARROW then moved to amend the bill, by striking out so much as describes the stock to be subscribable, and inserting, in lieu thereof, a provision limiting the privilege of subscription in the stock of the bank, to such public debt as shall be *hereafter* contracted.

This motion was opposed by Mr. INGHAM, and Mr. FORSYTH, and others, and supported by Mr. GASTON, Mr. OAKLEY, Mr. POTTER, and others. The latter gentleman took this occasion to make a speech of some length against the bill generally.

The question on Mr. FARROW's motion was, after a warm debate, at length decided as follows:

For the motion, - - - - -	65,
Against it, - - - - -	89.

Mr. PITKIN then proposed a further amendment to the bill, viz. to strike out the word "fifty," so as to leave the amount of the capital blank.

The previous question having been thereupon demanded by Mr. HARRIS, of Tennessee, and supported by a sufficient number, viz. 75 for it, 67 against it,

Mr. WEBSTER moved to lay the bill on the table; which motion was negatived by Yeas and Nays, by the following vote:

For the motion, - - - - -	56,
Against it, - - - - -	93.

Another motion was then made to adjourn, and negatived.

The previous question was then put, in the usual form: "*Shall the main question be now put?*" And decided as follows:

Yeas, - - - - -	83,
Nays, - - - - -	63.

The question on ordering the bill to a third reading was then decided in the affirmative without a division.

On the question when the bill should be read a third time, *to-morrow* and *to-day* were named. The question being taken on *to-morrow*, it was decided in the negative.

The bill was then ordered to be read a third time *to-day*.

A motion was then made to adjourn, and negatived by a vote of 75 to 60. The bill was then announced for a third reading.

Mr. BIGELOW raised a question of order, whether it was proper to read the bill a third time before the other orders of the day were disposed of. The Speaker having decided that bills on their reading had preference in the orders of the day, Mr. B. appealed from the decision of the Speaker, (Mr. MACON) which was affirmed by the House.

Mr. WEBSTER moved to re-commit the bill to a select committee, with instructions, substantially, as follows:

1. To reduce the capital to twenty-five millions of dollars, with liberty to the Government to subscribe five millions additional at any future time.
2. To strike out the provision allowing the bank to cease specie payment.
3. To strike out so much of the bill as makes it obligatory on the bank to lend money to the Government.
4. To introduce a provision, that, if the bank shall not commence operations within \_\_\_\_\_ months after the passage of the act, the charter shall be forfeited.
5. To allow an interest of \_\_\_\_\_ per cent. per annum, on any note, payment of which shall have been demanded of the bank, and refused.
6. To provide that, of the twenty-five millions, five shall be payable in specie, and twenty in any United States' six per cent. stock, or in treasury notes.
7. To strike out that provision which restrains the bank from selling its stock during the war.

Mr. W. supported his motion by a number of remarks, the general purport of which was, that he had resorted to this method to show to the world what sort of a bank he and his friends were willing to support.

Mr. GASTON followed, in a short speech in favor of this motion, and with the zeal he has uniformly exhibited on this subject, in opposition to the bill.

Mr. WM. REED, of Massachusetts, next took the floor in decided opposition to this bill, of which he expressed the utmost abhorrence, and the greatest dread of its effects.

After the rejection of several motions to adjourn—

Mr. BIGELOW made a speech on the same side of the question as the two gentlemen who had preceded him in debate.

Before Mr. BIGELOW finished his speech, however, a motion to adjourn prevailed.

JANUARY 2, 1815.

The House resumed the consideration of the bill—Mr. WEBSTER'S motion to re-commit the bill being still under consideration.

It was supported by Messrs. PICKERING, WEBSTER, SHEPHERD, and WHEATON, in speeches of considerable length, and opposed by Messrs. FORSYTH and RHEA, of Tenn.

Mr. WEBSTER, in support of his motion, spoke as follows:

However the House may dispose of the motion before it, I do not regret that it has been made. One object intended by it, at least, is accomplished. It presents a choice, and it shows that the opposition which exists to the bill in its present state, is not an undistinguishing hostility to whatever may be proposed as a national bank, but a hostility to an institution of such a useless and dangerous nature, as it is believed the existing provisions of the bill would establish.

If the bill should be recommitted and amended according to the instructions which I have moved, its principles will be materially changed. The capital of the proposed bank will be reduced from fifty to thirty millions; and composed of specie and stocks in nearly the same proportions as the capital of the former Bank of the United States. The obligation to lend thirty millions of dollars to Government, an obligation which cannot be performed without committing an act of bankruptcy, will be struck out. The power to suspend the payment of its notes and bills will be abolished, and the prompt and faithful execution of its contracts secured, as far as, from the nature of things, it can be secured. The restriction on the sale of its stocks will be removed, and as it is a monopoly, provision will be made that, if it should not commence its operations in reasonable time, the grant shall be forfeited. Thus amended, the bill would establish an institution not unlike the last Bank of the United States in any particular which is deemed material, excepting only the legalized amount of capital.

To a bank of this nature, I should at any time be willing to give my support, not as a measure of temporary policy, or as an expedient to find means of relief from the present poverty of the treasury; but as an institution of permanent interest and importance, useful to the Government and country at all times, and most useful in times of commerce and prosperity.

I am sure, sir, that the advantages which would at present result from any bank, are greatly overrated. To look to a bank, as a source capable, not only of affording a circulating medium to the country, but also of supplying the ways and means of carrying on the war, especially at a time when the country is without commerce, is to expect much more than ever will be obtained. Such high-wrought hopes can end only in disappointment. The means of supporting an expensive war are not of quite so easy acquisition. Banks are not revenue. They cannot supply its place. They may afford facilities to its collection and distribution; they may furnish, with convenience, temporary loans to Government, in anticipation of its taxes, and render important assistance, in divers ways, to the general operation of finance; they are use-



ful to the State in their proper place and sphere; but they are not sources of national income.

The fountains of revenue must be sunk deeper. The credit and circulation of bank paper are the effects, rather than the causes of a profitable commerce, and a well ordered system of finance. They are the props of national wealth and prosperity, not the foundations of them. Whoever shall attempt to restore the fallen credit of this country, by the creating of new banks, merely that they may create new paper, and that Government may have a chance of borrowing where it has not borrowed before, will find himself miserably deceived. It is under the influence of no such vain hopes, that I yield my assent to the establishment of a bank on sound and proper principles. The principal good I expect from it is rather future than present. I do not see, indeed, that it is likely to produce evil at any time. In times to come, it will, I hope, be useful. If it were only to be harmless, there would be sufficient reason why it should be supported, in preference to such a contrivance as is now in contemplation.

The bank which will be erected by the bill, if it should pass in its present form, is of a most extraordinary, and, as I think, alarming nature. The capital is to be fifty millions of dollars; five millions in gold and silver, twenty millions in the public debt created since the war, ten millions in treasury notes, and fifteen millions to be subscribed by Government, in stock to be created for that purpose. The ten millions in treasury notes, when received in payment of subscriptions to the bank, are to be funded also in United States' stocks. The stock subscribed by Government on its own account, and those in which the treasury notes are to be funded, to be redeemable only at the pleasure of the Government. The war stock will be redeemable according to the terms upon which the late loans have been negotiated.

The capital of the bank, then, will be five millions of specie and forty-five millions of Government stocks. In other words, the bank will possess five millions of dollars, and the Government will owe it forty-five millions. This debt from Government, the bank is restrained from selling during the war, and Government is excused from paying, until it shall see fit. The bank is also to be under obligation to loan Government thirty millions of dollars on demand, to be repaid, not when the convenience or necessity of the bank may require, but when debts due to the bank, from Government, are paid; that is, when it shall be the good pleasure of Government. This sum of thirty millions is to supply the necessities of Government, and to supersede the occasion of other loans. This loan will doubtless be made on the first day of the existence of the bank, because the public wants can admit of no delay. Its condition, then, will be, that it has five millions of specie, if it has been able to obtain so much, and a debt of seventy-five millions, no part of which it can either sell or call in, due to it from Government.

The loan of thirty millions to Government can only be made by an immediate issue of bills to that amount. If these bills should return, the bank will not be able to pay them. This is certain; and to remedy this inconvenience, power is given to the directors, by the act, to suspend, at their own discretion, the payment of their notes, until the President of the United States shall otherwise order. The President will give no such order, because the necessities of Government will compel it to draw on the bank till the bank becomes as necessitous as itself. Indeed, whatever orders may be given or withheld, it will be utterly impossible for the bank to pay its notes. No such thing is expected from it. The first note it issues will be dishonored on its return, and yet it will continue to pour out its paper, so long as Government can apply it in any degree to its purposes.

What sort of an institution, sir, is this? It looks less like a bank, than a department of Government. It will be properly the paper-money department. Its capital is Government debts; the amount of its issues will depend on Government necessities; Government, in effect, absolves itself from its own debts to the bank, and by way of compensation, absolves the bank from its own contracts with others. This is, indeed, a wonderful scheme of finance.

The Government is to grow rich, because it is to borrow without the obligation of repaying, and is to borrow of a bank which issues paper without liability to redeem it. If this bank, like other institutions which dull and plodding common sense has erected, were to pay its debts, it must have some limits to its issues of paper, and therefore, there would be a point beyond which it could not make loans to Government. This would fall short of the wishes of the contrivers of this system. They provide for an unlimited issue of paper, in an entire exemption from payment. They found their bank, in the first place, on the discredit of Government, and then hope to enrich Government out of the insolvency of their bank. With them, poverty itself is the main source of supply, and bankruptcy a mine of inexhaustible treasure. They rely not in the ability of the bank, but in its beggary; not in gold and silver collected in its vaults, to pay its debts, and fulfil its promises, but in its locks and bars, provided by statute, to fasten its doors against the solicitations and clamors of importunate creditors. Such an institution, they flatter themselves, will not only be able to sustain itself, but to buoy up the sinking credit of the Government. A bank which does not pay, is to guaranty the engagements of a Government which does not pay! "John Doe is to become security for Richard Roe." Thus the empty vaults of the treasury are to be filled from the equally empty vaults of the bank, and the ingenious invention of a partnership between insolvents, is to restore and re-establish the credit of both.

Sir, I can view this only as a system of rank speculation, and enormous mischief. Nothing in our condition is worse, in my opinion, than the inclination of Government to throw itself upon such desperate courses. If we are to be saved, it is not to be by such means. If public credit is to be restored, this is not one of the measures that will help to restore it. If the treasury is exhausted, this bank will not fill it with any thing valuable. If a safe circulating medium be wanted for the community, it will not be found in the paper of such a corporation.

I wish, sir, that those who imagine that these objects, or any of them, will be effected by such a bank as this, would describe the manner in which they expect it to be done. What is the process which is to produce these results? If it is perceived, it can be described. The bank will not operate either by miracle or magic. Whoever expects any good from it, ought to be able to tell us in what way that good is to be produced. As yet, we have had nothing but general ideas, and vague and loose expressions. An indefinite and indistinct notion is entertained, nobody here seems to know on what ground, that this bank is to reanimate public credit, fill the treasury, and remove all the evils that have arisen from the depreciation of the paper of the existing banks.

Some gentlemen, who do not profess themselves to be, in all respects, pleased with the provisions of the bill, seem to content themselves with an idea that nothing better can be obtained, and that it is necessary to do something. A strong impression that something must be done, is the origin of many bad measures. It is easy, sir, to do something, but the object is to do something useful. It is better to do nothing than to do mischief. It is much better, in my opinion, to make no bank, than to pass the bill as it now is.

The interests to be affected by this measure, the finances, the public credit, and the circulating medium of the country, are too important to be hazarded in schemes like these. If we wish to restore the public credit, and to re-establish the finances, we have the beaten road before us. All true analogy, all experience, and all just knowledge of ourselves and our condition, point one way. A wise and systematic economy, and a settled and substantial revenue, are the means to be relied on; not excessive issues of bank notes, a forced circulation, and all the miserable contrivances to which political folly can resort, with the idle expectation of giving to mere paper the quality of money.

These are all the inventions of a shortsighted policy, vexed and goaded by the necessities of the moment, and thinking less of a permanent remedy, than of shifts and expedients to avoid the present distress. They have been a

thousand times adopted, and a thousand times exploded as delusive and ruinous, as destructive of all solid revenue, and incompatible with the security of private property.

It is, sir, sufficiently obvious, that, to produce any benefit, this bank must be so constructed, as that its notes shall have credit with the public. The first inquiry, therefore, should be, whether the bills of a bank of this kind will not be immediately and greatly depreciated. I think they will. It would be a wonder if they should not. This effect will be produced by that excessive issue of its paper which the bank must make in its loan to Government. Whether its issues of paper are excessive, will depend not on the nominal amount of its capital, but on its ability to redeem it. This is the only safe criterion. Very special cases may perhaps furnish exceptions, but there is, in general, no security for the credit of paper, but the ability, in those who emit, to redeem it. Whenever bank notes are not convertible into gold and silver, at the will of the holder, they become of less value than gold and silver. All experiments on this subject have come to the same result. It is so clear, and has been so universally admitted, that it would be waste of time to dwell upon it. The depreciation may not be sensibly perceived the first day, or the first week, it takes place. It will first be discerned in what is called the rise of specie; it will next be seen in the increased price of all commodities. The circulating medium of a commercial community must be that which is also the circulating medium of other commercial communities, or must be capable of being converted into that medium, without loss. It must be able, not only to pass in payments and receipts, among individuals of the same society and nation, but to adjust and discharge the balance of exchanges between different nations. It must be something which has a value abroad, as well as at home, and by which foreign as well as domestic debts, can be satisfied. The precious metals alone answer these purposes. They alone, therefore, are money, and whatever else is to perform the offices of money, must be their representative, and capable of being turned into them at will. So long as bank paper retains this quality, it is a substitute for money; divested of this, nothing can give it that character. No solidity of funds, no sufficiency of assets, no confidence in the solvency of banking institutions, has ever enabled them to keep up their paper to the value of gold and silver, any longer than they paid gold and silver for it on demand. This will continue to be the case so long as those metals shall continue to be the standard of value, and the general circulating medium among nations.

A striking illustration of this common principle is found in the early history of the Bank of England. In the year 1697, it had been so liberal of its loans, that it was compelled to suspend the payment of its notes. Its paper immediately fell to a discount of near twenty per cent. Yet such was the public opinion of the solidity of its funds, that its stock then sold for one hundred and ten per cent., although no more than sixty per cent. upon the subscription had been paid in.

The same fate, as is well known, attended the banks of Scotland, when they adopted the practice of inserting in their notes a clause, giving the banks an option of paying their notes on demand, or six months after demand, with interest. Paper of this sort was not convertible into specie, at the pleasure of the holder; and no conviction of the ability of the bank which issued it, could preserve it from depreciation.

The suspension of specie payments by the Bank of England, 1797, and the consequences which followed, afford no argument to overthrow this general experience. If Bank of England notes were not immediately depreciated, on that occasion, depreciation, nevertheless, did ensue. Very favorable causes existed to prevent their sudden depression. It was an old and rich institution. It was known to be under the most discreet and independent management. Government had no control over it, to force it to make loans, against its interest or its will. On the contrary, it compelled the Government to pay, though with much inconvenience to itself, a very considerable sum which was due to it. The country enjoyed, at that time, an extensive commerce,

and a revenue of three hundred millions of dollars was collected and distributed through the bank. Under all these advantages, however, the difference of price between bank notes and coin became at one time so great, as to threaten the most dangerous consequences.

Suppose the condition of England to have been reversed. Suppose that, instead of a prosperous and increasing commerce, she had suffered the ruin of her trade, and that the product of her manufactures had lain upon her hands, as the product of our agriculture now perishes in ours. Does any one imagine that her circulating paper could have existed, and maintained any credit, in such a change of her condition? What ought to surprise us is not that her bank paper was depreciated, but that it was not depreciated sooner and lower than in fact it was. The reason can only be found in that extraordinary combination of favorable circumstances, which never existed before, and is hardly to be expected again. Much less is it to be discovered in our condition at present.

But we have experience nearer home. The paper of all the banks south of New England has become depreciated to an alarming extent. This cannot be denied. All that is said of the existence of this depreciation, remote from the banks, is unfounded and idle. It exists every where. The rates of exchange, both foreign and domestic, put this point beyond controversy. If a bill of exchange on Europe can be purchased, as it may, twenty per cent. cheaper in Boston than in Baltimore, the reason must be that it is paid for, in Boston, in money, and, in Baltimore, in something twenty per cent. less valuable than money.

Notwithstanding the depression of their paper, it is not probable that any doubt is entertained of the sufficiency of the funds of the principal banks. Certainly no such doubt is the cause of the fall of their paper; because the depression of the paper of all the banks in any place is, as far as I learn, generally uniform and equal; whereas, if public opinion proceeded at all upon the adequacy or inadequacy of their funds, it would necessarily come to different results, in different cases, as some of these institutions must be supposed to be richer than others.

Sir, something must be discovered which has hitherto escaped the observation of mankind, before you can give to paper, intended for circulation, the value of a metallic currency, any longer than it represents that currency, and is convertible into it, at the will of the holder.

The paper, then, of this bank, if you make it, will be depreciated, for the same reason that the paper of other banks that have gone before it, and of those which now exist around us, has been depreciated: because it is not to pay specie for its notes.

Other institutions, setting out perhaps on honest principles, have fallen into discredit, through mismanagement or misfortune. But this bank is to begin with insolvency. It is to issue its bills to the amount of thirty millions, when every body knows it cannot pay them. It is to commence its existence in dishonor. It is to draw its first breath in disgrace. The promise contained in the first note it sends forth is to be a false promise; and whoever receives the note, is to take it with the knowledge that it is not to be paid according to the terms of it.

But this, sir, is not all. The framers of this bill have not done their work by halves. They have put the depreciation of the notes of their bank beyond all doubt or uncertainty. They have made assurance doubly sure. In addition to excessive issues of paper, and the failure to make payments, both which they provide for by law, they make the capital of the bank to consist principally of public stock.

If this stock should be sold, as in the former bank of the United States, the evil would be less. But the bank has not the power to sell it, and, for all purposes of enabling it to fulfil its engagements, its funds might as well be at the bottom of the ocean as in Government stocks, of which it cannot enforce payment, and of which it cannot dispose.

The credit of this institution is to be founded on public funds, not on private property, or commercial credit. It is to be a financial, not a commercial bank. Its credit can hardly, therefore, be better at any time than the credit of the Government. If the stocks be depreciated, so of course must every thing be which rests on the stocks.

It would require extraordinary ingenuity to show how a bank, which is founded on the public debt, is to have any better reputation than the debt itself. It must be some very novel invention which makes the superstructure keep its place after the foundation has fallen. The argument seems to stand thus: The public funds, it is admitted, have little credit; the bank will have no credit which it does not borrow of the funds; but the bank will be in full credit.

If, sir, we were in a temper to learn wisdom from experience, the history of most of the banks on the continent of Europe might teach us the futility of all these contrivances. Those were, like this before us, established for the purposes of finance, not purposes of commerce. The same fortune has happened to them all. Their credit has sunk. Their respective Governments go to them for money, when they can get it no where else, and the banks can relieve their wants only by new issues of their own paper. As this is not redeemed, the invariable consequence of depreciation follows; and this has sometimes led to the miserable and destructive expedient of depreciation of the coin itself.

Such are the banks of Petersburg, Copenhagen, Vienna, and other cities of Europe; and while the paper of these Government banks has been thus depressed, that of other banks, existing in their neighborhood, unconnected with Government, and conducting their business on the basis of commercial credit, has retained a value equivalent to that of coin.

Excessive issues of paper, and a close connexion with Government, are the circumstances which, of all others, are the most certain to destroy the credit of bank paper. If there were no excessive issues, or, in other words, if the bank paid its notes in specie, on demand, its connexion with Government, and its interest in the funds, would not, perhaps, materially affect the circulation of its paper, although they would naturally diminish the value of its stock. But, when these two circumstances exist in the condition of any bank, that it does not pay its notes, and that its funds are in public stocks, and all its operations intimately blended with the operations of Government, nothing further need be known, to be quite sure that its paper will not answer the purpose of a creditable circulating medium.

I look upon it, therefore, sir, as certain, that a very considerable discount will attach itself to the notes of this bank, the first day of their appearance; that this discount will continue to increase; and, unless Congress should be able to furnish some remedy, which is not certain, the paper, in the end, will be worth nothing. If this happens, not only will no one of the benefits proposed be obtained, but evils of the most alarming magnitude will follow. All the horrors of a paper-money system are before us. If we venture on the present expedient, we shall hardly be able to avoid them. The ruin of public affairs and the wreck of private property will ensue.

I would ask, sir, whether the friends of this measure have well considered what effect it will produce on the revenue of the country? By the provisions of this bill, the notes of this bank are to be received in payment of all taxes and other dues to Government. They cannot be refused on account of the depreciation of their value. Government binds itself to receive them at par, although it should be obliged immediately to pay them out, at a discount of a hundred per cent. It is certain, then, that a loss in the revenue will be sustained, equal to any depreciation which may take place in this paper; and, when the paper shall come to nothing, the revenue of the country will come to nothing along with it. This has happened to other countries, where this wretched system has been adopted, and it will happen here.

The Austrian Government resorted to a similar experiment, in a very critical period of its affairs, in 1809, the year of the last campaign between that

country and France, previous to the coalition. Pressed by the necessities of the occasion, the Government caused a large quantity of paper to be issued, which was to be received in imposts and taxes. The paper immediately fell to a depreciation of four for one. The consequence was, that the Government lost its revenue, and, with it, the means of supplying its armies and defending its empire.

Is this Government now ready, sir, to put its resources all at hazard, by pursuing a similar course? Is it ready to sacrifice its whole substantial revenue and permanent supplies to an ill-contrived, ill-considered, dangerous, and ruinous project, adopted only as the means of obtaining a little present and momentary relief?

It ought to be considered, also, what effects this bank will produce on other banking institutions, already existing, and on the paper which they have issued. The aggregate capital of these institutions is large. The amount of their notes is large, and these notes constitute, at present, in a great portion of the country, the only circulating medium, if they can be called a circulating medium. Whatever affects this paper, either to raise it, or depress it lower than it is, affects the interests of every man in the community.

It is sufficient, on this point, to refer to the memorial from the banks of New York. That assures us, that it must be the operation of such a bank as this bill would establish, to increase the difficulties and distress which the existing banks now experience, and to render it nearly impossible for them to resume the payment of their notes. This is what every man would naturally expect. Paper, already depreciated, will necessarily be sunk still lower, when another flood of depreciated paper is forced into circulation.

Very recently this Government refused to extend the charter of the bank of the United States, upon the ground that it was unconstitutional for Congress to create banks. Many of the State banks owe their existence to this decision. It was an invitation to the States to incorporate as much banking capital as would answer all the purposes of the country. Notwithstanding what we may now see and hear, it would then have been deemed a gross imputation on the consistency of Government, if any man had expressed an expectation, that, in five years, all these constitutional scruples would be forgotten; all the dangers to political liberty from moneyed institutions disregarded, and a bank proposed upon the most extraordinary principles, with an unprecedented amount of capital, and with no obligation to fulfil its contracts.

The State banks have not forced themselves in the way of Government. They were established, many of them at least, when Government had declared its purpose to have no bank of its own. They deserve some regard on their own account, and on account of those particularly concerned in them. But they deserve much more consideration, on account of the quantity of paper which is in circulation, and the interest which the whole community has in it.

Let it be recollected, also, sir, that the present condition of the banks is principally owing to their advances to Government. The treasury has borrowed of the banks, or of those who themselves borrowed of the banks, till the banks have become as poor, and almost as much discredited, as the treasury itself. They have depreciated their paper, nearly ruined themselves, and brought the sorest distress on the country, by doing that on a small scale which this bank is to perform on a scale vastly larger.

It is almost unpardonable, in the conductors of these institutions, not to have foreseen the consequences which have resulted from the course pursued by them. They were all plain and visible. If they have any apology, it is, that they were no blinder than the Government, and that they yielded to those who would take no denial. It will be altogether unpardonable in us, if, with this, as well as all other experience before us, we continue to pursue a system which must inevitably lead us through depreciation of currency, paper-money, tender-laws, and all the contemptible and miserable contrivances of disordered finance and national insolvency, to complete and entire bankruptcy in the end.

I hope the House will recommit the bill for amendment.



The question on re-commitment was at length decided *in the negative*,

Yeas,	-	-	-	-	-	-	-	-	-	68,
Nays,	-	-	-	-	-	-	-	-	-	89.

The bill was then read through in the usual manner.

Mr. RHEA, of Tenn. spoke a short time in explanation of the motives which would govern his vote in this case.

Mr. GROSVENOR, for the purpose of introducing a motion in aid of the rule to prevent those members interested in the question from voting, moved *to lay the bill on the table*.

The motion was predicated on the fact, that one member of the House (and perhaps others might be) was the proprietor of certain of the public stock, which is allowed to be paid in, in part, on account of shares to be subscribed to the bank.

This motion was opposed by Mr. FISK, of New York, and Mr. FINDLEY, of Pennsylvania; by whom it was contended, that the rule of the House in this respect was sufficiently operative without this aid. It was supported by the mover, and by Mr. WARD, and Mr. FARROW.

The question on laying the bill on the table, was decided by Yeas and Nays, as follows:

For laying the bill on the table,	-	-	-	-	-	58.
Against it,	-	-	-	-	-	104.

The question was then taken on the passage of the bill. The Yeas and Nays thereon stood as follows:

Those who voted in the affirmative, are,

Messrs. Alexander,	Messrs. Fisk, of N. Y.	Messrs. Montgomery,
Alston,	Forney,	Moore,
Anderson,	Forsyth,	Murfree,
Archer,	Gholson,	Nelson,
Avery,	Gourdin,	Ormsby,
Barnett,	Griffin,	Parker,
Bigelow,	Harris,	Pickens,
Bradley,	Hasbrouck,	Pleasants,
Brown,	Hawes,	Rea, of Pa.
Caldwell,	Hawkins,	Rhea, of Tenn.
Cannon,	Hopkins, of Ky.	Rieh,
Chappell,	Hubbard,	Ringgold,
Clark,	Ingersoll,	Robertson,
Clendenin,	Ingham,	Sage,
Comstock,	Irving,	Sevier,
Conard,	Irwin,	Sharp,
Creighton,	Kent, of Md.	Skinner,
Crouch,	Kerr,	Smith, of Pa.
Cuthbert,	Kershaw,	Strong,
Dana,	Kilbourn,	Tannehill,
Davis, of Pa.	King, of N. C.	Taylor,
Denoyelles,	Lefferts,	Telfair,
Duvall,	Lowndes,	Udree,
Earle,	Lyle,	Ward, of N. J.
Farrow,	M'Coy,	Williams,
Findley,	M'Kee,	Wilson, of Penn.
Fisk, of Vt.	M'Lean,	Yancey—81.

Those who voted in the negative, are,

Messrs. Bard,	Messrs. Boyd,	Messrs. Butler,
Baylies, of Mass.	Bradbury,	Caperton,
Bayly, of Va.	Breckenridge,	Calhoun,
Bines,	Brigham,	Champion,
Bowen,	Burwell,	Cilley,

Messrs. Clopton,	Messrs. Jackson, of R. I.	Messrs. Ruggles,
Cooper,	Johnson, of Va.	Schureman,
Coxe,	Johnson, of Ky.	Seybert,
Crawford,	Kennedy,	Sheffey,
Culpeper,	Kent, of N. Y.	Sherwood,
Davenport,	King, of Mass.	Shepherd,
Davis, of Mass.	Law,	Slaymaker,
Desha,	Lewis,	Stanford,
Ely,	Lovett,	Stockton,
Evans,	Macon,	Stuart,
Franklin,	M'Kim,	Sturges,
Gaston,	Miller,	Taggart,
Geddes,	Moseley,	Thompson,
Glasgow,	Markell,	Vose,
Grosvenor,	Newton,	Ward, of Mas <sup>a</sup>
Hale,	Oakley,	Webster,
Hall,	Pearson,	Wheaton,
Hanson,	Pickering,	White,
Henderson,	Pitkin,	Wilcox,
Howell,	Potter,	Wilson, of Mass.
Humphreys,	John Reed,	Winter—80.
Hurlbert,	Wm. Reed,	

The state of the vote having been declared—

The Speaker (Mr. CHEVES, of South Carolina) rose. After adverting to the rule of the House, which makes it the right and duty of the Speaker to vote in two cases, of which this was one, he proceeded to assign briefly, the reasons which influenced him to vote against the bill. He noticed the opinions expressed on both sides of the House, for and against the measure; and declared his own conviction, that the bill proposed a dangerous, unexampled, and, he might almost say, a desperate resort. He cursorily examined the three views in which the passage of the bill had been advocated, namely, as calculated to resuscitate public credit; to establish a circulating medium; and to afford the ways and means for the support of Government. He delivered, with even more of his usual eloquence and impressiveness, his opinions on these several points, and concluded with expressing his solemn belief, that neither of these purposes would be answered by the bill. He denied that the passage of this bill was demanded by the safety of the nation; but intimated his opinion, that a national bank bill might be framed, by which the avowed objects of the present bill might be accomplished, which he had no doubt would unite a majority in its favor. Although the vote was painful to him to give, he was, therefore, obliged to vote in the negative.

*The Speaker's vote having produced an equality of votes, he declared the decision of the House to be, that the bill should not pass.*

SO THE BILL WAS REJECTED.

Mr. HALL, of Georgia, who had voted against the bill, then *moved a re-consideration of the vote* just taken. He said he was opposed to this bill, and should be opposed to any bill for the establishment of a national bank; but he was willing that his friends should have an opportunity of giving such a shape to the bill on that subject, as should unite the votes of all who were friendly on principle to the establishment of a national bank.

The question for a re-consideration of the vote having been stated from the chair—

A motion was made to adjourn, and decided in the affirmative.

JANUARY 3, 1815.

The House resumed the consideration of the unfinished business, being a motion to *reconsider* the vote to reject the bill.

On this motion there arose a desultory, but very interesting debate, which occupied the House from 12 to about 5 o'clock.

Mr. HALL, of Georgia, commenced the debate, by assigning the reasons which had influenced him to move a reconsideration of the question, which were, generally, that, though he was, and should continue to be, opposed to any bank that could be established, unless within the District of Columbia, yet the state of the vote of last night gave him reason to believe that some plan might be adopted to meet the views of what was evidently a majority of the House on that subject. He therefore proposed, if the vote should be reconsidered, to call up the proposition laid upon the table by him some time ago, respecting an issue of treasury notes, and to move its reference, together with this bill, to the Committee of Ways and Means, that, from a combination of the principles of both, some measure might be adopted which would subserve the public interest. He called upon gentlemen of the majority, in an impressive manner, to rally themselves around the public good, to sacrifice to each other a little of their own opinion, in order to serve the nation. Having to contend, not only with a foreign enemy, but with internal traitors, it was high time, instead of putting themselves into the hands of merchants, and men who are determined, if they could, to crush the present administration, to draw on the real solid resources of the nation, &c. Mr. H. took occasion to express his disgust at the attempt, twice repeated, which he had witnessed, to prevent an individual from voting, because he had lent money to the Government, or held Government security (meaning Mr. INGERSOLL.) Such proceedings, he said, made his blood run cold. They required the friends of the Government to unite, to beware how they act, instead of aiding those whose only object was to defeat every act calculated for the defence of the country, &c.

Mr. ALEXANDER, of Ohio, made a few general remarks as to the readiness with which he should approach this question to reconsider what had been denounced as a rash, desperate, and destructive measure. His remarks were evidently intended to reflect on the observations with which the Speaker had, on the preceding evening, prefaced his vote. He should feel no pain, he said, when acting from his own choice, in giving a vote which was to destroy a ruinous measure; he should rather rejoice in the opportunity of giving such a vote, and not complain that he did it *with pain*, &c.

Mr. M'KEE, of Kentucky, favored the reconsideration of the bill, in the hope that, when reconsidered, it would be recommitted, and its features changed. He had voted for it, in its present shape, with much reluctance; he had so voted, however, because he believed the taxes could not be paid by the people, unless they were aided by the establishment of a medium of general circulation, &c. He did not believe, in its present shape, that the bill would pass, but he did believe it might be so modified as to meet the views of a majority of the House.

Mr. INGERSOLL, of Pennsylvania, said he should vote for a reconsideration of the bill, because he was of the same opinion to-day that he was yesterday. He was not tenacious as to the plan of it, but a national bank he believed to be indispensable, &c. He took occasion to remark, in allusion to the observation of Mr. HALL, that, although he, with several other gentlemen of the House, possessed a small interest in the public stock, he had no idea that it could disqualify him, or any one else, from voting on this question, any more than on the tax, or any other revenue or loan bills, &c.

Mr. MACON, of North Carolina, said he should vote against re-consideration: for, although he had, of late, uniformly entertained the opinion that it would be convenient and expedient to establish a national bank, he as firmly believed that there was no delegated power in Congress to establish such a

bank. He had given such votes as he thought calculated to improve or perfect the various bills before the House, but he must, eventually, vote against any bank. Mr. M. concluded his examination of this question, by expressing the opinion that treasury notes would circulate, and obtain as good a credit, as the notes of the bank proposed to be established, and to those the nation must, he believed, at last resort, &c.

Mr. ROBERTSON, of Louisiana, was in favor of reconsideration, and made an animated appeal to those who were friendly to the establishment of a bank, and yet had opposed this bill because the details did not exactly meet their views. He called upon them to sacrifice their particular prejudices, and not prostrate the public interest at the shrine of their own pride, or independence of opinion. Scarcely any subject, he said, could come before the House, in regard to which gentlemen might not urge that there were certain of the details which did not meet their approbation, and for which they could not vote. This bill had been called a desperate—a dangerous measure. It might be so, Mr. R. said; but, from the nettle danger, we frequently pluck the flower safety. Nothing could be more dangerous than the very situation in which we now are, which could not be worsted even by the failure of the novel experiment which this bill had been pronounced to be, &c.

Mr. ALSTON, of North Carolina, said he should vote against re-consideration. Believing no good could result from further attempts to unite conflicting opinions on this subject, he was in favor of putting it to rest, and letting the responsibility rest on the shoulders of those who had twice already defeated the bill, &c.

Mr. DUVAL, of Kentucky, in advocating a re-consideration, called upon those who had refused to sacrifice their individual opinions, to remember the sacrifices made by those of their own party, and to exhibit that liberality and spirit of mutual concession, without which there could be no legislation. He believed there was a decided majority in the House in favor of a national bank, and he entreated gentlemen to consent to re commitment, to make one last effort to save the sinking credit of the country, &c. He dwelt at some length on the absurdity of every man in a public body clinging to his own opinion as the standard of perfection. Unless men yield occasionally their particular opinions on minor points, and mere matters of detail, no majority could ever be obtained in favor of any particular measure. He had thus yielded his opinions when he voted for this bill, and he hoped a sufficient number would now do so to obtain a re-consideration of the bill.

Mr. GHOLSON, of Virginia, conjured gentlemen to put an end to debate, and to act. Whilst they were debating, the army was suffering for the want of necessary supplies; the nation was suffering at every point. He intreated gentlemen to permit the question to be taken.

Mr. HAWKINS, of Kentucky, addressed himself to the majority of the House, exhorted them to unite, and no longer suffer themselves to be driven from ground to ground, from shift to shift, by the pertinacity of a minority who openly disavowed any responsibility for the failure of measures which they were frequently the means of thwarting. He adverted to the majority which, a day or two ago, had appeared in favor of this bill, who had been driven from their ground by the pertinacity of the minority, in violation of the usages and decorum of legislation, &c. He appealed, also, to the liberality of those opposed to this bill on mere points of detail, whether an opportunity ought not to be afforded to those who were friendly to the principle to try this question again. He dwelt with much emphasis on the weight of responsibility attaching to every one who voted on this question, and the propriety of allowing them to vote again, on a vote on which the House was equally divided, after having an opportunity since to reflect on it.

Mr. PEARSON expressed himself favorably towards a national bank, but as strongly opposed to the bill now before the House, the vote on which he would not consent to reconsider, lest the bill might then pass, though he was willing to suspend the rule of the House forbidding a bill, once rejected, to be originated anew, so as to give an opportunity to obtain the establishment of a bank on proper banking principles, &c.

Mr. FISK, of New York, said the very importance of this bill was a reason why a question, decided as it had been, should be reconsidered; that, if a majority should not favor its passage in its present shape, it might be put in such a form as should ensure it the support of a majority. The proposal of the gentleman who preceded him, to dispense with the rule, he considered as more objectionable by far, than the practice of reconsidering a vote.

Mr. FORSYTH, of Georgia, at some length warmly contended for the reconsideration of the bill, avowing himself still friendly to it, in preference to any other plan which could be proposed.

Mr. CALHOUN was in favor of reconsideration of the bill, but on different grounds from Mr. FORSYTH. He was, and should continue, opposed to the present bill.

Mr. GASTON, Mr. CULPEPER, Mr. WEBSTER, and Mr. GROSVENOR, expressed themselves friendly to a national bank, on the principles they have heretofore advocated, but decidedly opposed to this; and, therefore, determined to vote against reconsidering it, though they were willing to suspend the rule forbidding future reconsideration.

Mr. WILSON, of Pennsylvania, advocated a reconsideration of the bill, on the grounds of partiality to the form of the present bill, which he examined and supported by a train of argument going to exhibit its particular merits.

Mr. HALL then said he had made his motion with the hope of obtaining a compromise of conflicting opinions, and a modification of the present bill. But, finding its friends so wedded to it as to attempt to force it through the House, he withdrew his motion for a reconsideration.

Mr. WEBSTER took this opportunity to lay upon the table the following resolution:

*Resolved*, That the rule of the House which prevents a subject, once acted upon, from being acted upon again, during the same session, be suspended until otherwise ordered.

Mr. M'KIM renewed the motion to *reconsider* the vote on the bank bill; not from any intention to change his vote, but from a disposition to accommodate his friends on a question of so much magnitude.

Mr. SHARP, of Kentucky, opposed, and Mr. NEWTON, of Virginia, advocated the reconsideration; the one, on grounds of unabated hostility to the present bill; the other, from a disposition to afford the utmost latitude to the consideration of a subject so highly important to the nation.

The question on reconsideration was at length decided by yeas and nays.

For reconsideration,	-	-	-	-	-	-	107,
Against it,	-	-	-	-	-	-	54.

And the question being again stated: "Shall the bill pass?"

Mr. M'KEE moved to *recommit* the bill to a select committee, and presented his view of the change which, he conceived, ought to be made in its provisions.

Mr. BUTLER, of Vermont, supported this motion, and, in a speech of some length, exhibited his views on the same subject.

Mr. FORSYTH opposed the recommitment with much zeal and eloquence, on grounds of preference to the present bill.

Mr. KING, of Massachusetts, expressed his opinions, generally, in hostility to the establishment of any bank, at that time, and in opposition to any compromise.

Mr. FINDLEY advocated the recommitment, principally on the ground of opposition to that feature of the bill which *requires* the bank to make a loan to Government, which he believed at once superfluous and inexpedient.

Mr. OAKLEY and Mr. STOCKTON advocated recommitment with earnestness and ability, in order to procure a modification of the details. If modified, as they believed it might be, they pledged themselves to vote for the bank bill, and expressed their opinion that, in that vote, they would be joined by a majority of their political friends.

The question on *recommitment* was decided by yeas and nays, as follows:

For recommitment,	89,
Against it,	71.

And it was determined to recommit the bill to a *select committee of seven members*.

The committee to whom the bill was recommitted, consists of Messrs. M'Kee, Findley, Stockton, Pitkin, Taylor, Cuthbert, and Yancey.

JANUARY 6, 1815.

Mr. M'KEE, from the select committee to whom was recommitted the bill, reported sundry amendments thereto; which were read.

A motion was then made by Mr. ROBERTSON to lay the report on the table for one day, that it might be printed for the more particular information of the members, which motion was negatived: Ayes 36.

Mr. M'KEE explained, briefly, the nature and amount of the amendments now proposed to the bill. The first principle introduced into the bill, he said, was a reduction of the capital stock from *fifty* to *thirty* millions; such capital to be composed of five millions in specie, fifteen millions in treasury notes, ten millions in stock of the United States, created since the declaration of the war. The capital to be subscribable in shares of *one* hundred instead of *five* hundred each. The payments of the subscription to be so apportioned that two fifths of the amount of the capital should be paid in at the time of subscribing. This would bring at once into the bank, \$1,666,000 in specie, and the residue in treasury notes, and stock, amounting to twelve millions in the whole. There was every reason to believe, that this payment could be made, at the time of subscription, to the full amount proposed. If so, the bank could forthwith go into operation, and its capital would not remain inactive, as a part of it must do if a less amount were payable at the time of subscription. The principle requiring the bank to make a loan of thirty millions to the Government, to be stricken out, and the provision respecting the suspension of payments in specie, which appeared to be inseparably connected with the compulsory loan, to be also stricken out. The immediate aid which the plan would afford to the Government, in addition to the establishment of a circulating medium of undoubted credit, would be in the issue and free circulation of fifteen millions of treasury notes, and the relief to the stock market by the abstraction from it of ten millions, to be subscribed into the stock of the bank. The bank thus to be established, was predicated on the idea of a specie bank, on which principle alone must forever rest a sound circulating medium. There was no danger, as had been frequently observed, but, without a requisition to that effect in its charter, the bank would, for its own interest, afford to the Government every assistance and accommodation in its power. A right was also reserved to the Government, to subscribe, on its own behalf, and for its benefit, whenever Congress shall authorize it by law, five millions to the stock of the bank, payable in certificates of stock, bearing an interest of four



per centum. This stock it might sell at great advantage; even during the present year, if the bank went successfully into operation.

The amendments to the first section having been stated, and the question being proposed to the House on that amendment which reduces the proposed capital from fifty to thirty millions of dollars,

Mr. TELFAIR, of Georgia, being desirous of fixing the capital of the bank at forty millions, as a proper medium, said he should vote against this amendment, and briefly assigned his reasons for so doing.

Mr. HAWKINS, of Kentucky, stated the reasons why he should vote against this amendment, though willing to make what he deemed reasonable concessions to those who differed from him.

Mr. TAYLOR explained, at some length, the reasons which had induced him, as a last effort to relieve the finances of the country, by the establishment of a bank, to consent to this report, embracing a compromise of his own opinions. He spoke at some length, in explanation of the provisions of this bill, and of the advantage which it held forth to the public interest.

Mr. FORSYTH briefly stated the grounds on which he was opposed to the report of the committee, and preferred the bill in its present shape. If the amendments prevailed, he contended that the will of the majority would in fact be defeated, and a bill passed on a plan, of which the majority had already expressed their decided disapprobation.

Mr. M'KEE spoke at some length in defence of the report, and to shew its superiority to the present features of the bill.

Mr. INGERSOLL explained briefly why, although entertaining a decided preference for the bill, as it now stood, he should vote for the report of the committee in all its parts; because, being the result of a compromise, if it were not accepted, he feared no National Bank would be established—a measure which he deemed at this moment absolutely indispensable.

Mr. YANCEY said, he should give the report his decided support, and regretted that any of his friends should act differently. He considered the proposed amendments highly expedient, and, withal, that, if they were not adopted, no bank could be established at this session.

Mr. PITKIN, in a speech of some length, explained the reasons why he had been induced to compromise a part of his own opinions, in agreeing to this report, to which he had acceded with some reluctance, and for the success of which he did not consider himself responsible. Being willing to lend his aid to extricate the Government from its present financial difficulties, he had agreed to this report, which, however, he believed, embraced much too extensive a scale for the proposed institution. He went into an examination at some length of the principles of banking, principally to shew that a forced loan would be destructive to the ability or prospects of any bank.

Mr. FORSYTH replied at some length to some of the objections which had been made to the bill as it now stands, and in vindication of his own opinion; and

Mr. PEARSON added a few words of explanation in reply to a part of Mr. FORSYTH'S speech.

The question being taken, after nearly two hours' debate, on the first amendment reported by the select committee, (substituting thirty for fifty millions) was decided as follows:

Those who voted in the affirmative, are,

Messrs. Alexander,  
Anderson,  
Archer,  
Barbour,  
Bard,  
Barnett,  
Baylies, of Mass.  
Bayly, of Va.  
Bigelow,  
Bines,  
Bowen,  
Boyd,  
Bradbury,  
Breckenridge,  
Brigham,  
Burwell,  
Butler,  
Caperton,  
Calhoun,  
Cannon,  
Champion,  
Chappell,  
Cilley,  
Clark,  
Clendenin,  
Clopton,  
Comstock,  
Coxe,  
Crawford,  
Creighton,  
Crouch,  
Culpeper,  
Cuthbert,  
Dana,  
Davenport,  
Davis, of Mass.  
Davis, of Penn.  
Desha,  
Duval,  
Earl,  
Ely,  
Evans,  
Farrow,

Messrs. Findley,  
Forney,  
Gaston,  
Geddes,  
Gholson,  
Grosvenor,  
Hanson,  
Harris,  
Hasbrouck,  
Hawes,  
Henderson,  
Howell,  
Humphreys,  
Hulbert,  
Ingersoll,  
Irving,  
Jackson, of R. I.  
Jackson, of Va.  
Johnson, of Va.  
Johnson, of Ky.  
Kennedy,  
Kent, of N. Y.  
Kent, of Md.  
Kerr,  
Kershaw,  
King, of Mass.  
King, of N. C.  
Law,  
Lovett,  
Lowndes,  
M'Kee,  
M'Kim,  
M'Lean,  
Miller,  
Montgomery,  
Moore,  
Moseley,  
Markell,  
Newton,  
Oakley,  
Ormsby,  
Pearson,  
Pickering,

Messrs. Pickens,  
Pitkin,  
Pleasants,  
Potter,  
J. Reed,  
W. Reed.  
Rea, of Pa.  
Rhea, of Tenn.  
Rich,  
Robertson,  
Ruggles,  
Sage,  
Schureman,  
Seybert,  
Sharp,  
Sheffey,  
Sherwood,  
Shipherd,  
Slaymaker,  
Smith, of N. Y.  
Smith, of Penn.  
Stanford,  
Stockton,  
Stuart,  
Sturges,  
Taggart,  
Tannehill,  
Taylor,  
Thompson,  
Troup,  
Udree,  
Vose,  
Ward, of Mass.  
Ward, of N. J.  
Webster,  
Wheaton,  
White,  
Wilcox,  
Williams,  
Wilson, of Mass.  
Winter,  
Wood, and  
Yancey—129.

Those who voted in the negative, are,

Messrs. Alston,  
Brown,  
Caldwell,  
Conard,  
Denoyelles,  
Eppes,  
Fisk, of Vt.  
Fisk, of N. Y.  
Forsyth,  
Franklin,  
Gourdin,

Messrs. Griffin,  
Hall,  
Hawkins,  
Hopkins, of Ky.  
Hubbard,  
Ingham,  
Irwin,  
Kilbourn,  
Lefferts,  
Lyle,

Messrs. Macon,  
M'Coy,  
Murfree,  
Nelson,  
Parker,  
Ringgold,  
Roane,  
Sevier,  
Telfair, and  
Wilson, of Pa.—31.

The other amendments, as indicated above in Mr. M'KEE's remarks, were then all agreed to—among them being an amendment to postpone the opening of the books of subscription to the *last* instead of the *second* Monday in February.

A motion was made by Mr. GASTON, further to amend the bill, by striking out that part of the amendment describing the (war) stock which shall be subscribable to the Bank, and inserting, in lieu thereof, "or in any of the public debt of the United States, drawing an accruing interest of six per centum, per annum, contracted or to be contracted by virtue of any act of Congress;" which motion was negatived.

The bill, as amended, was then ordered, without a division, to be read a third time to-morrow.

JANUARY 7, 1815.

The engrossed amendments to the bill were read, and the question stated, "Shall this bill pass as amended?" and the yeas and nays thereon having been required by Mr. STANFORD:

Mr. FISK, of New York, rose to assign the reasons which now influenced him to vote against this bill. His objections were, to the reduction of the capital, and to the omission of what had been miscalled the forced loan feature of the bill, which he considered one of the best. The bill, before it was amended, would, he said, have afforded to the Government, a benefit to the amount of twenty millions, but now would not afford to it a greater bonus than three millions. He objected to the amendments which had taken from the bill the control which the Government ought to have over it, and would throw the Government and the moneyed resources of the nation into the power of its political adversaries. There were also other features of the bill to which he objected, so strongly, upon the whole, that he would not vote for the bill.

Mr. HANSON of Maryland, expressed his regret to see any impediment thrown in the way of the bill. He expressed all the satisfaction he felt at being able on this occasion to redeem his pledge to co-operate with the majority, in any measure which he could hope or believe would be beneficial to the nation. This bill, in its present shape, he remarked, was the result of a compromise, produced by mutual and magnanimous concessions, and at a period like this, of bitter political animosity, concessions reflecting equal honor on both sides of the House.

Mr. GROSVENOR, of New York, assigned, at some length, the reason why he should vote against the bill. He expressed, in a feeling manner, his regret at being compelled to vote, on this occasion, against so many of those with whom he had heretofore acted in opposition to the measures of this administration. His objections were more to the time when, and purposes for which, a bank is to be established, than to the features of this bill; to some of which he objected. He denied that it could be a specie bank, or that the bank would ever be able to get a million of its notes into circulation. The Government relying upon it would be disappointed, and ruin soon stare them in the face. He denied the operation upon himself, of the argument that this was a lesser evil than what might be substituted for it if it did not pass. He would not, he said, embrace this evil, in order to avoid a greater, which might not happen; he would never, he said, adopt a principle, looking towards that which imports that the end may justify the means.

Mr. TELFAIR, of Georgia, stated the reasons why, although he decidedly approved of the bill which had been first before the House, he should yet vote for this bill. He was seriously convinced, he said, that, under the present embarrassment of our circulating medium, and of the fiscal concerns of the nation, a bank was indispensable; and, though the system now before the House was one, the details of which he could not approve, he would vote for it as a last resort. He frankly intimated his hope, that the other House would propose some modification of the amendments of this House, that would render the compromise of opinion more equitable than as it now stood. Mr. T. went into a general examination of the principles and history of banking,

principally to shew that banks founded on the credit of Governments, and on public stocks, had not been as generally unsuccessful as had been contended; and he then compared the present system with that which came from the Senate, to the latter of which he gave a decided preference.

Mr. INGHAM, of Pennsylvania, believed, he said, a National Bank to be essentially necessary, to give relief to the present embarrassed state of things. Believing this bill would contribute, in some degree, to relieve the national wants, it would receive his vote, though reluctantly; and he wished it to be distinctly understood, that, instead of its being a preferred measure, he considered the first bill as more efficient, and calculated to give the Government all it wanted. The vote of the House this day, he said, would be no test of the excellence of this system, or even of the approbation of it by the House; the question being whether the House would take this or no bank. Mr. I. made a statement of the comparative advantages and disadvantages of the two plans, giving the decided superiority to the original plan, &c.

The question on the final passage of this bill was then decided as follows:

Those who voted in the affirmative, are,

Messrs. Alexander,	Messrs. Gaston,	Messrs. Pitkin,
Alston,	Geddes,	Pleasants,
Anderson,	Gholson,	Potter,
Barnett,	Hale,	John Reed,
Bayly, of Va.	Hanson,	Wm. Reed,
Bigelow,	Harris,	Rea, of Penn.
Bines,	Hasbrouck,	Rhea, of Tenn.
Breckenridge,	Hawes,	Rich,
Brigham,	Hawkins,	Ringgold,
Brown,	Henderson,	Robertson,
Butler,	Hopkins, of Ky.	Ruggles,
Caperton,	Howell,	Sage,
Caldwell,	Hungerford,	Schureman,
Calhoun,	Hulbert,	Sevier,
Cannon,	Ingersoll,	Sharp,
Champion,	Ingham,	Sheffey,
Chappell,	Irving,	Sherwood,
Gilley,	Jackson, of R. I.	Shipherd,
Clark,	Kent, of N. Y.	Slaymaker,
Clendenin,	Kent, of Md.	Smith, of N. Y.
Comstock,	Kerr,	Smith, of Penn.
Conard,	Kershaw,	Stockton,
Cooper,	Kilbourn,	Stuart,
Coxe,	King, of N. C.	Sturges,
Creighton,	Lefferts,	Taggart,
Crouch,	Lovett,	Tannehill,
Culpeper,	Lowndes,	Taylor,
Cuthbert,	M'Coy,	Telfair,
Dana,	M'Kee,	Thompson,
Davenport,	M'Kim,	Udree,
Davis, of Mass.	M'Lean,	Vose,
Davis, of Pa.	Montgomery,	Ward, of Mass.
Duvall,	Moore,	Ward, of N. J.
Earle,	Moseley,	Webster,
Ely,	Markell,	Wheaton,
Farrow,	Oakley,	White,
Findley,	Ormsby,	Williams,
Fisk, of Vt.	Pearson,	Winter,
Forney,	Pickering,	Wood,
Forsyth,	Pickens,	Yancey.—120.

Those who voted in the negative, are,

Messrs. Baylies, of Mass.	Messrs. Griffin,	Messrs. Murfree,
Boyd,	Grosvenor,	Nelson,
Bradbury,	Hubbard,	Newton,
Burwell,	Humphreys,	Parker,
Clopton,	Irwin,	Roane,
Crawford,	Johnson, of Va.	Seybert,
Denoyelles,	Johnson, of Ky.	Stanford,
Desha,	Kennedy,	Strong,
Eppes,	King, of Mass.	Wilcox,
Evans,	Law,	Wilson, of Mass.
Fisk, of N. Y.	Lewis,	Wilson, of Pa.—37.
Franklin,	Lyle,	
Gourdin,	Maccon,	

So the bill was passed, and the amendments sent to the Senate for their concurrence.

### IN SENATE.

JANUARY 9, 1815.

*Ordered*, That the bill and amendments from the House of Representatives, be referred to a select committee, and Messrs. Smith, Bibb, Anderson, Giles, and Varnum, were appointed the said committee.

JANUARY 13, 1815.

Mr. SMITH, from the said committee, reported the bill with a number of amendments.

[The amendments *to the amendments* of the House, propose to increase the fixed capital of the bank from *thirty to thirty-five* millions of dollars; to make the capital consist of shares of *four hundred* instead of *one hundred* dollars each; that the five millions proposed to be added to the capital, shall be added also to the amount subscribable in public debt; to disagree to the proposition of the House for striking out the section which authorizes suspension of payments in specie; to agree to the section which compels the bank to commence its operations before the first day of January, and to disagree to that which proposes to authorize a committee of Congress, at any time, to examine the books, &c. and prescribes the course of proceeding in the courts against the bank, in case of violation of its charter.]

The consideration of this report was postponed to, and made the order of the day for, to-morrow.

JANUARY 14, 1815.

The Senate resumed the consideration of the report of their select committee, on the amendments received from the House of Representatives.

On the proposition to make the fixed capital of the bank *thirty-five*, (instead of *thirty* millions, as proposed by the House) there were,

*For the increase*—Messrs. Anderson, Barbour, Bibb, Chase, Condit, Giles, Kerr, La-cock, Morrow, Roberts, Smith, Tait, Taylor, Turner, Varnum, Walker, Wharton—17.

*Against it*—Messrs. Brown, Daggett, Dana, Fromentin, Gaillard, German, Gore, Horsey, Hunter, King, Lambert, Mason, Thompson, Wells—14.

On the proposition to increase by five millions the amount of public debt on war stock, to be subscribable to the bank, the vote was precisely the same as the above.

After making further progress in the discussion, the Senate adjourned before they had gone through the bill.

JANUARY 16, 1815.

The Senate were engaged nearly the whole of the day on the amendments to the bill; which subject they finished just before adjournment. They agreed to the amendments of the House, amended by increasing the capital five millions, so as to make it thirty-five, and reinstating the section to authorize the bank, in case of necessity, to suspend payment in specie.

JANUARY 17, 1815.

The Senate resumed the consideration of the subject of the bill.

Various questions relating to the amendments and re-amendments to the same, were decided by the yeas and nays; among which was the following:

On the question to *reinstate* in the bill the section authorizing a suspension, in certain cases, of payment in specie by the bank, (which section was stricken out by the House of Representatives) the votes were as follow:

*For retaining the section*—Messrs. Anderson, Barbour, Bibb, Chase, Condit, Howell, Lacock, Morrow, Roberts, Robinson, Smith, Tait, Taylor, Turner, Varnum, Walker, Wharton—17.

*Against it*—Messrs. Brown, Daggett, Dana, Fromentin, Gaillard, German, Giles, Gore, Horsey, Hunter, Kerr, King, Mason, Thompson, Wells—16.

The Senate having then agreed to some, and disagreed to others of the amendments of the House, the same were returned to the House.

### HOUSE OF REPRESENTATIVES.

JANUARY 17, 1815.

A motion was made by Mr. INGHAM, of Pennsylvania, that the remaining orders of the day be then postponed until to-morrow, in order to take up the message this morning received from the Senate respecting their decision on the amendments to the national bank bill; which motion was negatived by the following vote:

For the motion,	-	-	-	-	71,
Against it,	-	-	-	-	73.

JANUARY 18, 1815.

The House resumed the consideration of the message from the Senate, announcing their amendments to the amendments of this House to the bill.

The first amendment having been stated, which proposes to make the capital of the bank thirty-five millions instead of thirty millions—

Mr. M'KEE, of Kentucky, expressed his hope that the amendment would not be agreed to, considering it as the key-stone of all the amendments of the Senate. He could see no possible advantages to result from the addition of five millions of capital, particularly as connected with the section authorizing the stoppage of payment in specie. He could see no consequence to result from that clause, which was not disastrous and ruinous, &c., and he therefore hoped it would not be agreed to.

Mr. HAWKINS, of Kentucky, denied the applicability of the remarks of Mr. M'KEE to the amendments of the Senate. The only question, since the Senate had agreed to expunge the condition of a permanent loan to the Government, was, whether the Senate should be accommodated by increasing the capital of the bank by the addition thereto of five millions: for, in fact, the retention of the clause authorizing the suspension of specie payment was immaterial, unless that it is more expedient to incorporate such a provision at once, than yield it to the importunity of the bank hereafter. For he had no doubt, if the war continued, the bank must, sooner or later, suspend specie



payment—even the banks of Kentucky and Ohio (where specie abounded) had at length been compelled, in self-defence, to stop payment of specie. The advantage to Government, in the proposed amendment, Mr. H. argued, would be found in the taking out of the market so much more of the war stock, &c. Something, he contended, was due to the Senate, in the spirit of accommodation which that body had exhibited in yielding so far to the wishes of the House, as to accept the greater part of the amendments—and particularly, inasmuch as, in several cases of difference with that body, the House had exhibited much pertinacity in adhering to its peculiar opinions, &c. &c. He treated, as altogether ideal, the argument of danger to the existence of the republic, from the refusal to incorporate a bank. He had, he said, higher opinions of the destinies of this Government, and of its durability and ability to overcome every difficulty; opinions which gained ground by every day's experience, &c. &c.

Mr. STOCKTON, of New Jersey, rose to say, that he, and those with whom he had acted, in the concessions they had made relative to the features of the bank bill, had gone as far as they could go, and further than they had originally intended, in order to conciliate with gentlemen on the other side of the House. After they had done this, it could not be expected, he said, that they should recede. He wished it, therefore, to be understood, that, whilst he should be happy to pay all due respect to the other branch of the Legislature, it could not be expected that they should yield up to them their honest convictions; and, therefore, that they could not yield their assent to the amendments of the Senate.

Mr. WRIGHT, of Maryland, made a speech of some length, expressive of his hope that a spirit of accommodation would have induced the House at once to have acceded to the amendments of the Senate, which he deemed advantageous. He considered it particularly important, that a provision should exist to prevent the agents or friends of the enemy from drawing all its specie from the vaults of the bank. The state of war, he considered as changing essentially the usual state of mercantile operations, and requiring from the banks a suspension of payments in specie. He concluded his speech with the following quotations from legal authorities—*Inter arma silent leges; necessitas non habet legem.*

Mr. GROSVENOR, of New York, after remarking that he felt not at all embarrassed by the stipulations of compromise, inasmuch as he was not a party to it, having voted against the bill, proceeded to assign the reasons why he should vote for this amendment. He found himself obliged to do so from a regard to his own consistency: for, though he doubted of the efficacy of any bank that could be established, he was pretty certain that the plan of the bank would be improved by the addition to its capital as proposed by the Senate.

Mr. FORSYTH, of Georgia, advocated, at some length, the adoption of the amendments of the Senate. He believed the addition of five millions to the capital of the bank would operate as a benefit to the Government, by taking so much of the stock out of the market, &c. He denied the necessity, or even the propriety, of any part of the House sacrificing their views of the national interest to any ideas of compromise or conciliation. At least, he disclaimed, for himself, the operation of any such consideration on him.

Mr. CUTHBERT, of Georgia, made a speech of some length against the amendments of the Senate. He considered them as inseparably connected with each other, and being so, he was altogether opposed to them. To the amendment now under consideration, he was particularly opposed, because, by extending the quantity of war stock to be purchased, the ability to purchase treasury notes would be so far diminished, and the immediate benefits to the Government so far curtailed. Mr. C. also dwelt with some emphasis on the propriety of carrying into effect, in good faith, the compromise, by the aid of

which the bill had passed this House in the form in which it had been returned to the Senate, &c.

Mr. FORSYTH denied the operation on him of the compromise alleged to have taken place in regard to this question. He was no party to it, and was ignorant of its terms. If the agreement had been in writing, he should like to see the names signed to it, to know who it was that was willing to bind the solid interests of the country as a propitiatory sacrifice on the altar of conciliation.

[Considerable further debate took place on this amendment, in the course of which Mr. HAWKINS, of Ken., Mr. TELFAIR, of Geo., Mr. RIEA, of Tenn., and Mr. ALSTON, of N. C., denied the authority of the compromise alleged to have taken place on a former occasion; which was, on the other hand, asserted by Mr. CUTHBERT and Mr. OAKLEY, and incidentally by Mr. M'KEE. The first named gentleman supported the amendment, and the latter opposed the amendment. Mr. HAWKINS, in the course of his speech, took occasion to pay a high tribute to the talents and independence of the present Secretary of the Treasury, of which he challenged a denial.]

Mr. FORSYTH, in conclusion of the debate, by way of disproving the obligation of the republican to conciliate the federal side of the House, on any question affecting the national bank, quoted the yeas and nays on the question of reconsideration of the bill, (after it had been rejected by the casting vote of the Speaker) from which it appeared that, of the fifty-four who voted *against* reconsideration, but *six* belonged to the republican side of the House.

The question on concurrence in the first amendment of the Senate, was finally decided in the *negative*, by yeas and nays, as follows:

For the amendment,	-	-	-	-	-	80,
Against it,	-	-	-	-	-	87.

The other material amendments were also disagreed to, after debate.

Among others, was the amendment going to *reinstate* the section suspending payment in specie; on which the vote was as follows:

For reinstating it,	-	-	-	-	-	80,
Against it,	-	-	-	-	-	85.

So the House refused to reinstate that section.

The House, after agreeing to some other amendments, determined to insist on those of their amendments to which the Senate had disagreed, and ordered the bill to be returned to the Senate.

IN SENATE.

JANUARY 19, 1815.

The Senate proceeded to the consideration of the message from the House, announcing its disagreement to the amendments of the Senate.

[The state of this question is so intricately interwoven with matters of form, and technicalities, that we shall, in describing the question which came up to-day, disregard the mere form of them, and endeavor to present our readers with the substance.]

The first question was, the proposition sent from the Senate, to which the House had disagreed, to increase the capital of the bank, five millions, to be subscribable in public stock created since the war.

On this proposition, Mr. BIBB proposed to *insist*.

This motion was supported by Mr. BIBB, Mr. SMITH, Mr. ROBERTS, and Mr. TAYLOR, and opposed by Mr. BARBOUR, Mr. KING, and Mr. GILES. The debate turned principally on the merits of the specie-payment-suspending section, (to which also the other House had disagreed) which was considered as intimately connected with the question immediately before the Senate.

The first named gentlemen insisted on the advantages to the Government, from the increase of the capital, and also from the proposed power to suspend payment in specie, without which, it was said, the operations of the bank must, for some time at least, be greatly restricted, &c. and wholly useless to the Government. Mr. BIBB, Mr. ROBERTS, and Mr. TAYLOR intimated, if the Senate should yield these points to the House, that they should vote for the indefinite postponement of the bill, under the impression that it would be rather an injury, than a benefit to the community, to pass it in its present shape.

Messrs. BARBOUR, KING, and GILES, urged the recession of the Senate from these amendments, principally on the ground of necessary concession, (although the two latter gentlemen objected to them on principle also) concessions which it was said the times now more than ever demand. Mr. BARBOUR, particularly, in an eloquent manner, enforced the necessity of acting decisively on a subject, which had been so long pending between the two Houses, and so greatly interested the feelings of the community, which turned its eyes with ceaseless anxiety on the dilatory proceedings of Congress. Mr. SMITH, in allusion to these remarks, took occasion to absolve the Executive and Senate from the blame of delay and apathy, and by inference to cast it on the shoulders of the House of Representatives.

The question being about to be taken, Mr. ROBERTS moved to postpone the subject till to-morrow, with the view of submitting a resolution that Mr. BLEDSOE (the Kentucky Senator) was entitled to a seat in Senate, inasmuch as the election of his successor, Mr. TALBOT, had not yet been notified to the Senate. This motion was negatived, 25 to 9, by yeas and nays.

The question to insist on the first amendment, as stated above, was then decided as follows:

*For insisting.*—Messrs. Anderson, Bibb, Chase, Condit, Howell, Lacock, Morrow, Roberts, Smith, Taylor, Turner, Varnum, Walker.—13

*Against insisting.*—Messrs. Barbour, Brown, Daggett, Dana, Fromentin, Gaillard, German, Giles, Goldsborough, Gore, Horsey, Hunter, Kerr, King, Lambert, Mason, Robinson, Tait, Thompson, Wells, Wharton.—21.

So the Senate refused to *insist* on this amendment.

Mr. GILES moved to recede from the said amendment.

Mr. ROBERTS then moved to postpone the further consideration of the whole subject to the second Monday in March, (equivalent to a motion to reject.) In support of the motion, Mr. ROBERTS spoke at some length.

Mr. BIBB intimated that he should vote against the postponement *now*, because the amendment respecting which he was most anxious, had not been decided, (meaning the section respecting specie payments.)

Mr. TAYLOR said he should vote for the postponement, because he perceived the amendment referred to by Mr. BIBB, would not be insisted on.

The question on the postponement (or rejection) was then decided as follows:

*For the postponement.*—Messrs. Gaillard, German, Kerr, Lacock, Lambert, Roberts, Taylor, Turner, Varnum.—9.

*Against the postponement.*—Messrs. Anderson, Barbour, Bibb, Brown, Chase, Condit, Daggett, Dana, Fromentin, Giles, Goldsborough, Gore, Horsey, Howell, Hunter, King, Mason, Morrow, Robinson, Smith, Tait, Thompson, Walker, Wells, Wharton.—25.

The question on Mr. Giles's motion, to recede from the said first amendment, was then decided in the affirmative, ayes 18.

Mr. KING then moved to recede from all the other amendments to which the House had disagreed.

The Senate then receded from such of the said remaining amendments as preceded the following:

The question on receding from the insertion of the section authorizing the bank, under certain circumstances, to suspend payment of their notes in specie, was decided as follows:

*For receding.*—Messrs. Barbour, Brown, Daggett, Dana, Fromentin, Gaillard, German, Giles, Goldsborough, Gore, Horsey, Hunter, Kerr, King, Lambert, Mason, Thompson, Wells.—18.

*Against receding.*—Messrs. Anderson, Bibb, Chace, Condit, Howell, Lacock, Morrow, Roberts, Robinson, Smith, Tait, Taylor, Turner, Varnum, Walker, Wharton.—16.

So the Senate virtually disagreed to the insertion of such a section. Whereupon,

Mr. BIBB moved to postpone, to the second Monday in March, (to reject) the further consideration of this bill.

Mr. SMITH, then, expressing a desire to have a night's reflection on this question, moved to adjourn.

There were nineteen yeas in favor of the motion; and the Senate adjourned at a late hour.

JANUARY 20.

The Senate resumed the consideration of the amendments to the bill.

The question on Mr. BIBB's motion, to postpone to the 2d Monday in March, (to reject) the further consideration of the subject, being yet under consideration, a very able and highly interesting debate took place, in the course of which Mr. BIBB, Mr. TAYLOR, and Mr. ROBERTS, supported the affirmative, and Mr. GILES the negative side.

The question was decided at a late hour, as follows:

*For postponement.*—Messrs. Anderson, Bibb, Condit, Gaillard, Howell, Kerr, Lacock, Morrow, Roberts, Smith, Taylor, Turner, Varnum, Walker.—14.

*Against postponement.*—Messrs. Barbour, Brown, Chase, Daggett, Dana, Fromentin, German, Giles, Goldsborough, Gore, Horsey, Hunter, King, Lambert, Mason, Robinson, Tait, Thompson, Wells, Wharton.—20.

So the Senate refused to postpone the bill.

On motion of Mr. GILES, the Senate then determined to *recede* from its disagreement with the House; and

The Senate adjourned.

The bill, as passed by both Houses, is as follows, to wit:

AN ACT to incorporate the subscribers to the Bank of the United States of America.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a Bank of the United States of America shall be established, the capital stock of which shall be thirty millions of dollars, divided into three hundred thousand shares, of one hundred dollars each share; and that subscriptions for thirty millions of dollars, towards constituting the said capital stock, shall be opened, on the last Monday of February next, at the following places, viz: at Portland, in Maine, Portsmouth, in New Hampshire, Windsor, in Vermont, Boston, Providence, New Haven, New York, New Brunswick, in New Jersey, Philadelphia, Baltimore, the city of Washington, Richmond, Raleigh, Charleston, Savannah, Lexington, in Kentucky, Nashville, in Tennessee, Chillicothe, in Ohio, and New Orleans, under the superintendence of the following persons, as commissioners to receive the same: at Portland, Matthew Cobb, Isaac Hsley, Joshua Wingate, junior; at Portsmouth, John Goddard, Nathaniel A. Haven, Henry S. Langdon; at Windsor, Elias Lyman, William Leveret, Eleazer May; at Boston, Israel Thorndike, Thomas H. Perkins, William Gray, Aa-

ron Hill, Samuel Brown; at Providence, Seth Wheaton, Ebenezer K. Dexter, Henry Smith; at New Haven, Abraham Bishop, William W. Woolsey, Henry Jones; at New York, Robert Troup, William Paulding, junior, Robert Lenox, John Jacob Astor, Samuel Tooker, Isaac Bronson, Henry A. Coster; at New Brunswick, James Vanderpool, John Bray, Peter Gordon; at Philadelphia, Jared Ingersoll, Thomas M. Willing, Stephen Girard, Chandler Price, Anthony Taylor, John Sergeant, Cadwallader Evans; at Baltimore, James A. Buchanan, Henry Payson, William Wilson; at the city of Washington, John Mason, Robert Brent, John P. Van Ness; at Richmond, Benjamin Hatcher, John Brockenborough, John Preston; at Raleigh, Sherwood Haywood, Beverly Daniel, William Peace; at Charleston, John C. Faber, Thomas Jones, Stephen Elliot, Charles B. Cochran, Thomas Blackwood; at Savannah, John Bolton, Charles Harris, James Johnson; at Lexington, in Kentucky, Charles Wilkins, Lewis Sanders, John H. Morton; at Nashville, Robert Weakly, Felix Grundy, John R. Bedford; at Chillicothe, Samuel Finley, Thomas James, William M'Farland; at New Orleans, Dominick A. Hall, Benjamin Morgan, Paul Lanuse, Thomas L. Harman, and William Flood: which subscriptions shall continue open every day, from the time of opening the same, from ten o'clock in the forenoon, until four o'clock in the afternoon, until the Saturday following, at four o'clock in the afternoon, when the same shall be closed; and immediately thereafter, the commissioners, or any two of them, at the respective places aforesaid, shall cause two transcripts or fair copies of such subscriptions to be made, one of which they shall send to the Secretary of the Treasury, one they shall retain, and the original shall, within three days from the closing of the same, be by the said commissioners transmitted to the said commissioners at Philadelphia, or to one of them; and on the receipt thereof, the said commissioners at Philadelphia, or any three of them, shall immediately thereafter convene and proceed to take an account of the said subscriptions; and if more than the amount of thirty millions of dollars shall have been subscribed, then the said last mentioned commissioners shall apportion the same among the several subscribers, according to their several and respective subscriptions: *Provided however*, That such commissioners shall, by such apportionment, allow and apportion to each subscriber at least one share; and, in case the aggregate amount of the said subscriptions shall exceed thirty millions of dollars, the said commissioners, after having apportioned the same as aforesaid, shall cause lists of the said apportioned subscriptions to be made out, including in each list the apportioned subscription for the place where the original subscription was made, one of which lists shall be transmitted to the commissioners, or to one of the commissioners, under whose superintendence such subscriptions were originally made, that the subscribers may ascertain from them the number of shares apportioned to such subscribers, respectively; and, if the amount of thirty millions of dollars shall not be subscribed, during the period aforesaid, at all the places aforesaid, the subscription to complete the said sum shall afterwards be and remain open at Philadelphia, under the superintendence of the said commissioners appointed at that place, and the subscription may be then made by any corporation, copartnership, or person, for any number of shares not exceeding the amount required to complete the said sum of thirty millions of dollars. And, in case of the death, or refusal to serve, of any of the commissioners aforesaid, it shall be lawful for the President of the United States to supply the vacancy or vacancies thus created, by appointing some suitable person or persons.

*Sec. 2. And be it further enacted*, That it shall be lawful for any person, copartnership, or body politic, to subscribe for so many shares of the said capital stock of the said bank, as he, she, or they, shall think fit, not exceeding three thousand shares, except as is hereinafter provided for the subscription on behalf of the United States; and the sums respectively subscribed, except on behalf of the United States, as is hereinafter provided, shall be payable in the manner following, that is to say: five millions of dollars thereof in gold or silver coin of the United States, or of foreign coin at the value heretofore established by the act of Congress, entitled "An act regulating the cur-

rency of foreign coins," passed the 10th day of April, one thousand eight hundred and six; ten millions of dollars thereof in gold or silver coin, as aforesaid, or in the public debt of the United States, contracted by virtue of the act of Congress, entitled "An act authorizing a loan for a sum not exceeding eleven millions of dollars," passed the fourteenth day of March, one thousand eight hundred and twelve, or contracted, or to be contracted, by virtue of any subsequent act and acts of Congress, heretofore passed, authorizing a loan or loans; and fifteen millions of dollars thereof in gold and silver coin, or in treasury notes, issued under the act of Congress, entitled "An act to authorize the issuing of treasury notes," passed the thirtieth day of June, one thousand eight hundred and twelve, or issued, or to be issued, under the authority of any subsequent act or acts of Congress, authorizing, or which shall authorize, treasury notes to be issued, previously to the final closing of the subscriptions to the said bank. And the said payment shall be made and completed in the sums and at the times hereinafter declared, that is to say: at the time of subscribing there shall be paid six dollars and sixty-six cents and two-thirds of a cent on each share, in gold or silver coin; twenty dollars in the treasury notes aforesaid; and thirteen dollars thirty-three cents and one-third of a cent in the public debt of the United States, contracted, or to be contracted, as aforesaid; at the expiration of four calendar months after the time of subscribing, there shall be paid the further sum of three dollars thirty-three cents and one-third of a cent on each share, in gold or silver coin; ten dollars in the treasury notes aforesaid; and six dollars sixty-six cents and two-thirds of a cent in the public debt of the United States, contracted, or to be contracted, as aforesaid; at the expiration of six calendar months from the time of subscribing, there shall be paid the further sum of three dollars thirty-three cents and one-third of a cent on each share, in gold and silver coin; ten dollars in the treasury notes aforesaid; and six dollars and sixty-six cents and two-thirds of a cent in the public debt of the United States, contracted, or to be contracted, as aforesaid; at the expiration of eight calendar months from the time of subscribing, there shall be paid the further sum of three dollars thirty-three cents and one-third of a cent in gold or silver coin; ten dollars in the treasury notes aforesaid; and six dollars sixty-six cents and two-thirds of a cent in the public debt of the United States, contracted, or to be contracted, as aforesaid. And the subscriptions in public stock and treasury notes, as aforesaid, shall be taken and credited for the principal and so much of the interest thereof, respectively, as shall have accrued on the day of subscribing the same. And, at the time of subscribing to the capital stock of the said bank, as aforesaid, each and every subscriber shall deliver to the commissioners, at the place of subscribing, as well the specie amount of their subscriptions, respectively, as the certificates of stock for the stock proportion of their subscriptions, respectively, together with a power of attorney authorizing the said commissioners, or a majority of them, to transfer the said stock, in due form of law, to "The President, Directors, and Company, of the said Bank of the United States of America," as soon as the said bank shall be organized; and, also, treasury notes for the proportion of the subscriptions, respectively, payable in treasury notes, as aforesaid: *Provided, always, That if, in consequence of the apportionment of shares in the said bank among the subscribers, in the case and in the manner hereinbefore prescribed, any subscriber shall have delivered to the commissioners, at the time of subscribing, a greater amount of specie, stock, and treasury notes, than shall be necessary to complete the payments for the share or shares to such subscriber, apportioned as aforesaid, the commissioners shall only retain so much of the said money, stock, and treasury notes, as shall be necessary to complete such payments, and shall forthwith return, on application for the same, the surplus thereof to the subscriber lawfully entitled thereto. And the commissioners, respectively, shall deposit the gold and silver, certificates of stock, and treasury notes, by them respectively received, as aforesaid, from the subscribers to the said bank, in some place of secure and safe keeping, so that the same may and shall be specifically delivered and transferred, as the same were by*



them respectively received, to the said President, Directors, and Company, of the said Bank of the United States of America, or to their order, as soon as shall be required after the organization of the said bank.

SEC. 3. *And be it further enacted*, That the United States may, at any time before the expiration of this act, in pursuance of any law which may be passed by Congress for that purpose, cause to be subscribed, for the use of the United States, to said bank, fifty thousand additional shares, to be paid in public stock, bearing an interest of four per cent. per annum, redeemable in any sums, and at any periods, which the Government may deem fit.

SEC. 4. *And be it further enacted*, That whenever and as often as any of the treasury notes, subscribed as aforesaid, to the said capital stock of the said bank, shall be due and payable, it shall be lawful for the Secretary of the Treasury (and he is hereby authorized and required) to pay and redeem the same, principal and interest, by causing certificates of public stock for an equal amount, bearing an interest of six per cent. per annum, and redeemable in any sums, and at any periods, which the Government may deem fit, to be prepared and made in the usual form, and the same to be delivered to the President and Directors of the said bank, in satisfaction and discharge of such treasury notes.

SEC. 5. *And be it further enacted*, That the subscribers to the said Bank of the United States of America, their successors and assigns, shall be, and are hereby created, a corporation and body politic, by the name and style of "The President, Directors, and Company, of the Bank of the United States of America," and shall so continue until the third day of March, in the year one thousand eight hundred and thirty-five; and by that name shall be, and are hereby, made able and capable in law, to have, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of whatsoever kind, nature, and quality, to an amount not exceeding, in the whole, thirty-five millions of dollars, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, alien, or dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts and places whatsoever; and also to make, have, and use, a common seal, and the same to break, alter, and renew, at their pleasure; and, also, to ordain, establish, and put in execution, such by-laws and ordinances, and regulations, as they shall deem necessary and convenient, for the government of the said corporation, not being contrary to the constitution and laws of the United States; and generally to do and execute all and singular the acts, matters, and things, which to them it shall or may appertain to do; subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed and declared.

SEC. 6. *And be it further enacted*, That, for the management of the affairs of the said corporation, there shall be twenty-five directors, who shall be elected at the banking house in Philadelphia, on the first Monday of January, in each year, by the stockholders or proprietors of the capital stock of the said corporation, and by a plurality of votes then and there actually given, according to the scale of voting hereinafter prescribed. And the directors, so duly chosen, shall be capable of serving by virtue of such choice, until the end or expiration of the first Monday in January next ensuing the time of such election, and no longer: *Provided, always*, That the first election and appointment of directors shall be at the same time, and for the period, hereinafter declared.

SEC. 7. *And be it further enacted*, That, as soon as the sum of twelve millions of dollars in gold and silver coin, and in the public debt and treasury notes, shall have been actually received on account of the subscriptions to the said capital stock, (exclusively of the subscription aforesaid on the part of the United States) notice thereof shall be given by the persons under whose superintendence the subscriptions shall have been made at Philadelphia, in at least two public newspapers, printed in each of the places where subscriptions shall have been made; and the said persons shall, at the same time, and

in like manner, notify a time and place within the said city of Philadelphia, at the distance of at least twenty days from the time of such notification, for proceeding to the election of directors, as aforesaid; and it shall be lawful for such election to be then and there made. And the persons who shall be then and there chosen as aforesaid, shall be the first directors, and shall proceed to elect one of their number president of the said corporation, and they shall be capable of serving by virtue of such choice, until the end and expiration of the first Monday of January next ensuing the time of making the same, and shall forthwith, thereafter, commence the operations of the said bank, at the said city of Philadelphia: *Provided, always,* That in case it should at any time happen that an election of directors and president of the said corporation should not be made upon any day when, in pursuance of this act, they ought to be made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day to hold and make an election of directors and president of the said corporation, (as the case may be) in such manner as shall have been regulated by the by-laws and ordinances of the said corporation; and until such election be so made, the directors and president, for the time being, shall continue in office: *And provided, also,* That, in case of the death, resignation, or removal, of the president of the said corporation, the directors shall proceed to elect another president: *And provided, also,* That, in case of the death, resignation, or absence from the United States, or removal of a director from office, the vacancy shall be supplied by the stockholders.

SEC. 8. *And be it further enacted,* That the directors, for the time being, shall have power to appoint such officers, clerks, and servants, under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services, respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities for the well governing and ordering of the affairs of the said corporation, as shall be prescribed, fixed, and determined, by the laws, regulations, and ordinances, of the same.

SEC. 9. *And be it further enacted,* That the following rules, restrictions, limitations, and provisions, shall form and be fundamental articles of the constitution of the said corporation, to wit:

1. The number of votes to which the stockholders shall be entitled, in voting for directors, shall be according to the number of shares he, she, or they, respectively, shall hold, in the proportions following, that is to say: for one share and not more than two shares, one vote; for every two shares above two and not exceeding ten, one vote; for every four shares above ten and not exceeding thirty, one vote; for every six shares above thirty and not exceeding sixty, one vote; for every eight shares above sixty and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote. But no person, copartnership, or body politic, shall be entitled to a greater number than thirty votes; and after the first election, no share or shares shall confer a right of voting, which shall not have been holden three calendar months previous to the day of election. And stockholders, actually resident within the United States, and none other, may vote in elections by proxy.

2. Not more than three-fourths of the directors in office, at the time of an annual election, shall be elected for the next succeeding year, and no person shall be a director more than three out of four years; but the director who shall be the president at the time of an election, may always be re-elected.

3. None but a resident citizen of the United States, and holding at the time of his election not less than ten shares, bona fide in his own right, shall be a director; and if any director shall cease to be a stockholder to that amount, he shall cease to be a director.

4. No director shall be entitled to any emolument. The stockholders may make such compensation to the president, for his extraordinary attendance at the bank, as shall appear to them reasonable.

5. Not less than seven directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of

sickness or necessary absence, in which case his place may be supplied by any other director whom he, by writing, under his hand, shall depute for the purpose. And the director, so deputed, may do and transact all the necessary business belonging to the office of the president of the said corporation, during the continuance of the sickness or necessary absence of the president.

6. A number of stockholders, not less than sixty, who, together, shall be proprietors of one thousand shares or upwards, shall have power, at any time, to call a general meeting of the stockholders, for purposes relative to the institution, giving, at least, ten weeks' notice in two public newspapers of the place where the bank is seated, and specifying in such notice the object or objects of such meeting.

7. Every cashier or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with a condition for his good behavior and faithful performance of his duties to the corporation.

8. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of business, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales, upon judgments which shall have been obtained for such debts.

9. The total amount of debts which the said corporation shall, at any time, owe, whether by bond, bill, note, or other contract, over and above the debt or debts due for money deposited in the bank, shall not exceed the sum of thirty millions of dollars, unless the contracting of any greater debt shall have been previously authorized by a law of the United States. In case of excess, the directors under whose administration it shall happen, shall be liable for the same, in their natural and private capacities, and an action of debt may, in such case, be brought against them, or any of them, their or any of their heirs, executors, or administrators, in any court of record of the United States, or either of them, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement, to the contrary, notwithstanding. But this provision shall not be construed to exempt the said corporation, or the lands, tenements, goods, or chattels, of the same, from being also liable for, and chargeable with, the said excess. Such of the said directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the President of the United States, and to the stockholders, at a general meeting, which they shall have power to call for that purpose.

10. The said corporation shall not, directly or indirectly, deal or trade in any thing except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent, and not redeemed in due time, or goods which shall be the proceeds of its lands. It shall not be at liberty to purchase any public debt whatsoever; nor shall it take more than at the rate of six per cent. per annum for or upon its loans or discounts.

11. The said corporation shall not, in any one year, sell any portion of the public debt constituting a part of its capital stock aforesaid, to an amount exceeding five millions of dollars, without the consent of Congress.

12. No loan shall be made by the said corporation, for the use, or on account, of the Government of the United States, to an amount exceeding five hundred thousand dollars; or of any particular State, to an amount exceeding fifty thousand dollars; or to any foreign prince or State, unless previously authorized by a law of the United States.

13. The stock of the said corporation shall be assignable and transferable according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same.

14. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and his, her, or their executors, or administrators, and of his, her, or their assignee or assignees, and the executors or administrators of such assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees, successively, and to enable such assignee or assignees, and his, her, or their executors or administrators, to maintain an action thereupon, in his, her, or their own name or names. And the bills or notes which may be issued by order of the said corporation, signed by the president and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her, or their order, or to bearer, although not under the seal of the said corporation, shall be binding and obligatory upon the same, in the like manner, and with the like force and effect, as upon any private person or persons, if issued by him, her, or them, in his, her, or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner, as if they were so issued by such private person or persons, that is to say: those which shall be payable to any person or persons, his, her, or their order, shall be assignable, by endorsement, in like manner, and with the like effect, as foreign bills of exchange now are; and those which are payable to bearer, shall be assignable and negotiable by delivery only.

15. Half yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors advisable; and once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of profits, if any, after deducting losses and dividends. If there shall be a failure of any part of any sum subscribed by any person, copartnership, or body politic, the party failing shall lose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

16. The directors of said corporation shall be bound to establish a competent office of discount and deposite in the District of Columbia, whenever any law of the United States shall require such establishment; and it shall be lawful for the said directors to establish offices wheresoever they shall think fit, within the United States or the territories thereof, for the purposes of discount, deposite, and distribution; or for the purposes of deposite and distribution only; and upon the same terms, and in the same manner, as shall be practised at the bank; and to commit the management of the said offices, and the business thereof, respectively, to such persons, and under such regulations, as they shall deem proper, not being contrary to law or to the constitution of the bank. Or, instead of establishing such offices, it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank or banks, at any place or places that they may deem safe and proper, to manage and transact the business proposed, as aforesaid, to be managed and transacted by such offices, under such agreements, and subject to such regulations, as they shall deem just and proper. But the managers or directors of every office of discount, deposite, and distribution, established as aforesaid, shall be annually appointed by the directors of the bank, to serve one year; each of them shall be a citizen of the United States, and shall hold, at the time of his appointment, not less than five shares in the said bank, bona fide in his own right; and, if he shall cease to be a stockholder to that amount, he shall cease to be a manager or director of such office of discount, deposite, and distribution; and not more than three-fourths of the said managers or directors in office, at the time of an annual appointment, shall be reappointed for the next succeeding year; nor shall any person be a manager or director for more than three out of four years; but the president may be always reappointed.

17. The said corporation, all offices of discount, deposite, and distribution, and of deposite and distribution only, which shall be established by the said

directors as aforesaid, and all banks by the said directors employed in lieu of such offices as aforesaid, shall be bound to receive, upon deposit, the treasury notes of the United States, which have been, or may be hereafter, issued, by virtue of any law or laws of the United States; but it shall be optional with the said corporation to pay and discharge the checks or drafts of the persons making such deposit, in treasury notes, for the amount thereof, either in gold or silver coin, or in the notes of the bank, or in treasury notes. And all banks employed as aforesaid, in lieu of the offices aforesaid, shall be further bound to receive on deposit, and to circulate, the notes of the said corporation, on the same terms and in the same manner, as the notes of the said banks, respectively, are received and circulated; and, from time to time, issue and exchange, for the said notes of the said corporation, other notes of the said corporation, or the notes of the said banks, respectively, or treasury notes, at the option of the persons applying for such issue or exchange. The said corporation shall, at all times, distribute among the offices of discount, deposit, and distribution, and of deposit and distribution only, and at all the banks employed in lieu of such offices, as aforesaid, a sufficient sum, in the various denominations of the notes of the said corporation, and in the treasury notes which it may receive upon deposit from the Government, to answer the demand therefor, and to establish a sufficient circulating medium throughout the United States and the territories thereof.

18. The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of capital stock of the said corporation, and of the debts due to the same; of the moneys deposited therein, of the notes in circulation and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank, as shall relate to the said statement: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

SEC. 10. *And be it further enacted*, That, if the said corporation, or any person or persons, for or to the use of the same, shall deal or trade in buying or selling any goods, wares, merchandise, or commodities, whatsoever, contrary to the provisions of this act, all and every person and persons by whom any order or direction for so dealing or trading shall have been given, and all and every person and persons who shall have been concerned as parties or agents therein, shall forfeit and lose treble the value of the goods, wares, merchandises, and commodities, in which such dealings and trade shall have been; one half thereof to the use of the informer, and the other half thereof to the use of the United States, to be recovered in any action at law, with costs of suit.

SEC. 11. *And be it further enacted*, That, if the said corporation shall advance or lend any sum of money, for the use, or on account, of the Government of the United States, to an amount exceeding three hundred thousand dollars; or of any particular State, to an amount exceeding fifty thousand dollars; or of any foreign prince or State, (unless previously authorized thereto, by a law of the United States) all and every person and persons, by and with whose order, agreement, consent, approbation, and connivance, such unlawful advance or loan shall have been made, upon conviction thereof, shall forfeit and pay, for every such offence, treble the value or amount of the sum or sums which shall have been so unlawfully advanced or lent; one-fifth thereof to the use of the informer, and the residue thereof to the use of the United States.

SEC. 12. *And be it further enacted*, That the bills or notes of the said corporation, originally made payable, or which shall have become payable, on demand, shall be receivable in all payments to the United States, until otherwise directed by act of Congress.

SEC. 13. *And be it further enacted*, That, if the subscriptions and payments to the said bank shall not be made and completed, so as to enable the same to commence its operations, or if the said bank shall not commence its operations on or before the first day of March, one thousand eight hundred and sixteen, then, and in that case, this act shall be null and void.

Sec. 14. *And be it further enacted,* That it shall, at all times, be lawful for a committee of either House of Congress, appointed for that purpose, to inspect the books, and to examine into the proceedings of the corporation hereby created, and to report whether the provisions of this charter have been by the same violated or not: and, whenever any committee, as aforesaid, shall find and report, or the President of the United States shall have reason to believe, that the charter has been violated, it may be lawful for Congress to direct, or the President to order, a scire facias to be sued out of the circuit court of the district court of Pennsylvania, in the name of the United States, (which shall be executed upon the president of the corporation, for the time being, at least fifteen days before the commencement of the term of said court) calling on the said corporation to show cause wherefore the charter, hereby granted, shall not be declared forfeited: and it shall be lawful for the said court, upon the return of the said scire facias, to examine into the truth of the alleged violation, and, if such violation be made appear, then to pronounce and adjudge, that the said charter is forfeited and annulled: *Provided, however,* Every issue of fact which may be joined between the United States and the corporation shall be tried by jury. And it shall be lawful for the court aforesaid to require the production of such of the books of the corporation as it may deem necessary for the ascertainment of the controverted facts; and the final judgment of the court aforesaid shall be examinable in the supreme court of the United States, by writ of error, and may be there reversed or affirmed, according to the usages of law.

Sec. 15. *And be it further enacted,* That, during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall do and perform the several and respective duties of the commissioners of loans for the several States, or of any one or more of them, at the times, in the manner, and upon the terms, to be prescribed by the Secretary of the Treasury.

Sec. 16. *And be it further enacted,* That no other bank shall be established by any future law of the United States, during the continuance of the corporation hereby created; for which the faith of the United States is hereby pledged: *Provided,* Congress may renew existing charters for banks in the District of Columbia, not increasing the capital thereof; and may grant charters, if they deem it expedient, to any banking associations now in operation, in the said district, and renew the same, not increasing the capital thereof. And, notwithstanding the expiration of the term for which the said corporation is created, it shall be lawful to use the corporate name, style, and capacity, for the purpose of suits, for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, real, personal, and mixed, but not for any other purpose, or in any other manner whatsoever: nor for a period exceeding two years after the expiration of the said term of incorporation.

LANGDON CHEVES,

*Speaker of the House of Representatives.*

JOHN GAILLARD,

*President of the Senate, pro tempore.*



## IN SENATE.

JANUARY 30, 1815.

## THE PRESIDENT'S VETO OF THE BILL.

Mr. COLES, the President's secretary, returned the bill "to incorporate the subscribers to the Bank of the United States of America," with the following message:

*To the Senate of the United States:*

Having bestowed on the bill, entitled "An act to incorporate the subscribers to the Bank of the United States of America," that full consideration which is due to the great importance of the subject, and dictated by the respect which I feel for the two Houses of Congress, I am constrained, by a deep and solemn conviction that the bill ought not to become a law, to return it to the Senate, in which it originated, with my objections to the same.

Waiving the question of the constitutional authority of the Legislature to establish an incorporated bank, as being precluded, in my judgment, by repeated recognitions, under varied circumstances, of the validity of such an institution, in acts of the legislative, executive, and judicial branches of the Government, accompanied by indications, in different modes, of a concurrence of the general will of the nation; the proposed bank does not appear to be calculated to answer the purposes of reviving the public credit, of providing a national medium of circulation, and of aiding the treasury by facilitating the indispensable anticipations of the revenue, and by affording to the public more durable loans.

1. The capital of the bank is to be compounded of specie, of public stock, and of treasury notes convertible into stock, with a certain proportion of each of which every subscriber is to furnish himself.

The amount of the stock to be subscribed will not, it is believed, be sufficient to produce, in favor of the public credit, any considerable or lasting elevation of the market price, whilst this may be occasionally depressed by the bank itself, if it should carry into the market the allowed proportion of its capital consisting of public stock, in order to procure specie, which it may find its account in procuring, with some sacrifice on that part of its capital.

Nor will any adequate advantage arise to the public credit from the subscription of treasury notes. The actual issue of these notes nearly equals, at present, and will soon exceed, the amount to be subscribed to the bank. The direct effect of this operation is simply to convert fifteen millions of treasury notes into fifteen millions of six per cent. stock, with the collateral effect of promoting an additional demand for treasury notes, beyond what might otherwise be negotiable.

Public credit might indeed be expected to derive advantage from the establishment of a national bank, without regard to the formation of its capital, if the full aid and co-operation of the institution were secured to the Government during the war, and during the period of its fiscal embarrassments. But the bank proposed will be free from all legal obligation to co-operate with the public measures; and whatever might be the patriotic disposition of its directors to contribute to the removal of those embarrassments, and to invigorate the prosecution of the war, fidelity to the pecuniary and general interest of the institution, according to their estimate of it, might oblige them to decline a connexion of their operations with those of the national treasury, during the continuance of the war and the difficulties incident to it. Temporary sacrifices of interest, though over balanced by the future and permanent profits of the charter, not being requireable of right in behalf of the public, might not be gratuitously made; and the bank would reap the full benefit of the grant, whilst the public would lose the equivalent expected from it. For it must be kept in view, that

the sole inducement to such a grant, on the part of the public, would be the prospect of substantial aids to its pecuniary means at the present crisis, and during the sequel of the war. It is evident that the stock of the bank will, on the return of peace, if not sooner, rise in the market to a value which, if the bank were established in a period of peace, would authorize and obtain for the public a bonus to a very large amount. In lieu of such a bonus the Government is fairly entitled to, and ought not to relinquish or risk, the needful services of the bank, under the pressing circumstances of war.

2d. The bank, as proposed to be constituted, cannot be relied on, during the war, to provide a circulating medium, nor to furnish loans, or anticipations of the public revenue.

Without a medium, the taxes cannot be collected; and in the absence of specie, the medium understood to be the best substitute, is that of notes issued by a national bank. The proposed bank will commence and conduct its operations, under an obligation to pay its notes in specie, or be subject to the loss of its charter. Without such an obligation, the notes of the bank, though not exchangeable for specie, yet resting on good pledges, and performing the uses of specie, in the payment of taxes, and in other public transactions, would, as experience has ascertained, qualify the bank to supply at once a circulating medium, and pecuniary aids to the Government. Under the fetters imposed by the bill, it is manifest that, during the actual state of things, and probably during the war, the period particularly requiring such a medium and such a resource for loans and advances to the Government, notes for which the bank would be compellable to give specie in exchange could not be kept in circulation. The most the bank could effect, and the most it could be expected to aim at, would be to keep the institution alive by limited and local transactions, which, with the interest on the public stock in the bank, might yield a dividend sufficient for the purpose, until a change from war to peace should enable it, by a flow of specie into its vaults, and a removal of the external demand for it, to derive its contemplated emoluments from a safe and full extension of its operations.

On the whole, when it is considered that the proposed establishment will enjoy a monopoly of the profits of a national bank, for a period of twenty years; that monopolized profits will be continually growing with the progress of the national population and wealth; that the nation will, during the same period, be dependent on the notes of the bank for that species of circulating medium, whenever the precious metals may be wanted, and at all times for so much thereof as may be an eligible substitute for a specific medium; and that the extensive employment of the notes in the collection of the augmented taxes, will, moreover, enable the bank greatly to extend its profitable issues of them, without the expense of specie capital to support their circulation; it is as reasonable as it is requisite, that the Government, in return for these extraordinary concessions to the bank, should have a greater security for attaining the public objects of the institution, than is presented in the bill, and particularly for every practicable accommodation, both in the temporary advances necessary to anticipate the taxes, and in those more durable loans which are equally necessary to diminish the resort to taxes.

In discharging this painful duty of stating objections to a measure which has undergone the deliberations and received the sanction of the two Houses of the National Legislature, I console myself with the reflection, that, if they have not the weight which I attach to them, they can be constitutionally overruled; and with a confidence that, in a contrary event, the wisdom of Congress will hasten to substitute a more commensurate and certain provision for the public exigencies.

JAMES MADISON.

WASHINGTON, *January 30th, 1815.*

JANUARY 31, 1815.

On proceeding to reconsider the bill, returned by the President, the said bill, and the objections of the President thereto, were read; when, after some debate, the further consideration thereof was, on motion of Mr. BARBOUR, postponed to Thursday next, by the following vote:

For the postponement,	-	-	-	-	16.
Against it,	-	-	-	-	13.

FEBRUARY 2, 1815.

The Senate resumed the consideration of the bill returned by the President of the United States, "to incorporate the subscribers to the Bank of the United States," together with his objections thereto; and, after some debate, the question was again put, "Shall the bill pass?" and decided as follows:

YEAS—Messrs. Brown, Daggett, Dana, Fromentin, German, Giles, Goldsborough, Gore, Horsey, Hunter, King, Lambert, Mason, Tait, Thompson—15.

NAYS—Messrs. Anderson, Barbour, Bibb, Barry, Chase, Condit, Gaillard, Kerr, Lacock, Morrow, Roberts, Robinson, Smith, Talbot, Taylor, Turner, Varnum, Wells, Wharton—19.

So the Senate refused to pass the bill, (to do which, after the refusal of the President to sanction it, would have required the votes of two-thirds of all the members present) and the bill was therefore lost.

FEBRUARY 6, 1815.

Agreeably to notice on the 4th instant, Mr. BARBOUR, leave being given, introduced the following bill; which was read a second time:

A Bill to incorporate the subscribers to the Bank of the United States of America.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a Bank of the United States of America shall be established, the capital stock of which shall be fifty millions of dollars, and no more, divided into one hundred and twenty-five thousand shares, of four hundred dollars each share; and that subscriptions for forty millions of dollars, towards constituting the said capital stock, shall be opened on the first Monday of April next, at the following places, viz: at Portland, in Maine, Portsmouth, in New Hampshire, Windsor, in Vermont, Boston, Providence, New Haven, New York, New Brunswick, in New Jersey, Philadelphia, Baltimore, the city of Washington, Richmond, Raleigh, Charleston, Savannah, Lexington, in Kentucky, Nashville, in Tennessee, Chillicothe, in Ohio, and New Orleans, under the superintendence of the following persons, as commissioners to receive the same: at Portland, Matthew Cobb, Isaac Ilsley, Joshua Wingate, junior; at Portsmouth, John Goddard, Nathaniel A. Haven, Henry S. Langdon; at Windsor, Elias Lyman, William Leveret, Eleazar May; at Boston, Israel Thorndike. Thomas H. Perkins, William Gray, Aaron Hill, Samuel Brown; at Providence, Seth Wheaton, Ebenezer K. Dexter, Henry Smith; at New Haven, Abraham Bishop, William W. Woolsey, Henry Jones; at New York, Robert Troup, William Paulding, Junior, Robert Lenox, John Jacob Astor, Samuel Tooker, Isaac Bronson, Henry A. Coster; at New Brunswick, James Vanderpool, John Bray, Peter Gordon; at Philadelphia, Jared Ingersoll, Thomas M. Willing, Stephen Girard, Chandler Price, Anthony Taylor, John Sergeant, Cadwallader Evans; at Baltimore, James A. Buchanan, Henry Payson, William Wilson; at the city of Washington, John Mason, Robert Brent, John P. Van Ness; at Richmond, Benjamin Hatcher, John Brockenborough, John Preston; at Raleigh, Sherwood Haywood, Beverly Daniel, William Peace; at Charleston, John C. Faber, Thomas Jones, Stephen Elliot, Charles B. Cochran, Thomas Blackwood; at

Savannah, John Bolton, Charles Harris, James Johnson; at Lexington, in Kentucky, Charles Wilkins, Lewis Sanders, John H. Morton; at Nashville, Robert Weakly, Felix Grundy, John R. Bedford; at Chillicothe, Samuel Finley, Thos. James, Wm. M'Farland; at New Orleans, Dominick A. Hall, Benj. Morgan, Paul Lanuse, Thos. L. Harman, and Wm. Flood: which subscriptions shall continue open every day, from the time of opening the same, from ten o'clock, in the forenoon, until four o'clock, in the afternoon, until the Saturday following, at four o'clock in the afternoon, when the same shall be closed; and immediately thereafter, the commissioners, or any two of them, at the respective places aforesaid, shall cause two transcripts or fair copies of such subscriptions to be made, one of which they shall send to the Secretary of the Treasury, one they shall retain, and the original shall, within three days from the closing of the same, be, by the said commissioners, transmitted to the said commissioners at Philadelphia, or to one of them; and on the receipt thereof, the said commissioners at Philadelphia, or any three of them, shall immediately thereafter convene, and proceed to take an account of the said subscriptions; and if more than the amount of forty millions of dollars shall have been subscribed, then the said last mentioned commissioners shall apportion the same among the several subscribers, according to their several and respective subscriptions: *Provided, however,* That such commissioners shall, by such apportionment, allow and apportion to each subscriber, at least one share; and in case the aggregate amount of the said subscriptions shall exceed forty millions of dollars, the said commissioners, after having apportioned the same as aforesaid, shall cause lists of the said apportioned subscriptions to be made out, including in each list the apportioned subscription for the place where the original subscription was made, one of which lists shall be transmitted to the commissioners, or to one of the commissioners, under whose superintendence such subscriptions were originally made, that the subscribers may ascertain from them the number of shares apportioned to such subscribers, respectively; and if the amount of forty millions of dollars shall not be subscribed during the period aforesaid, at all the places aforesaid, the subscription to complete the said sum shall afterwards be and remain open at Philadelphia, under the superintendence of the said commissioners appointed at that place, and the subscription may be then made by any corporation, copartnership, or person, for any number of shares not exceeding the amount required to complete the said sum of forty millions of dollars. And in case of the death, or refusal to serve, of any of the commissioners, aforesaid, it shall be lawful for the President of the United States to supply the vacancy or vacancies thus created, by appointing some suitable person or persons.

*Sec. 2. And be it further enacted,* That it shall be lawful for any person, copartnership, or body politic, to subscribe for so many shares of the said capital stock of the said bank, as he, she, or they, shall think fit, not exceeding one thousand shares, except as is hereinafter provided for the subscription on behalf of the United States; and the sums respectively subscribed, except on behalf of the United States, as is hereinafter provided, shall be payable in the manner following, that is to say: five millions of dollars thereof, in gold or silver coin of the United States, or of foreign coin, at the value heretofore established by the act of Congress, entitled "An act regulating the currency of foreign coins," passed the tenth of April, one thousand eight hundred and six; fifteen millions of dollars, thereof, in gold or silver coin aforesaid, or in any of the six per cent, stock of the United States, heretofore created, or hereafter to be created, by virtue of any act of Congress, heretofore passed, authorizing a loan or loans; and twenty millions of dollars thereof in gold or silver coin, or in treasury notes, issued under the act of Congress, entitled "An act to authorize the issuing of treasury notes," passed the thirtieth day of June, one thousand eight hundred and twelve, or issued, or to be issued, under the authority of any subsequent act or acts of Congress, authorizing or which shall authorize, treasury notes to be issued, previously to the final closing of the subscriptions to the said bank. And the said payment shall be made and completed, in the sums, and at the times, hereinafter declared, that is so say: at the time of subscribing, there shall be paid ten dollars on each

share, in gold or silver coin, forty dollars in the treasury notes aforesaid, and thirty dollars in the public debt of the United States, contracted or to be contracted as aforesaid. And payments to the same amount, and in the same proportions of specie, treasury notes, and public stock, as aforesaid, shall be made on each share at the expiration of three, six, nine, and twelve calendar months, from the time of subscribing. And the subscriptions in public stock and treasury notes, as aforesaid, shall be taken and credited for the principal and so much of the interest thereof, respectively, as shall have accrued on the day of subscribing the same. And at the time of subscribing to the capital stock of the said bank, as aforesaid, each and every subscriber shall deliver to the commissioners, at the place of subscribing, as well the specie amount of their subscriptions, respectively, as the certificates of stock for the stock proportion of their subscriptions, respectively, together with a power of attorney authorizing the said commissioners, or a majority of them, to transfer the said stock, in due form of law, to "the president, directors, and company, of the said Bank of the United States of America," as soon as the said bank shall be organized, and, also, treasury notes for the proportion of the subscriptions, respectively, payable in treasury notes as aforesaid: *Provided always*, That if, in consequence of the apportionment of shares in the said bank among the subscribers, in the case and in the manner hereinbefore prescribed, any subscriber shall have delivered to the commissioners, at the time of subscribing, a greater amount of specie, stock, and treasury notes, than shall be necessary to complete the payments for the share or shares to such subscriber, apportioned as aforesaid, the commissioners shall only retain so much of the said money, stock, and treasury notes, as shall be necessary to complete such payments, and shall forthwith return, on application for the same, the surplus thereof to the subscriber lawfully entitled thereto. And the commissioners, respectively, shall deposit the gold and silver, certificates of stock, and treasury notes, by them respectively received as aforesaid from the subscribers to the said bank, in some place of secure and safe keeping, so that the same may and shall be specifically delivered and transferred, as the same were by them respectively received, to the said president, directors, and company, of the said Bank of the United States of America, or to their order, as soon as shall be required after the organization of the said bank.

Sec. 3. *And be it further enacted*, That, at the opening of the subscriptions to the capital stock of the Bank of the United States of America, the Secretary of the Treasury shall subscribe, or cause to be subscribed, on behalf of the United States, to the said capital stock of the said bank, the amount of ten millions of dollars, to be paid in public stock, bearing an interest of four per cent. per annum, from the time of subscribing the same, and redeemable in any sums, and at any periods, which the Government may deem fit; and the certificates of such public stock, the Secretary of the Treasury shall cause to be prepared and made in the usual form, and shall pay and deliver to the president and directors of the said bank, at the expiration of three calendar months, after the time of opening the said subscription to the capital stock of the said bank as aforesaid.

Sec. 4. *And be it further enacted*, That whenever, and as often, as any of the treasury notes, subscribed as aforesaid, to the said capital stock of the said bank, shall be paid on such subscription, it shall be lawful for the Secretary of the Treasury (and he is hereby authorized and required) to pay and redeem the same, principal and interest, by causing certificates of public stock for an equal amount, bearing an interest of six per cent. per annum, and redeemable in any sums, and at any periods, which the Government may deem fit, to be prepared and made in the usual form, and the same to be delivered to the president and directors of the said bank, in satisfaction and discharge of such treasury notes.

Sec. 5. *And be it further enacted*, That the subscribers to the said Bank of the United States of America, their successors and assigns, shall be, and are hereby, created a corporation and body politic, by the name and style of "the President, Directors, and Company, of the Bank of the United States of



America," and shall so continue until the third day of March, in the year one thousand eight hundred and thirty-five; and by that name shall be, and are hereby, made able and capable in law, to have, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of whatsoever kind, nature, and quality, to an amount not exceeding in the whole fifty-five millions of dollars, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, alien, or dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts and places whatsoever; and also to make, have, and use, a common seal, and the same to break, alter, and renew, at their pleasure; and also, to ordain, establish, and put in execution, such by-laws, and ordinances, and regulations, as they shall deem necessary and convenient for the government of the said corporation, not being contrary to the constitution and laws of the United States; and generally to do and execute all and singular the acts, matters, and things, which to them it shall or may appertain to do; subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed and declared.

SEC. 6. *And be it further enacted*, That, for the management of the affairs of the said corporation, there shall be twenty-five directors, who shall be elected at the banking house in Philadelphia, on the first Monday of February, in each year, by the stockholders or proprietors of the capital stock of the said corporation, and by a plurality of votes then and there actually given, according to the scale of voting hereinafter prescribed. And the directors, so duly chosen, shall be capable of serving, by virtue of such choice, until the end or expiration of the first Monday in February next ensuing the time of such election, and no longer: *Provided, however*, That there shall be no election for directors, other than to fill vacancies, until the first Monday in February, in the year one thousand eight hundred and sixteen; and that, in the mean time, William Gray and Thomas H. Perkins, of Massachusetts; James D'Wolf, of Rhode Island; Archibald Gracie, Robert Lenox, John G. Coster, Isaac Pierson, Augustus Wright, Samuel Tooker, \_\_\_\_\_, of New York; Jared Ingersoll, Stephen Girard, Thomas M. Willing, William Jones, Nicholas Biddle, Thomas Leiper, James C. Fisher, Chandler Price, Cadwallader Evans, Jacob G. Koch, of Pennsylvania; Robert Gilmor, James A. Buchanan, Isaac M'Kim, Dennis A. Smith, of Maryland; John P. Van Ness and Thomas Swann, of the District of Columbia, be, and they are hereby declared to be, directors of the said corporation.

SEC. 7. *And be it further enacted*, That, as soon as the sum of twenty millions of dollars, in gold and silver coin, and in the public debt and treasury notes, shall have been subscribed, and the first payment actually received on account of the subscriptions to the said capital stock, (exclusively of the subscription aforesaid, on the part of the United States) notice thereof shall be given by the persons under whose superintendence the subscriptions shall have been made at Philadelphia, to each of the directors aforesaid; and the persons herein before named to be the first directors, shall proceed to elect one of their number president of the said corporation, and they shall be capable of serving until the end and expiration of the first Monday of February, in the year one thousand eight hundred and sixteen; and shall forthwith commence the operations of the said bank, at the said city of Philadelphia: *Provided always*, That, in case it should, at any time, happen that an election of directors and president of the said corporation should not be made upon any day when, in pursuance of this act, they ought to be made, the said corporation shall not, for that cause, be deemed to be dissolved; but it shall be lawful on any other day to hold and make an election of directors and president of the said corporation, (as the case may be) in such manner as shall have been regulated by the by-laws and ordinances of the said corporation; and until such election be so made, the directors and president, for the time being, shall continue in office: *And provided, also*, That, in case of the death, resignation, or removal of the president of the said corporation, the directors shall proceed to elect another president: *And provided, also*, That, in case of the death, resignation,



or absence from the United States, or removal of a director from office, the vacancy shall be supplied by the stockholders.

SEC. 8. *And be it further enacted*, That the directors, for the time being, shall have power to appoint such officers, clerks, and servants, under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services, respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities for the well governing and ordering of the affairs of the said corporation, as shall be prescribed, fixed, and determined, by the laws, regulations, and ordinances, of the same.

SEC. 9. *And be it further enacted*, That the following rules, restrictions, limitations, and provisions, shall form and be fundamental articles of the constitution of the said corporation, to wit:

1. The number of votes to which the stockholders shall be entitled, in voting for directors, shall be according to the number of shares he, she, or they, respectively, shall hold, in the proportions following, that is to say: for one share and not more than two shares, one vote; for every two shares above two and not exceeding ten, one vote; for every four shares above ten and not exceeding thirty, one vote; for every six shares above thirty and not exceeding sixty, one vote; for every eight shares above sixty and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote. But no person, copartnership, or body politic, shall be entitled to a greater number than thirty votes; and no share or shares shall confer a right of voting, which shall not have been holden three calendar months previous to the day of election. And stockholders actually resident within the United States or the territories thereof, and none other, may vote in elections by proxy.

2. Not more than three-fourths of the directors in office at the time of an annual election, shall be elected for the next succeeding year, and no person shall be a director more than two out of three years; but the director who shall be the president at the time of an election, may always be re-elected.

3. None but a resident citizen of the United States, and holding, at the time of his election, not less than ten shares *bona fide* in his own right, shall be a director; and if any director shall cease to be a stockholder to that amount, he shall cease to be a director.

4. No director shall be entitled to any emolument. The stockholders may make such compensation to the president, for his extraordinary attendance at the bank, as shall appear to them reasonable.

5. Not less than seven directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case, his place may be supplied by any other director whom he, by writing under his hand, shall depute for the purpose. And the director so deputed, may do and transact all the necessary business belonging to the office of the president of the said corporation, during the continuance of the sickness or necessary absence of the president.

6. A number of stockholders, not less than sixty, who, together, shall be proprietors of one thousand shares or upwards, shall have power, at any time, to call a general meeting of the stockholders, for purposes relative to the institution, giving at least ten weeks' notice in two public newspapers of the place where the bank is seated, and specifying, in such notice, the object or objects of such meeting.

7. Every cashier or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with a condition for his good behavior and the faithful performance of his duties to the corporation.

8. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of

its dealings, or purchased at sales, upon judgments which shall have been obtained for such debts.

9. The total amount of debts which the said corporation shall, at any time, owe, whether by bond, bill, note, or other contract, over and above the debt or debts due for money deposited in the bank, shall not exceed the sum of fifty millions of dollars, unless the contracting of any greater debt shall have been previously authorized by a law of the United States. In case of excess, the directors under whose administration it shall happen, shall be liable for the same, in their natural and private capacities, and an action of debt may, in such case, be brought against them, or any of them, their, or any of their heirs, executors, or administrators, in any court of record of the United States, or either of them, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement, to the contrary notwithstanding. But this provision shall not be construed to exempt the said corporation, or the lands, tenements, goods, or chattels of the same, from being also liable for, and chargeable with, the said excess. Such of the said directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may, respectively, exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the President of the United States, and to the stockholders, at a general meeting which they shall have power to call for that purpose.

10. The said corporation shall not, directly nor indirectly, deal or trade in any thing, except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or goods which shall be the proceeds of its lands. It shall not be at liberty to purchase any public debt whatsoever, nor shall it take more than at the rate of six per cent. per annum, for or upon its loans or discounts.

11. The said corporation shall not, during the continuance of the present war between the United States and Great Britain, sell any portion of the public debt constituting a part of its capital stock aforesaid, nor at any time thereafter to an amount exceeding one moiety of the public debt so constituting a part of its capital stock, without the consent of Congress.

12. No loan shall be made by the said corporation, for the use or on account of the Government of the United States, to an amount exceeding five hundred thousand dollars, or of any particular State, to an amount exceeding fifty thousand dollars, or of any foreign prince or State, unless previously authorized by a law of the United States. But the said corporation shall be bound to lend to the Government of the United States, reimbursable at their pleasure, thirty millions of dollars, at an interest not exceeding six per centum per annum, in such sums, and at such periods, as may be made convenient to the Government of the United States, whenever any law or laws of the United States shall authorize and require such loan or loans.

13. The stock of the said corporation shall be assignable and transferable according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same.

14. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person, or persons, shall be assignable by endorsement thereupon, under the hand, or hands, of such person, or persons, and his, her, or their executors, or administrators, and of his, her, or their assignee, or assignees, and the executors, or administrators, of such assignee, or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee, or assignees, successively, and to enable such assignee, or assignees, and his, her, or their executors, or administrators, to maintain an action thereupon in his, her, or their own name, or names. And the bills, or notes, which may be issued by order of the said corporation, signed by the president, and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person, or persons, his, her, or their order, or to bearer, although not under the seal

of the said corporation, shall be binding and obligatory upon the same, in the like manner, and with the like force and effect, as upon any private person, or persons, if issued by him, her, or them, in his, her, or their private or natural capacity, or capacities, and shall be assignable and negotiable in like manner, as if they were so issued by such private person, or persons; that is to say: those which shall be payable to any person, or persons, his, her, or their order, shall be assignable by endorsement, in like manner, and with the like effect, as foreign bills of exchange now are; and those which are payable to bearer, shall be assignable and negotiable by delivery only.

15. Half yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors advisable, and once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of profits, if any, after deducting losses and dividends. If there shall be a failure in the payment of any part of any sum subscribed by any person, copartnership, or body politic, the party failing shall lose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

16. The directors of the said corporation shall be bound to establish a competent office of discount and deposite in the District of Columbia, whenever any law of the United States shall require such establishment; and it shall be lawful for the directors of the said corporation to establish offices wherever they shall think fit, within the United States or the territories thereof, for the purposes of discount, deposite, and distribution; or, for the purposes of deposite and distribution only; and upon the same terms, and in the same manner, as shall be practised at the bank; and to commit the management of the said offices, and the business thereof, respectively, to such persons, and under such regulations, as they shall deem proper, not being contrary to law or to the constitution of the bank. Or, instead of establishing such offices, it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank, or banks, at any place, or places, that they may deem safe and proper, to manage and transact the business proposed, as aforesaid, to be managed and transacted by such offices, under such agreements, and subject to such regulations, as they shall deem just and proper. But the managers, or directors, of every office of discount, deposite, and distribution, established, as aforesaid, shall be annually appointed by the directors of the bank to serve one year; each of them shall be a citizen of the United States, and shall hold, at the time of his appointment, not less than five shares in the said bank, bona fide in his own right; and if he shall cease to be a stockholder to that amount, he shall cease to be a manager or director of such office of discount, deposite, and distribution; and not more than three fourths of the said managers, or directors, in office, at the time of an annual appointment, shall be re-appointed for the next succeeding year; nor shall any person be a manager, or director, for more than two out of three years; but the president may be always re-appointed.

17. The said corporation, all offices of discount, deposite, and distribution, and of deposite and distribution only, which shall be established by the said directors, as aforesaid, and all banks by the said directors employed, in lieu of such offices, as aforesaid, shall be bound to receive, upon deposite, the treasury notes of the United States, which have been, or may be hereafter, issued, by virtue of any law or laws of the United States. But it shall be optional with the said corporation, to pay and discharge the checks, or drafts, of the persons making such deposite, in treasury notes, for the amount thereof, either in gold or silver coin, or in the notes of the bank, or in treasury notes. And all banks, by the said directors employed, as aforesaid, in lieu of offices, aforesaid, shall be further bound to receive, on deposite, and to circulate the notes of the said corporation, on the same terms, and in the same manner, as the notes of the said banks, respectively, are received and circulated; and, from time to time, to issue and exchange for the said notes of the

said corporation, other notes of the said corporation, or treasury notes, at the option of the person applying for such issue or exchange.

18. Until the first Monday of April, eighteen hundred and sixteen, it shall not be obligatory on the said corporation to pay its notes in specie, but all the notes of the said corporation, whether payable at the seat of the bank, in Philadelphia, or elsewhere, shall be payable in other notes of the said corporation, or in treasury notes, at the option of the applicant. And, if at any time, during the continuance of the present war between the United States and Great Britain, and a period of one year after the termination of the said war, demands shall be made, upon the said corporation, for gold or silver coin, to an amount, and under circumstances, which induce a reasonable and probable belief that the specie capital may be greatly diminished or endangered, it shall be lawful for Congress, on the petition of the directors, to authorize the suspension of specie payments, for such time or times as they may deem proper: And the said corporation shall, at all times, distribute among the offices and banks aforesaid, a sufficient sum, in the various denominations of the notes of the said corporation, and in treasury notes, to answer the demand therefor, and to establish a sufficient circulating medium throughout the United States and the territories thereof; and the treasury notes to be distributed and circulated the Secretary of the Treasury shall cause to be delivered, from time to time, to the said bank at Philadelphia; and the same shall be distributed and circulated by the said bank, under directions in that behalf, given by the officer at the head of the Treasury Department: *Provided*, That the officer at the head of the said department shall not be obliged, at any time, to deposit more treasury notes for distribution than he may think necessary for the public interest.

19. The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same; of the moneys deposited therein; of the notes in circulation, and of the specie in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statement: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

SEC. 10. *And be it further enacted*, That, if the said corporation, or any person, or persons, for or to the use of the same, shall deal or trade in buying or selling any goods, wares, merchandise, or commodities, whatsoever, contrary to the provisions of this act, all, and every person, and persons, by whom any order or direction for so dealing or trading shall have been given; and all, and every person, and persons, who shall have been concerned as parties, or agents, therein, shall forfeit and lose treble the value of the goods, wares, merchandises, and commodities, in which such dealing and trade shall have been, one half thereof to the use of the informer, and the other half thereof to the use of the United States, to be recovered in any action at law, with costs of suit.

SEC. 11. *And be it further enacted*, That, if the said corporation shall advance, or lend, any sum of money, for the use, or on account, of the Government of the United States, to an amount exceeding five hundred thousand dollars, or of any particular State, to an amount exceeding fifty thousand dollars; or of any foreign Prince or State, (unless previously authorized thereto by a law of the United States) all, and every person, and persons, by and with whose order, agreement, consent, approbation, and connivance, such unlawful advance, or loan, shall have been made, upon conviction thereof, shall forfeit and pay, for every such offence, treble the value or amount of the sum or sums which shall have been so unlawfully advanced, or lent, one fifth thereof to the use of the informer, and the residue thereof to the use of the United States.

SEC. 12. *And be it further enacted*, That the bills or notes of the said corporation, originally made payable, or which shall have become payable, on

demand, shall be receivable in all payments to the United States, unless otherwise directed by act of Congress.

SEC. 13. *And be it further enacted,* That if the subscriptions and payments to the said bank shall not be made and completed, so as to enable the same to commence its operations, or if the said bank shall not commence its operations on or before the first day of April, one thousand eight hundred and sixteen, then, and in that case, this act shall be null and void.

SEC. 14. *And be it further enacted,* That it shall, at all times, be lawful for a joint committee, of both Houses of Congress, appointed for that purpose, to inspect the books, and to examine into the proceedings of the corporation hereby created, and to report whether the provisions of this charter have been, by the same, violated or not; and whenever any committee, as aforesaid, shall find and report that the charter has been violated, it may be lawful for Congress to direct a scire facias to be sued out of the circuit court of the district of Pennsylvania, in the name of the United States, (which shall be executed upon the president of the corporation for the time being, at least fifteen days before the commencement of the term of said court) calling on the said corporation to show cause wherefore the charter hereby granted, shall not be declared forfeited; and it shall be lawful for the said court, upon the return of the said scire facias, to examine into the truth of the alleged violation, and if such violation be made appear to the satisfaction of the court, the same shall be certified to Congress, who shall have power, by law, to annul the said charter: *Provided, however,* Every issue of fact which may be joined between the United States and the corporation aforesaid, shall be tried by jury. And it shall be lawful for the court aforesaid, to require the production of such of the books of the corporation as it may deem necessary for the ascertainment of the controverted facts.

SEC. 15. *And be it further enacted,* That, during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall do and perform the several and respective duties of the commissioners of loans for the several States, or of any one or more of them, at the times, in the manner, and upon the terms to be prescribed by the Secretary of the Treasury.

SEC. 16. *And be it further enacted,* That no other bank shall be established, by any future law of the United States, during the continuance of the corporation hereby created, for which the faith of the United States is hereby pledged: *Provided,* Congress may renew existing charters for banks in the District of Columbia, not increasing the capital thereof; and may grant charters, if they deem it expedient, to any banking association, now in operation in the said district, and renew the same, not increasing the capital thereof. And notwithstanding the expiration of the term for which the said corporation is created, it shall be lawful to use the corporate name, style, and capacity, for the purpose of suits, for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, real, personal, and mixed, but not for any other purpose, or in any other manner whatsoever, nor for a period exceeding two years, after the expiration of the said term of incorporation.

FEBRUARY 8, 1815.

A motion was made, by Mr. GILES, to refer the bill to a select committee.

On this motion a wide debate took place. The argument for reference was, the usage in such cases, where a bill was introduced by an individual member; the argument against it was, that, though the bill was recently introduced by an individual member, the subject was one which had been widely discussed, and was well understood by every member.

The motion to commit the bill was negatived—18 to 16.

The Senate proceeded, as in committee of the whole, Mr. ANDERSON in the chair, to the consideration of the bill.

Mr. GILES moved an amendment, the object of which was to confine the stock, (payable on account of subscriptions to the capital of the bank) to such stock as should be hereafter created.

After an animated and interesting debate, this motion was negatived.

For the motion, . . . . . 15,  
Against it, . . . . . 18.

FEBRUARY 10, 1815.

The Senate resumed the consideration of the bill.

Mr. GILES moved to strike out that part of the rules for the government of the bank, which follows:

“ But the said corporation shall be bound to lend to the Government of the United States, reimbursable at their pleasure, thirty millions of dollars, at an interest not exceeding six per centum per annum; in such sums, and at such periods, as may be convenient to the Government of the United States, whenever any law or laws of the United States shall authorize and require such loan or loans.”

“ Until the first Monday of April, 1816, it shall not be obligatory on the said corporation to pay its notes in specie; but all the notes of the said corporation, whether payable at the seat of the bank in Philadelphia, or elsewhere, shall be payable in other notes of the said corporation, or in treasury notes, at the option of the applicant; and, if at any time during the continuance of the present war between the United States and Great Britain, and a period of one year after the termination of the said war, demand shall be made upon the said corporation for gold or silver coin, to an amount, and under circumstances, which induce a reasonable and probable belief that the specie capital may be greatly diminished or endangered, it shall be lawful for Congress, on the petition of the directors, to authorize the suspension of specie payments, for such time or times as they may deem proper.”

After much debate, the question on this motion was decided as follows:

YEAS.—Messrs. Brown, Daggett, Dana, Fromentin, Gaillard, German, Giles, Goldsborough, Gore, Hunter, King, Lambert, Mason, Thompson, Wells—15.

NAYS.—Messrs. Anderson, Barbour, Barry, Bibb, Chace, Condit, Howell, Kerr, Lacock, Morrow, Roberts, Robinson, Smith, Talbot, Tait, Turner, Varnum, Wharton—18.

On motion, by Mr. GORE, to amend the bill, by inserting therein a provision “that the authority of the bank, to pay its notes otherwise than by specie, shall be expressed on such note,” the vote stood as follows:

YEAS.—Messrs. Brown, Daggett, Dana, Fromentin, Gaillard, German, Giles, Goldsborough, Gore, Hunter, Kerr, King, Lambert, Mason, Thompson—15.

NAYS.—Messrs. Anderson, Barbour, Barry, Bibb, Chase, Condict, Howell, Lacock, Morrow, Roberts, Robinson, Smith, Talbot, Tait, Turner, Varnum, Wells, Wharton—18.

On the question, “*Shall the bill be engrossed and read a third time, as amended?*” the vote stood as follows:

YEAS.—Messrs. Anderson, Barbour, Barry, Bibb, Chace, Condict, Howell, Kerr, Lacock, Morrow, Roberts, Robinson, Smith, Talbot, Tait, Turner, Varnum, Wharton—18.

NAYS.—Messrs. Brown, Daggett, Dana, Fromentin, Gaillard, German, Giles, Goldsborough, Gore, Hunter, King, Lambert, Mason, Thompson, Wells—15.

FEBRUARY 11, 1815.

The bill was read the third time; and, on the question, “Shall the bill pass?” the vote stood as follows:

YEAS.—Messrs. Anderson, Barbour, Barry, Bibb, Chace, Condict, Howell, Lacock, Morrow, Roberts, Robinson, Smith, Talbot, Tait, Taylor, Turner, Varnum, Wharton—18.

NAYS.—Messrs. Brown, Daggett, Dana, Fromentin, Gaillard, German, Giles, Goldsborough, Gore, Horsey, Hunter, Kerr, King, Lambert, Mason, Thompson—16.

So the bill was passed, and the concurrence of the House requested therein,



## HOUSE OF REPRESENTATIVES.

FEBRUARY 13, 1815.

A bill from the Senate, to incorporate the subscribers to the Bank of the United States of America, was brought up, and read the first and second time.

Mr. GASTON moved to refer the bill to the Committee of Ways and Means, with a view to the amendment of its details; which he pronounced to be incorrect, and, in many respects, impracticable.

This motion was opposed by Mr. FORSYTH, and by Mr. FISK, of N. Y., who argued in favor of the correctness of the details of the bill, and denied that any other object but delay would be answered by the proposed reference.

The motion was negatived.

Mr. SHARP then moved to refer the bill to a select committee, with the following instructions:

1. To strike out all that part of the bill that allows fifteen millions of dollars of the capital of the said bank to be paid in six per cent. stock of the United States, heretofore created, and now in the hands of stockholders; and then amend the bill, so as to allow the Government to take the said fifteen millions on their account.

2. That all the Government subscriptions shall be paid in stock at five per cent. interest.

3. That the Government shall have a number of directors in said bank, equal to the proportion it may have of the capital of the bank; who shall be appointed by the President of the United States.

4. That, so long as the bank shall not be required to pay specie for its notes or bills, or after having commenced paying of specie, shall, from any cause, stop the payment of the same, the Government shall not be required to pay to the bank a higher rate of interest, on any loans to Government, either as permanent loans, or in anticipation of loans, than four per cent.

5. That the bank shall not be allowed to sell, or transfer, any part of the Government stock, that it may acquire by permanent loans to Government, until the end of one year after the war.

In support of this motion, Mr. S. made a speech of nearly an hour in length.

Mr. FORSYTH replied to the principal points of this speech, at considerable length.

Mr. SHARP explained.

Mr. OAKLEY expressed himself, in a speech of some length, as favorable to some of the objects of the motion of Mr. Sharp, and as preferring them, generally, to the present provisions of the bill.

Mr. CALHOUN expressed himself in favor of commitment, though friendly only to two of the proposed instructions, viz: the reduction of the interest on loans to the Government, and striking out the old stock. He assigned the reasons, also, why the plan of a bank now before the House, did not meet his approbation.

Mr. HAWKINS, Mr. WRIGHT, Mr. RHEA, of Tenn. and Mr. FORSYTH, further opposed the commitment; and Mr. OAKLEY, Mr. BOWEN, and Mr. GASTON, advocated it.

The question on Mr. SHARP's motion having been divided, the question on reference to a select committee was taken, separately from the instructions proposed to be given to the committee, and,

On the question of commitment, the vote stood, by yeas and nays, as follows:

For commitment, . . . . .	75,
Against it, . . . . .	80.

Mr. GASTON then moved to refer the bill to a committee of the whole; which motion was decided in the negative.

Mr. SHARP then moved to amend the bill, by striking out so much as allows the subscription of stock heretofore created.

This motion was supported by Mr. DUVAL, and opposed by Messrs. WRIGHT and HUMPHREYS; and was negatived, by yeas and nays, by the following vote:

For the motion, . . . . .	72.
Against it, . . . . .	82.

Mr. SHARP then moved to amend the bill, by limiting the interest to be given by the Government on loans from the bank, to four per cent; which motion was also negatived, by yeas and nays, as follows:

For the motion, . . . . .	74,
Against it, . . . . .	77.

FEBRUARY 17, 1815.

The House resumed the consideration of the bill.

Mr. FORSYTH moved to refer the bill to a select committee.

Mr. LOWNDES superseded this motion by a motion to postpone it indefinitely. He made this motion, not from any hostility to a National Bank, wishing, as the gentleman did, that a National Bank should be established; but, because he wished it to be done at a time, and under circumstances, which would give the House ability to decide correctly on the subject. He believed, he said, and he was not alone in that opinion, that the present moment was a most unfavorable one for the establishment of a bank. It must be known that, long as the subject of a bank had been agitated, there had been important differences of sentiment as to the principles of such an institution, which had been suppressed because of the pressure of the times. Among other objections to acting on this subject at present, he said, it was no trifling one, that the suspension of specie payments by the State banks, which every one considered an evil, would, unquestionably, be prolonged by it. In the fragment of the session which now remains, there would not be time to enter into a consideration of these points; and, if there were full time, the mere circumstance of the new and almost insuperable difficulties arising from a new state of things which now present themselves, ought to suggest a reason for postponement. Congress could not now establish a bank half so eligible, or half so durable, as they could at a future session.

Mr. FORSYTH said he was perfectly aware, that the subject of a National Bank was attended with great difficulty, at this or any other session; but his opinion was, that this was the best time for an attempt of this kind. The subject had been so much discussed, that he apprehended every gentleman was prepared to decide on it without much further discussion. It was from a hope that all sides of the House could now come to some understanding, and agree on the establishment of such an institution, as should be not only valuable to the United States, but satisfactory to all parties, that he had now moved to commit the bill, which he hoped would not be indefinitely postponed.

Mr. GASTON conceived there would be less difficulty in acting on this subject at the present session, than was anticipated by the gentleman from South Carolina. The subject has been so repeatedly discussed, that he thought it could be acted on more advantageously in the small remnant of the present session, than in the first session of a new Congress, bringing together individuals not acquainted with each others' views, and not having the advantage of hearing the subject frequently discussed. Having always been friendly to such an institution, and believing it as important in peace as in war, he hoped an experiment would be made, by referring this subject to a committee, which, whether successful or not, would not consume much time of the House.

Mr. GROSVENOR, Mr. WRIGHT, Mr. PICKERING, and Mr. FARROW, advocated the postponement; and Mr. KILBOURN, Mr. FISK, of Vermont, Mr. CALHOUN, and Mr. TELFAIR, opposed it.

On the question of postponement, which was decided by yeas and nays, the vote stood as follows:

Those who voted in the affirmative, are,

<b>Messrs.</b> Avery,	<b>Messrs.</b> Hale,	<b>Messrs.</b> Roane,
Barbour,	Hall,	Ruggles,
Bard,	Hasbrouck,	Schureman,
Barnett,	Hawes,	Seybert,
Baylies, of Mass.	Henderson,	Sheffey,
Bigelow,	Hulbert,	Shipherd,
Boyd,	Jackson, of R. I.	Slaymaker,
Bradbury,	Johnson, of Ky.	Smith, of N. Y.
Brigham,	Kennedy,	Stanford,
Champion,	Kent, of N. Y.	Stockton,
Cilley,	King, of Mass.	Stuart,
Clopton,	Law,	Taggart,
Cooper,	Lowndes,	Thompson,
Crawford,	Macon,	Troup,
Cuthbert,	M'Kee,	Vose,
Davenport,	Montgomery,	Ward, of Mass.
Desha,	Moseley,	Ward, of N. J.
Ely,	Markell,	Wheaton,
Eppes,	Nelson,	White,
Farrow,	Ormsby,	Wilcox,
Franklin,	Pickering,	Williams,
Geddes,	Pitkin,	Wilson, of Mass.
Glasgow,	Potter,	Winter,
Goodwin,	John Reed,	Wright—74.
Grosvenor,	Wm. Reed,	

Those who voted in the negative, are,

<b>Messrs.</b> Alston,	<b>Messrs.</b> Gaston,	<b>Messrs.</b> Parker,
Anderson,	Gholson,	Pearson,
Bayly, of Va.	Gourdin,	Pickens,
Bines,	Griffin,	Piper,
Bowen,	Hanson,	Pleasants,
Breckenridge,	Hawkins,	Rea, of Penn.
Brown,	Hubbard,	Rhea, of Tenn.
Butler,	Hungerford,	Rich,
Caperton,	Ingersoll,	Ringgold,
Calhoun,	Ingham,	Robertson,
Cannon,	Jackson, of Va.	Sage,
Clendenin,	Kent, of Md.	Sevier,
Comstock,	Kerr,	Sharp,
Connard,	Kershaw,	Sherwood,
Cox,	Kilbourn,	Smith, of Vir.
Creighton,	Lefferts,	Strong
Crouch,	Lewis,	Sturges,
Culpeper,	Lovett,	Tannehill,
Duval,	Lyle,	Taylor,
Earle,	M'Coy,	Telfair,
Findley,	M'Lean,	Udree,
Fisk, of Vt.	Moore,	Wilson, of Pa.
Fisk, of N. Y.	Murfree,	Wood,
Forney,	Newton,	Yancey—73.
Forsyth,		

So the bill was indefinitely postponed.

## CHAPTER V.

PROCEEDINGS AND DEBATES ON THE GRANT OF THE CHARTER OF 1816.

14TH CONGRESS, }  
1st Session. } HOUSE OF REPRESENTATIVES.

DECEMBER 5, 1815.

*Extract from the annual message of JAMES MADISON, President of the United States.*

“The arrangements of the finances, with a view to the receipts and expenditures of a permanent peace establishment, will necessarily enter into the deliberations of Congress during the present session. It is true, that the improved condition of the public revenue will not only afford the means of maintaining the faith of the Government with its creditors inviolate, and of prosecuting successfully the measures of the most liberal policy, but will also justify an immediate alleviation of the burdens imposed by the necessities of the war. It is, however, essential to every modification of the finances, that the benefits of a uniform national currency should be restored to the community. The absence of the precious metals will, it is believed, be a temporary evil; but, until they can again be rendered the general medium of exchange, it devolves on the wisdom of Congress to provide a substitute, which shall equally engage the confidence, and accommodate the wants of the citizens throughout the Union. If the operation of the State banks cannot produce this result, the probable operation of a national bank will merit consideration; and if neither of these expedients be deemed effectual, it may become necessary to ascertain the terms upon which the notes of the Government (no longer required as an instrument of credit) shall be issued, upon motives of general policy, as a common medium of circulation.”

DECEMBER 6, 1815.

*Resolved*, That so much of the President's message as relates to an uniform national currency, be referred to a select committee.

*Ordered*, That Mr. Calhoun, of S. C. Mr. Macon, of N. C. Mr. Pleasants, of Va. Mr. Hopkinson, of Pa. Mr. Robertson, of La. Mr. Tucker, of Va. and Mr. Pickering, of Mass. be the said committee.

DECEMBER 7, 1815.

The Speaker laid before the House a letter from the Secretary of the Treasury, transmitting his annual report on the state of the finances, of which, so much thereof as relates to a national currency, was referred to the committee on that subject.

The following are the parts of the said report alluded to, containing suggestions on the currency, and a proposition for the establishment of a bank:

### PROPOSITION OF MR. DALLAS, RELATING TO THE NATIONAL CIRCULATING MEDIUM.

The delicacy of this subject is only equalled by its importance. In presenting it, therefore, to the consideration of Congress, there is occasion for an implicit reliance upon the legislative indulgence.

By the constitution of the United States, Congress is expressly vested with the power to coin money, to regulate the value of the domestic and foreign coins in circulation, and (as a necessary implication from positive provisions) to emit bills of credit; while it is declared, by the same instrument, that "no State shall coin money, or emit bills of credit."\* Under this constitutional authority, the money of the United States has been established by law, consisting of coins made with gold, silver, or copper.† All foreign gold and silver coins, at specified rates, were placed, in the first instance, upon the footing with the coins of the United States; but they ceased (with the exception of Spanish milled dollars, and parts of such dollars) to be a legal tender for the payment of debts and demands, in the year 1809.‡

The constitutional authority to emit bills of credit, has also been exercised in a qualified and limited manner. During the existence of the Bank of the United States, the bills or notes of the corporation were declared by law to be receivable in all payments to the United States; and the treasury notes which have been since issued for the services of the late war, have been endowed with the same quality. But Congress has never recognised, by law, the notes of any other corporation, nor has it ever authorized an issue of bills of credit to serve as a legal currency. The acceptance of the notes of banks which are not established by the federal authority, in payments to the United States, has been properly left to the vigilance and discretion of the Executive Department; while the circulation of the treasury notes, employed either to borrow money or to discharge debts, depends entirely (as it ought to depend) upon the option of the lenders and creditors to receive them.

The constitutional and legal foundation of the monetary system of the United States, is thus distinctly seen; and the power of the Federal Government to institute and regulate it, whether the circulating medium consist of coin, or of bills of credit, must, in its general policy, as well as in the terms of its investment, be deemed an exclusive power. It is true, that a system depending upon the agency of the precious metals, will be affected by the various circumstances which diminish their quantity or deteriorate their quality. The coin of a State sometimes vanishes under the influence of political alarms; sometimes in consequence of the explosion of mercantile speculations; and sometimes by the drain of an unfavorable course of trade. But, whenever the emergency occurs that demands a change of system, it seems necessarily to follow, that the authority which was alone competent to establish the national coin, is alone competent to create a national substitute. It has happened, however, that the coin of the United States has ceased to be the circulating medium of exchange, and that no substitute has hitherto been provided by the national authority. During the last year, the principal banks established south and west of New England, resolved that they would no longer issue coin in payment of their notes, or of the drafts of their customers for money received upon deposit. In this act, the Government of the United States had no participation; and yet the immediate effect of the act was to supersede the only legal currency of the nation. By this act, although no State can constitutionally emit bills of credit, corporations, erected by the several States, have been enabled to circulate a paper medium, subject to many of the practical inconveniences of the prohibited bills of credit.

It is not intended, upon this occasion, to condemn, generally, the suspension of specie payments: for appearances indicated an approaching crisis, which would, probably, have imposed it as a measure of necessity, if it had not been adopted as a measure of precaution. But the danger which originally induced, and perhaps justified the conduct of the banks, has passed away, and the continuance of the suspension of specie payments, must be ascribed to a new series of causes. The public credit and resources are no longer impaired by the doubts and agitations excited during the war by the

\* Constitution, art. 1, sec. 8, 10.

† See 2 vol. 37, 120, 158, 161: 3 vol. 7, 221, 316: 4 vol. 62, 375, 395.

‡ See 2 vol. 161: 4 vol. 62: 8 vol. 66.

practices of an enemy, or by the inroads of an illicit commerce. Yet, the resumption of specie payments is still prevented, either by the reduced state of the national stock of the precious metals, or by the apprehension of a further reduction to meet the balances of foreign trade, or by the redundant issues of bank paper. The probable direction and duration of these latter causes, constitute, therefore, the existing subject for deliberation. While they continue to operate, singly or combined, the authority of the States, individually, or the agency of the State institutions, cannot afford a remedy commensurate with the evil, and a recurrence to the national authority is indispensable for the restoration of a national currency.

In the selection of the means for the accomplishment of this important object, it may be asked, 1st, whether it be practicable to renew the circulation of the gold and silver coins? 2dly, whether the State banks can be successfully employed to furnish a uniform currency? 3dly, whether a national bank can be employed more advantageously than the State banks for the same purpose? And 4thly, whether the Government can, itself, supply and maintain a paper medium of exchange, of permanent and uniform value throughout the United States?

1st. As the United States do not possess mines of gold or silver, the supply of those metals must, in a time of scarcity, be derived from foreign commerce. If the balance of foreign commerce be unfavorable, the supply will not be obtained incidentally, as in the case of the returns for a surplus of American exports, but must be the subject of a direct purchase. The purchase of bullion is, however, a common operation of commerce, and depends, like other operations, upon the inducements to import the article.

The inducements to import bullion arise, as in other cases, from its being cheap abroad, or from its being dear at home. Notwithstanding the commotions in South America, as well as in Europe, there is no reason to believe that the quantity of the precious metals is now (more than at any former period) insufficient for the demand throughout the commercial and civilized world. The price may be higher in some countries than in others, and it may be different in the same country at different times; but, generally, the European stock of gold and silver has been abundant, even during the protracted war which has afflicted the nations of Europe.

The purchase of bullion in foreign markets, upon reasonable terms, is then deemed practicable; nor can its importation into the United States, fail, eventually, to become profitable. The actual price of gold and silver, in the American market, would, in itself, afford, for some time, an ample premium, although the fall in the price must, of course, be proportionable to the increase of the quantity. But it is within the scope of a wise policy, to create additional demands for coin, and in that way, to multiply the inducements to import and retain the metals of which it is composed. For instance: the excessive issue of bank paper has usurped the place of the national money; and, under such circumstances, gold and silver will always continue to be treated as an article of merchandise; but, it is hoped that the issue of bank paper will be soon reduced to its just share in the circulating medium of the country; and consequently, that the coin of the United States will resume its legitimate capacity and character. Again: The treasury, yielding from necessity to the general impulse, has hitherto consented to receive bank paper in payment of duties and taxes; but, the period approaches, when it will probably become a duty to exact the payment, either in treasury notes, or in gold or silver coin, the lawful money of the United States. Again: The institutions which shall be deemed proper, in order to remove existing inconveniences, and to restore the national currency, may be so organized as to engage the interests and enterprise of individuals, in providing the means to establish them. And, finally, such regulations may be imposed upon the exportation of gold and silver, as will serve, in future, to fix and retain the quantity required for domestic uses.

But it is further believed, that the national stock of the precious metals is not so reduced as to render the operation of reinstating their agency in the



national currency, either difficult or protracted. The quantity actually possessed by the country, is considerable; and the resuscitation of public confidence in bank paper, or in other substitutes for coin, seems alone to be wanting, to render it equal to the accustomed contribution for a circulating medium. In other countries, as well as in the United States, the effect of an excessive issue of paper money, to banish the precious metals, has been seen, and under circumstances much more disadvantageous than the present; the effect of public confidence in national institutions to recall the precious metals to their uses in exchange, has also been experienced.

Even, however, if it were practicable, it has sometimes been questioned whether it would be politic, again to employ gold and silver for the purposes of a national currency. It was long and universally supposed, that, to maintain a paper medium, without depreciation, the certainty of being able to convert it into coin, was indispensable; nor can the experiment which has given rise to a contrary doctrine, be deemed complete or conclusive. But, whatever may be the issue of that experiment elsewhere, a difference in the structure of the Government, in the physical as well as political situation of the country, and in the various departments of industry, seems to deprive it of any important influence as a precedent for the imitation of the United States.

In offering these general remarks to the consideration of Congress, it is not intended to convey an opinion that the circulation of the gold and silver coins can at once be renewed. Upon motives of public convenience, the gradual attainment of that object is alone contemplated; but a strong, though respectful solicitude is felt, that the measures adopted by the Legislature, should invariably tend to its attainment.

2d. Of the services rendered to the Government by some of the State banks, during the late war, and of the liberality by which some of them are actuated in their intercourse with the treasury, justice requires an explicit acknowledgment. It is a fact, however, incontestably proved, that those institutions cannot, at this time, be successfully employed to furnish a uniform national currency. The failure of one attempt to associate them, with that view, has already been stated. Another attempt, by their agency, in circulating treasury notes, to overcome the inequalities of the exchange, has only been partially successful. And a plan recently proposed, with the design to curtail the issues of bank notes, to fix the public confidence in the administration of the affairs of the banks, and to give to each bank a legitimate share in the circulation, is not likely to receive the general sanction of the banks. The truth is, that the charter restrictions of some of the banks, the mutual relation and dependence of the banks of the same State, and even of the banks of the different States, and the duty which the directors of each bank conceive they owe to their immediate constituents, upon points of security or emolument, interpose an insuperable obstacle to any voluntary arrangement, upon national considerations alone, for the establishment of a national medium, through the agency of the State banks. It is, nevertheless, with the State banks, that the measures for restoring the national currency of gold and silver must originate: for, until their issues of paper be reduced, their specie capitals be reinstated, and their specie operations be commenced, there will be neither room, nor employment, nor safety, for the introduction of the precious metals. The policy and the interest of the State banks must, therefore, be engaged in the great fiscal work, by all the means which the treasury can employ, or the legislative wisdom shall provide.

3d. The establishment of a national bank is regarded as the best, and perhaps the only adequate resource, to relieve the country and the Government from the present embarrassments; authorized to issue notes, which will be received in all payments to the United States, the circulation of its issues will be co-extensive with the Union; and there will exist a constant demand, bearing a just proportion to the annual amount of the duties and taxes to be collected, independent of the general circulation, for commercial and social purposes. A national bank will, therefore, possess the means and the opportunity of supplying a circulating medium, of equal use and value in every State, and

in every district of every State. Established by the authority of the Government of the United States; accredited by the Government, to the whole amount of its notes in circulation; and entrusted as the depository of the Government, with all the accumulations of the public treasure; the national bank, independent of its immediate capital, will enjoy every recommendation which can merit and secure the confidence of the public. Organized upon principles of responsibility, but of independence, the national bank will be retained within its legitimate sphere of action, without just apprehension from the misconduct of its directors, or from the encroachments of the Government. Eminent in its resources and in its example, the national bank will conciliate, aid, and lead, the State banks, in all that is necessary for the restoration of credit, public and private. And, acting upon a compound capital, partly of stock and partly of gold and silver, the national bank will be the ready instrument to enhance the value of the public securities, and to restore the currency of the national coin.

4th. The power of the Government to supply and maintain a paper medium of exchange, will not be questioned; but, for the introduction of that medium, there must be an adequate motive. The sole motive for issuing treasury notes, has hitherto been to raise money in anticipation of the revenue. The revenue, however, will probably become, in the course of the year 1816, and continue afterwards, sufficient to discharge all the debts, and to defray all the expenses of the Government, and, consequently, there will exist no motive to issue the paper of the Government as an instrument of credit.

It will not be deemed an adequate object for an issue of the paper of the Government, merely that it may be exchanged for the paper of the banks; since the treasury will be abundantly supplied with bank paper, by the collection of the revenue, and the Government cannot be expected to render itself a general debtor, in order to become the special creditor of the State banks.

The co-operation of the Government with the national bank, in the introduction of a national currency, may, however, be advantageously employed, by issues of treasury notes, so long as they shall be required for the public service.

Upon the whole, the state of the national currency, and other important considerations connected with the operations of the treasury, render it a duty respectfully to propose.

That a national bank be established at the city of Philadelphia, having power to erect branches elsewhere, and that the capital of the bank (being of a competent amount) consist, three-fourths of the public stock, and one-fourth of gold and silver.

All which is respectfully submitted.

A. J. DALLAS,  
*Secretary of the Treasury.*

TREASURY DEPARTMENT, *December 6, 1815.*

The Committee on a National Currency having directed their chairman to address a letter to the Secretary of the Treasury, requesting his views upon certain points relating to the currency, the Secretary, on the 24th December, 1815, addressed to Mr. CALHOUN, as chairman, the following letter:

*Letter from the Secretary of the Treasury to the Chairman of the Committee, on that part of the President's message which relates to an uniform national currency; enclosing an outline of a plan for a National Bank, accompanied with some explanation of the principles upon which the system is founded.*

TREASURY DEPARTMENT, *December 24, 1815.*

SIR: I have the honor to acknowledge the receipt of your letter, dated the 23d instant, informing me "that the committee on so much of the President's message as relates to the national currency, had determined that a National

Bank is the most certain means of restoring to the nation a specie circulation; and had directed you to obtain the opinion of this Department on the following points:

1. The amount and composition of the capital of the bank;
2. The government of the bank;
3. The privileges and duties of the bank;
4. The organization and operation of the bank;
5. The bonus to be required for the charter of the bank;
6. The measures which may aid the bank in commencing and maintaining its operations in specie.

It affords much satisfaction to find, that the policy of establishing a National Bank has received the sanction of the committee; and the decision, in this respect, renders it unnecessary to enter into a comparative examination of the superior advantages of such an institution, for the attainment of the objects contemplated by the Legislature. Referring, therefore, to the outline of a National Bank, which is subjoined to this letter, as the result of an attentive consideration bestowed upon the subjects of your inquiry, I proceed, with deference and respect, to offer some explanation of the principles upon which the system is founded:

1. It is proposed that, under a charter for twenty years, the capital of the National Bank shall amount to thirty-five millions of dollars; that Congress shall retain the power to raise it to fifty millions of dollars; and that it shall consist of three fourths of public stock, and one fourth of gold and silver.

1. *With respect to the amount of the capital.* The services to be performed by the capital of the bank, are important, various, and extensive. They will be required through a period almost as long as is usually assigned to a generation. They will be required for the accommodation of the Government, in the collection and distribution of its revenue, as well as for the uses of commerce, agriculture, manufactures, and the arts, throughout the Union. They will be required to restore and maintain the national currency; and, in short, they will be required, under every change of circumstances, in a season of war as well as in the season of peace, for the circulation of the national wealth; which augments with a rapidity beyond the reach of ordinary calculation.

In the performance of these national services, the local and incidental co-operation of the State banks may undoubtedly be expected; but it is the object of the present measure, to create an independent, though not a discordant, institution; and while the Government is granting a monopoly for twenty years, it would seem to be improvident and dangerous to rely upon gratuitous or casual aids for the enjoyment of those benefits which can be effectually secured by positive stipulation.

Nor is it believed that any public inconvenience can possibly arise from the proposed amount of the capital of the bank, with its augmentable quality. The amount may, indeed, be a clog upon the profits of the institution; but it can never be employed for any injurious purpose, (not even for the purpose of discount accommodation beyond the fair demand) without an abuse of trust, which cannot, in candor, be anticipated; or which, if anticipated, may be made an object of penal responsibility.

The competition which exists at present among the State banks, will, it is true, be extended to the National Bank; but competition does not imply hostility. The commercial interests, and the personal association of the stockholders, will generally be the same, in the State banks and in the National Bank. The directors of both institutions will naturally be taken from the same class of citizens; and experience has shown, not only the policy, but the existence of those sympathies, by which the intercourse of a National Bank and the State banks has been, and always ought to be, regulated, for their common credit and security. At the present crisis, it will be peculiarly incumbent upon the National Bank, as well as the Treasury, to conciliate the State banks; to confide to them, liberally, a participation in the deposits of public revenue; and to encourage them, in every reasonable effort, to resume the

payment of their notes in coin. But, independent of these considerations, it is to be recollected that, when portions of the capital of the National Bank shall be transferred to its branches, the amount invested in each branch will not, probably, exceed the amount of the capital of any of the principal State banks; and will certainly be less than the amount of the combined capital of the State banks, operating in any of the principal commercial cities. The whole number of the banking establishments in the United States may be stated at two hundred and sixty; and the aggregate amount of their capitals may be estimated at eighty-five millions of dollars; but the services of the National Bank are also required in every State and Territory, and the capital proposed is thirty-five millions of dollars, of which only one fourth part will consist of gold and silver.

2. *With respect to the composition of the capital of the bank.* There does not prevail much diversity of opinion upon the proposition to form a compound capital for the National Bank, partly of public stock and partly of coin. The proportions now suggested, appear, also, to be free from any important objections. Under all the regulations of the charter, it is believed that the amount of gold and silver required, will afford an adequate supply for commencing and continuing the payments of the bank in current coin; while the power which the bank will possess, to convert its stock portion of capital into bullion or coin, from time to time, is calculated to provide for any probable augmentation of the demand. This object being sufficiently secured, the capital of the bank is next to be employed, in perfect consistency with the general interests and safety of the institution, to raise the value of the public securities, by withdrawing almost one fifth of the amount from the ordinary stock market. Nor will the bank be allowed to expose the public to the danger of a depreciation, by returning any part of the stock to the market, until it has been offered, at the current price, to the commissioners of the sinking fund; and it is not an inconsiderable advantage, in the growing state of the public revenue, that the stock subscribed to the capital of the bank, will become redeemable at the pleasure of the Government.

The subscription to the capital of the bank, is opened to every species of funded stock. The estimate, that the revenues of 1816 and 1817 will enable the Treasury to discharge the whole of the treasury note debt, furnishes the only reason for omitting to authorize a subscription in that species of debt. Thus—

The old and the new six per cent. stocks are receivable at par.

The seven per cent. stock, upon a valuation referring to the 30th of September, 1816, is receivable at \$106.51 per cent.

The three per cent. stock, which can only be redeemed for its nominal or certificate value, may be estimated, under all circumstances, to be worth about sixty-two per cent. when the six per cent. stock is at par; but, as it is desirable to accomplish the redemption of this stock upon equitable terms, it is made receivable at sixty-five per cent. the rate sanctioned by the Government, and in part accepted by the stockholders, in the year 1807.

Of the instalments for paying the subscriptions, it is only necessary to observe, that they are regulated by a desire to reconcile an early commencement of the operations of the bank, with the existing difficulties in the currency, and with the convenience of the subscribers. In one of the modes proposed for discharging the subscription of the Government, it is particularly contemplated to aid the bank with a medium which cannot fail to alleviate the first pressure for payments in coin.

II. It is proposed that the National Bank shall be governed by twenty-five directors, and each of its branches by thirteen directors; that the President of the United States, with the advice and consent of the Senate, shall appoint five of the directors of the bank, one of whom shall be chosen as President of the bank, by the board of directors; that the resident stockholders shall elect twenty of the directors of the National Bank, who shall be resident citizens of the United States; and that the National Bank shall appoint the directors of each branch, (being resident citizens of the United States) one of whom shall

be designated by the Secretary of the Treasury, with the approbation of the President of the United States, to be President of the branch bank.

The participation of the President and Senate of the United States, in the appointment of directors, appears to be the only feature in the proposition for the government of the National Bank, which requires an explanatory remark.

Upon general principles, wherever a pecuniary interest is to be effected by the operations of a public institution, a representative authority ought to be recognised. The United States will be the proprietors of one fifth of the capital of the bank, and in that proportion, upon general principles, they should be represented in the direction. But an apprehension has sometimes been expressed, lest the power of the Government, thus inserted into the administration of the affairs of the bank, should be employed eventually to alienate the funds and destroy the credit of the institution. Whatever may have been the fate of banks in other countries, subject to forms of government essentially different, there can be no reasonable cause for the apprehension here. Independent of the obvious improbability of the attempt, the Government of the United States cannot, by any legislative or executive act, impair the rights or multiply the obligations of a corporation, constitutionally established, as long as the independence and integrity of the judicial power shall be maintained. Whatever accommodation the Treasury may have occasion to ask from the bank, can only be asked under the licence of a law; and whatever accommodation shall be obtained, must be obtained from the voluntary assent of the directors, acting under the responsibility of their trust.

Nor can it be doubted that the department of the Government, which is invested with the power of appointment to all the important offices of the state, is a proper department to exercise the power of appointment in relation to a national trust of incalculable magnitude. The National Bank ought not to be regarded simply as a commercial bank. It will not operate upon the funds of the stockholders alone, but much more upon the funds of the nation. Its conduct, good or bad, will not affect the corporate credit and resources alone, but much more the credit and resources of the Government. In fine, it is not an institution created for the purposes of commerce and profit alone, but much more for the purposes of national policy, as an auxiliary in the exercise of some of the highest powers of the Government. Under such circumstances, the public interests cannot be too cautiously guarded, and the guards proposed can never be injurious to the commercial interests of the institution. The right to inspect the general accounts of the bank may be employed to detect the evils of a mal-administration, but an interior agency in the direction of its affairs, will best serve to prevent them.

III. It is proposed that, in addition to the usual privileges of a corporation, the notes of the National Bank shall be received in all payments to the United States, unless Congress shall hereafter otherwise provide by law; and that, in addition to the duties usually required from a corporation of this description, the National Bank shall be employed to receive, transfer, and distribute, the public revenue, under the directions of the proper department.

The reservation of a legislative power on the subject of accepting the notes of the National Bank, in payments to the Government, is the only new stipulation in the present proposition. It is designed not merely as one of the securities for the general conduct of the bank, but as the means of preserving entire the sovereign authority of Congress, relative to the coin and currency of the United States. Recent occurrences inculcate the expediency of such a reservation, but it may be confidently hoped that an occasion to enforce it will never arise.

It is not proposed to stipulate that the bank shall, in any case, be bound to make loans to the Government; but, in that respect, whenever a loan is authorized by law, the Government will act upon the ordinary footing of an applicant for pecuniary accommodation.

IV. It is proposed that the organization of the National Bank shall be effected with as little delay as possible; and that its operations shall commence and continue, upon the basis of payments in the current coin of the United

States, with a qualified power under the authority of the Government to suspend such payments.

The proposition now submitted, necessarily implies an opinion that it is practicable to commence the operations of the National Bank upon a circulation of gold and silver coin; and in support of the opinion, a few remarks are respectfully offered to the consideration of the committee.

1. The actual receipts of the bank, at the opening of the subscription, will amount to the sum of \$8,400,000; of which the sum of \$1,400,000 will consist of gold and silver, and the sum of \$7,000,000 will consist of public stock, convertible, by sale, into gold and silver. But the actual receipts of the bank, at the expiration of six months from the opening of the subscription, will amount to the sum of \$16,800,000; of which the sum of \$2,800,000 will be in gold and silver, and the sum of \$14,000,000 will be in public stock, convertible by sale into gold and silver. To the fund, thus possessed by the bank, the accumulations of the public revenue and the deposits of individuals being added, there can be little doubt, from past experience and observation in reference to similar establishments, that a sufficient foundation will exist for a gradual and judicious issue of bank notes, payable on demand in current coin; unless, contrary to all probability, public confidence should be withheld from the institution; or sinister combinations should be formed to defeat its operations; or the demands of an unfavorable balance of trade should press upon its metallic resources.

2. The public confidence cannot be withheld from the institution. The resources of the nation will be intimately connected with the resources of the bank. The notes of the bank are accredited in every payment to the Government, and must become familiar in every pecuniary negotiation. Unless, therefore, a state of things exist in which gold and silver only can command the public confidence, the National Bank must command it. But the expression of the public sentiment does not, even at this period, leave the question exposed to difficulty and doubt; it is well known, that the wealth of opulent and commercial nations, requires for its circulation something more than a medium composed of the precious metals. The incompetency of the existing paper substitutes, to furnish a national currency, is also well known. Hence, throughout the United States, the public hope seems to rest, at this crisis, upon the establishment of a National Bank; and every citizen, upon private or upon patriotic motives, will be prepared to support the institution.

3. Sinister combinations to defeat the operations of a National Bank, ought not to be presumed, and need not be feared. It is true, that the influence of the State banks is extensively diffused; but the State banks, and the patrons of the State banks, partake of the existing evils; they must be conscious of the inadequacy of State institutions to restore and maintain the national currency; they will perceive that there is sufficient space in the Commercial sphere, for the movement of the State banks and the National Bank; and, upon the whole, they will be ready to act upon the impulse of a common duty, and a common interest. If, however, most unexpectedly, a different course should be pursued, the concurring powers of the National Treasury and the National Bank will be sufficient to avert the danger.

4. The demand of an unfavorable balance of trade appears to be much overrated. It is not practicable, at this time, to ascertain either the value of the goods imported since the peace, or the value of the property employed to pay for them. But when it is considered that a great proportion of the importations arose from investments of American funds previously in Europe; that a great proportion of the price has been paid by American exports; that a great proportion has been paid by remittances in American stocks; and that a great proportion remains upon credit, to be paid by gradual remittances of goods, as well as in coin; it cannot be justly concluded, that the balance of trade has hitherto materially affected the national stock of the precious metals. So far as an opportunity has occurred for observation, the demand for gold and silver to export, appears rather to have arisen from the expectation of obtaining a higher price in a part of Europe, and from the revival of commerce



<sup>12</sup> with the countries beyond the Cape of Good Hope, than from any necessity to provide for the payment of the recent importations of goods into the United States. The former of these causes will probably soon cease to operate; and the operation of the latter, may, if necessary, be restrained by law.

The proposition now under consideration further provides for a suspension of the bank payments in coin upon any future emergency. This is merely a matter of precaution; but, if the emergency should arise, it must be agreed on all hands that the power of suspension ought rather to be confided to the Government, than to the directors of this institution.

V. It is proposed that a bonus be paid to the Government by the subscribers to the National Bank, in consideration of the emoluments to be derived from an exclusive charter, during a period of twenty years.

Independent of the bonus, here proposed to be exacted, there are undoubtedly many public advantages to be drawn from the establishment of the National Bank; but these are generally of an incidental kind, and (as in the case of the deposits and distribution of the revenue) may be regarded in the light of equivalents, not for the monopoly of the charter, but for the reciprocal advantages of a fiscal connexion with the public treasury.

The amount of the bonus should be in proportion to the value of the charter grant, or, in other words, to the nett profits which the subscribers will probably make, in consequence of their incorporation. The average rate of the dividends of the State banks, before the suspension of payments in coin, was about eight per cent. per annum. It appears by a report from this department to the House of Representatives, dated the 3d of April, 1810, that the annual dividends of the late Bank of the United States averaged, throughout the duration of its charter, the rate of 8 13-36 per cent. But, under all the circumstances which will attend the establishment and operations of the proposed National Bank, its enlarged capital, and the extended field of competition, it is not deemed reasonable, for the present purpose, to rate the annual dividends of the institution higher than seven per centum upon its capital of 35,000,000 of dollars.

Allowing, therefore, two, three, and four years for the payment of the bonus, a sum of 1, 500,000 dollars would amount to about 4 per cent. upon the capital of the bank; and would constitute a just equivalent for the benefits of its charter.

VI. It is proposed that the measures suggested by the following considerations, be adopted, to aid the National Bank in commencing and maintaining its operations upon the basis of payments in the current coin.

1. To restore the national currency of gold and silver, it is essential that the quantity of bank paper in circulation should be reduced; but this effort alone will be sufficient to effect the object. By reducing the amount of bank paper, its value must be proportionably increased; and as soon as the amount shall be contracted to the limits of a just proportion in the circulating medium of the country, the consequent revival of the uses for coin, in the business of exchange, will ensure its re-appearance in abundance. The policy, the interest, and the honor of the State banks, will stimulate them to undertake and to prosecute this salutary work. But it will be proper to apprise them that, after a specified day, the notes of such banks as have not resumed their payments in the current coin, will not be received in payments, either to the Government or to the National Bank.

2. The resumption of payments in current coin, at the State banks, will remove every obstacle to the commencement of similar payments at the National Bank. The difficulty of commencing payments in coin is not, however, to be considered as equal to the difficulty of resuming them. The National Bank, free from all engagements, will be able to regulate its issues of paper, with a view to the danger as well as to the demand, that may be found to exist. But, in addition to the privileges granted by the charter, it will also be proper to apprise the State banks, that, after the commencement of the operations of the National Bank, the notes of such banks as do not agree to

receive, re-issue, and circulate, the notes of that institution, shall not be received in payments either to the Government or to the National Bank.

3. The possibility that the national currency of coin may not be perfectly restored, at the time of organizing the bank, has induced the proposition, that the payment of the Government subscription to the capital shall be made in treasury notes, which will be receivable in all payments to the Government, and to the National Bank, but which will not be demandable in coin. The principle of this proposition might perhaps be usefully extended, to authorize the National Bank to issue notes of a similar character, for a limited period; and it will be proper further to apprise the State banks that the notes of such banks as do not agree to receive, re-issue, and circulate, these treasury notes, or National Bank notes, shall not be received in payments, either to the Government or to the National Bank.

I have the honor to be, &c.

A. J. DALLAS.

HON. JOHN C. CALHOUN,

*Chairman of the Committee on the National Currency.*

OUTLINE OF A PLAN FOR THE NATIONAL BANK, REFERRED TO IN THE PRECEDING LETTER.

I. *The Charter of the Bank.*

1. To continue twenty-one years.
2. To be exclusive.

II. *The Capital of the Bank.*

1. To be \$35,000,000, at present.
2. To be augmented by Congress to \$50,000,000; and the additional sum to be distributed among the several States.
3. To be divided into 350,000 shares, of 100 dollars each, on the capital of 35,000,000; and to be subscribed,

By the United States, one fifth, or 70,000 shares,	\$7,000,000
By corporations and individuals, four fifths, or 280,000 shares,	28,000,000

\$35,000,000

4. To be compounded of public debt, and of gold and silver, as to the subscriptions of corporations and individuals, in the proportions
- |  |              |
|--|--------------|
| Of funded debt, three-fourths, equal to  | \$21,000,000 |
| Of gold and silver, one fourth, equal to | 7,000,000    |

28,000,000

The subscriptions of 6 per cent. stock to be at par.

The subscriptions of 3 per cent. stock to be at 56 per cent.

The subscriptions of 7 per cent. stock to be at 106.51 per cent.

5. The subscriptions in public debt may be discharged at pleasure by the Government, at the rate at which it is subscribed.

6. The subscriptions of corporations or individuals to be payable by instalments.

(1) *Specie*, at subscribing,

On each share, five dollars,	\$1,400,000
At six months, five dollars,	1,400,000
At twelve months, five dollars,	1,400,000
At eighteen months, ten dollars,	2,800,000

\$7,000,000

(2) *Public debt*, at subscribing,

Each share, twenty-five dollars,	-	-	-	-	-	7,000,000
At six months, twenty five dollars.	-	-	-	-	-	7,000,000
At twelve months, twenty-five dollars,	-	-	-	-	-	7,000,000
						\$28,000,000

7. The subscriptions of the United States to be paid in instalments, not extending beyond a period of seven years; the first instalment to be paid at the time of subscribing, and the payments to be made at the pleasure of Government, either

In gold and silver; or

In six per cent. stock, redeemable at the pleasure of the Government; or

In treasury notes, not fundable, nor bearing interest, nor payable at a particular time, but receivable in all payments to the bank, with a right, on the part of the bank, to re-issue the treasury notes so paid, from time to time, until they are discharged by payments to the Government.

8. The bank shall be at liberty to sell the stock portion of its capital, to an amount not exceeding ——— in any one year; but, if the sales are intended to be effected in the United States, notice thereof shall be given to the Secretary of the Treasury, that the commissioners of the sinking fund may, if they please, become the purchasers, at the market price, not exceeding par.

III. *The Government of the Bank.*

1. The bank shall be established at Philadelphia, with power to erect branches, or to employ State banks as branches elsewhere.

2. There shall be twenty five directors for the bank at Philadelphia and thirteen directors for each of the branches, where branches are erected, with the usual description and number of officers.

3. The President of the United States, with the advice and consent of the Senate, shall annually appoint five of the directors of the bank at Philadelphia.

4. The qualified stockholders shall annually elect twenty of the directors of the bank at Philadelphia, but a portion of the directors shall be changed at every annual election, upon the principle of rotation.

5. The directors of the bank at Philadelphia shall, annually, at their first meeting after their election, choose one of the five directors appointed by the President and Senate of the United States to be President of the bank; and the President of the bank shall always be re-eligible if re-appointed.

6. The directors of the bank at Philadelphia shall annually appoint thirteen directors for each of the branches, where branches are erected, and shall transmit a list of the persons appointed to the Secretary of the Treasury.

7. The Secretary of the Treasury, with the approbation of the President of the United States, shall annually designate, from the list of the branch directors, the person to be the President of the respective branches.

8. None but resident citizens of the United States shall be directors of the Bank or its branches.

9. The stockholders may vote for directors in person or by proxy; but no stockholder, who is not resident within the United States at the time of election, shall vote by proxy; nor shall any one person vote as proxy a greater number of votes than he would be entitled to vote in his own right, according to a scale of voting, to be graduated by the number of shares which the voters, respectively, hold.

10. The Bank, and its several branches, or the State banks employed as branches, shall furnish the officer at the head of the Treasury Department with statements of their officers, in such form, and at such period, as shall be required.

#### IV. *The Privileges and Duties of the Bank.*

1. The bank shall enjoy the usual privileges, and be subject to the usual restrictions of a body corporate and politic, instituted for such purposes, and the forgery of its notes shall be made penal.

2. The notes of the bank shall be receivable in all payments to the United States, unless Congress shall hereafter otherwise provide by law.

3. The bank and its branches, and State banks employed as branches, shall give the necessary aid and facility to the Treasury for transferring the public funds from place to place, and for making payments to the public creditors; without charging commissions, or claiming allowances on account of differences of exchange, &c.

#### V. *The Organization and Operation of the Bank.*

1. Subscriptions to be opened with as little delay as possible, and at as few places as shall be deemed just and convenient. The commissioners may be named in the act, or appointed by the President.

2. The Bank to be organized, and commence its operations in specie as soon as the sum of 1,400,000 dollars has been actually received from the subscribers, in gold and silver.

3. The Bank shall not at any time suspend its specie payments, unless the same shall be previously authorized by Congress, if in session, or by the President of the United States, if Congress be not in session. In the latter case, the suspension shall continue for six weeks after the meeting of Congress, and no longer, unless authorized by law.

#### VI. *The Bonus for the Charter of the Bank.*

The subscribers shall pay a premium to the Government for its charter. Estimating the profits of the bank from the probable advance in the value of its stock, and the result of its business when in full operation, at seven per cent. a bonus of 1,500,000 dollars, payable in equal instalments of two, three, and four years after the bank commences its operations, might, under all circumstances, be considered as about four per cent. upon its capital, and would contribute a reasonable premium.

JANUARY 8, 1816.

Mr. CALHOUN, from the committee on that part of the President's message which relates to a uniform national currency, reported a bill "to incorporate the subscribers to the Bank of the United States;" which was read the first and second time, and committed to a committee of the whole house.

The said bill is as follows:

A Bill to incorporate the Subscribers to the Bank of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a Bank of the United States of America shall be established, with a capital of thirty-five millions of dollars, divided into three hundred and fifty thousand shares, of one hundred dollars each share; but, Congress may, at any time hereafter, augment the capital of the said bank, to a sum not exceeding fifty millions of dollars, in such manner as shall be by law provided. Seventy thousand shares, amounting to the sum of seven millions of dollars, part of the capital of the said bank, shall be subscribed, and paid for by the United States, in the manner hereinafter specified; and two hundred and eighty thousand shares, amounting to the sum of twenty-eight millions of dollars, shall be subscribed and paid for, by individuals, companies, or corporations, in the manner hereinafter specified.

SEC. 2. *And be it further enacted,* That subscriptions for the sum of twenty-eight millions of dollars, towards constituting the capital of the said bank,

shall be opened on the first Monday in June next, at the following places, that is to say: at Portsmouth, in the State of New Hampshire; at Boston, in the State of Massachusetts; at Providence, in the State of Rhode Island; at New Haven, in the State of Connecticut; at Burlington, in the State of Vermont; at New York, in the State of New York; at —, in the State of New Jersey; at Philadelphia, in the State of Pennsylvania; at Wilmington, in the State of Delaware; at Baltimore, in the State of Maryland; at Richmond, in the State of Virginia; at Lexington, in the State of Kentucky; at —, in the State of Ohio; at Raleigh, in the State of North Carolina; at Nashville, in the State of Tennessee; at Charleston, in the State of South Carolina; at Augusta, in the State of Georgia; at New Orleans, in the State of Louisiana; and at Washington, in the District of Columbia. And the said subscriptions shall be opened under the superintendence of three commissioners, to be appointed at, and for, each of the said places, by the President of the United States, (who is hereby authorized to make such appointments) and shall continue open every day, from the time of opening the same, between the hours of ten o'clock in the forenoon, and four o'clock in the afternoon, until the Saturday following, at four o'clock in the afternoon, when the same shall be closed; and immediately thereafter, the commissioners, or any two of them, at the respective places aforesaid, shall cause two transcripts or copies of such subscriptions to be made, one of which they shall send to the Secretary of the Treasury, one they shall retain, and the original they shall transmit, within seven days from the closing of the subscriptions as aforesaid, to the commissioners at Philadelphia aforesaid. And on the receipt of the said original subscriptions, or of either of the said copies thereof, if the original be lost, mislaid, or detained, the commissioners at Philadelphia aforesaid, or a majority of them, shall immediately thereafter convene, and proceed to take an account of the said subscriptions. And if more than the amount of twenty-eight millions of dollars shall have been subscribed, then the said last mentioned commissioners shall apportion the same among the several subscribers, according to their several respective subscriptions, allowing and apportioning to each subscriber, at least one share. And in case the aggregate amount of the said subscriptions shall exceed twenty-eight millions of dollars, the said last mentioned commissioners, after having apportioned the same as aforesaid, shall cause lists of the said apportioned subscriptions to be made out, including in each list the apportioned subscription for the place where the original subscription was made, one of which lists they shall transmit to the commissioners, or one of them, under whose superintendence such subscriptions were originally made, that the subscribers may thereby ascertain the number of shares to them respectively apportioned as aforesaid. And in case the aggregate amount of the said subscriptions made, during the period aforesaid, at all the places aforesaid, shall not amount to twenty-eight millions of dollars, the subscriptions to complete the said sum shall be and remain open at Philadelphia aforesaid, under the superintendence of the commissioners appointed for that place; and the subscriptions may be then made by any individual, company, or corporation, for any number of shares, not exceeding in the whole the amount required to complete the said sum of twenty-eight millions of dollars.

SEC. 3. *And be it further enacted*, That it shall be lawful for any individual, company, or corporation, when the subscriptions shall be opened, as herein before directed, to subscribe for any number of shares of the capital of the said bank, not exceeding three thousand shares; and the sums so subscribed shall be payable, and paid in the manner following, that is to say: seven millions of dollars thereof in gold or silver coin, of the United States, or in foreign gold or silver coin, at the value thereof, as heretofore established by an act, entitled "An act regulating the currency of foreign coins," passed the tenth day of April, in the year one thousand eight hundred and six; and twenty-one millions of dollars thereof in like gold or silver coin, or in the funded debt of the United States, contracted at the time of the subscriptions respectively. And the payments made in the funded debt of the United States shall be paid and received at the following rates, that is to say: the funded debt,

bearing an interest of six per centum per annum, at the nominal or par value thereof; the funded debt bearing an interest of three per centum per annum, at the rate of sixty-five dollars for every sum of one hundred dollars of the nominal amount thereof; and the funded debt, bearing an interest of seven per centum per annum, at the rate of one hundred and six dollars and fifty-one cents, for every sum of one hundred dollars of the nominal amount thereof; together with the amount of the interest accrued on the said several denominations of funded debt, to be computed and allowed to the time of subscribing the same to the capital of the said bank as aforesaid. And the payments of the said subscriptions shall be made and completed by the subscribers, respectively, at the times and in the manner following, that is to say: at the time of subscribing, there shall be paid five dollars on each share, in gold or silver coin as aforesaid, and twenty-five dollars more, in coin as aforesaid, or in funded debt as aforesaid; at the expiration of six calendar months after the time of subscribing, there shall be paid the further sum of five dollars on each share, in gold or silver coin as aforesaid, and twenty-five dollars more, in coin as aforesaid, or in funded debt as aforesaid; at the expiration of twelve calendar months from the time of subscribing, there shall be paid the further sum of five dollars on each share, in gold or silver coin as aforesaid, and twenty-five dollars more, in coin as aforesaid, or in funded debt as aforesaid; and at the expiration of eighteen calendar months, there shall be paid the further sum of ten dollars in gold or silver coin as aforesaid.

SEC. 4. *And be it further enacted*, That, at the time of subscribing to the capital of the said bank as aforesaid, each and every subscriber shall deliver to the commissioners, at the place of subscribing, as well the amount of their subscriptions, respectively, in coin as aforesaid, as the certificates of funded debt, for the funded debt proportion of their respective subscriptions, together with a power of attorney, authorizing the said commissioners, or a majority of them, to transfer the said stock in due form of law, to "the president, directors and company, of the Bank of the United States of America," as soon as the said bank shall be organized. *Provided, always*, That if, in consequence of the apportionment of the shares in the capital of the said bank among the subscribers, in the case, and in the manner hereinbefore provided, any subscriber shall have delivered to the commissioners, at the time of subscribing, a greater amount of gold or silver coin and funded debt, than shall be necessary to complete the payments for the share or shares to such subscribers, apportioned as aforesaid, the commissioners shall only retain so much of the said gold or silver coin, and funded debt, as shall be necessary to complete such payments, and shall forthwith return the surplus thereof, on application for the same, to the subscribers lawfully entitled thereto. And the commissioners, respectively, shall deposite the gold and silver coin, and certificates of public debt, by them respectively received as aforesaid, from the subscribers to the capital of the said bank, in some place of secure and safe keeping, so that the same may, and shall be specifically delivered and transferred, as the same were by them respectively received, to the president, directors, and company of the Bank of the United States of America, or to their order, as soon as shall be required after the organization of the said bank. And the said commissioners appointed to superintend the subscriptions to the capital of the said bank as aforesaid, shall receive a reasonable compensation for their services, respectively, and shall be allowed all reasonable charges and expenses incurred in the execution of their trust, to be paid by the president, directors, and company, of the bank, out of the funds thereof.

SEC. 5. *And be it further enacted*, That it shall be lawful for the United States to pay, and redeem the funded debt subscribed to the capital of the said bank, at the rates aforesaid, in such sums, and at such times as shall be deemed expedient, any thing in any act or acts of Congress to the contrary thereof, notwithstanding. And it shall also be lawful for the president, directors, and company, of the said bank, to sell and transfer, for gold and silver coin or bullion, the funded debt subscribed to the capital of the said bank as aforesaid: *Provided, always*, That they shall not sell more thereof than the sum of two



millions of dollars in any one year; nor sell any part thereof, at any time, within the United States, without previously giving notice of their intention, to the Secretary of the Treasury, and offering the same to the United States at the current price, not exceeding the rates aforesaid.

SEC. 6. *And be it further enacted*, That, at the opening of the subscription to the capital stock of the said bank, the Secretary of the Treasury shall subscribe, or cause to be subscribed, on behalf of the United States, the said number of seven thousand shares, amounting to seven millions of dollars, as aforesaid, to be paid in gold or silver coin, or treasury notes, or in stock of the United States, bearing interest at the rate of six per centum per annum, in seven equal annual payments of one million of dollars each, the first whereof shall be made at, or as nearly as conveniently may be after, the opening of the said subscriptions: *Provided, always*, That it shall be lawful for the Secretary of the Treasury, with the approbation of the President of the United States, and the consent of the president, directors, and company of the said bank, to anticipate and pay in advance, all or any of the said annual payments, at such times, and in such manner, as shall be mutually stipulated and agreed.

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury, with the approbation of the President of the United States, shall, from time to time, select and designate the mode of paying for the said subscription of the United States, to the capital of the said bank as aforesaid. And if payment thereof, or of any part thereof, be made in public stock, bearing interest at the rate of six per centum per annum, as aforesaid, the said interest shall be payable quarterly, to commence from the time of making such payment on account of the said subscriptions, and the principal of the said stock shall be redeemable in any sums, and at any periods which the Government shall deem fit. And the Secretary of the Treasury shall, from time to time, cause the certificates of such public stock to be prepared, and made in the usual form, and shall pay and deliver the same to the president, directors, and company, of the said bank, at, or as soon as conveniently may be after, the time and times, hereinbefore prescribed for the payment of the said subscription of the United States, to the capital of the said bank as aforesaid; or at such other time and times as may be agreed upon in pursuance of the authority hereinbefore given, to anticipate the payments of the said subscription as aforesaid. And if payment of the said subscription of the United States to the capital of the said bank as aforesaid, or of any part thereof, shall be made in treasury notes, such treasury notes shall not bear interest, but shall pass by endorsement, or by delivery, for such sum, to be specified on the face thereof, respectively, as the Secretary of the Treasury, with the approbation of the President of the United States, shall direct; and shall be receivable in all payments to the United States, and in all payments to the president, directors, and company, of the said bank. And the Secretary of the Treasury shall, from time to time, cause the said treasury notes to be prepared, and shall pay and deliver the same to the president, directors, and company, of the said bank, at, or as soon as conveniently may be after, the time and times hereinbefore prescribed, for the payment of the said subscription of the United States, to the capital of the said bank as aforesaid; or at such other time and times as may be agreed upon, in pursuance of the authority hereinbefore given, to anticipate the payments of the said subscription as aforesaid. And it shall be lawful for the Secretary of the Treasury, or for the president, directors, and company, of the said bank, to issue, and re-issue, at their par value, such of the said treasury notes as shall be received in payments by the United States, or by the said bank, respectively, as aforesaid: *Provided, always*, That the United States may at any time redeem and cancel the said treasury notes, or any part thereof, while the same shall be in the possession of the said bank as the property thereof: *And provided, also*, That it shall be the duty of the Secretary of the Treasury, out of the said treasury notes received in payments to the United States, as aforesaid, to cause a portion thereof to be cancelled yearly, and every year, so that the whole amount issued may be redeemed

and cancelled on or before the expiration of eight years from the time of opening the subscription to the capital of the said bank as aforesaid.

SEC. 8. *And be it further enacted,* That, if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any note in imitation of, or purporting to be a treasury note as aforesaid; or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering, any treasury note issued as aforesaid; or shall pass, utter, or publish as true, any false, forged, or counterfeit note, purporting to be a treasury note as aforesaid, knowing the same to be falsely made, forged, or counterfeited; or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any falsely altered treasury note issued as aforesaid, knowing the same to be falsely altered; or shall be, directly or indirectly, knowingly concerned in any of the offences aforesaid, every such person shall be deemed and adjudged guilty of felony; and being thereof convicted by due course of law, shall be sentenced to be imprisoned, and kept to hard labor, for a period not less than three years, nor more than ten years, and be fined in a sum not exceeding five thousand dollars.

SEC. 9. *And be it further enacted,* That the subscribers to the said Bank of the United States of America, their successors and assigns, shall be, and are hereby, created a corporation and body politic, by the name and style of "The President, Directors, and Company, of the Bank of the United States," and shall so continue until the third day of March, in the year one thousand eight hundred and thirty-six, and by that name shall be, and are hereby, made able and capable, in law, to have, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of whatsoever kind, nature, and quality, to an amount not exceeding, in the whole, fifty-five millions of dollars, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, alien, or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts and places whatsoever; and also to make, have, and use a common seal, and the same to break, alter, and renew, at their pleasure; and also to ordain, establish, and put in execution, such by-laws, and ordinances, and regulations, as they shall deem necessary and convenient for the government of the said corporation, not being contrary to the constitution and laws of the United States: and generally to do and execute all and singular the acts, matters, and things, which to them it shall or may appertain to do; subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed and declared.

SEC. 10. *And be it further enacted,* That, for the management of the affairs of the said corporation, there shall be twenty-five directors, five of whom shall be annually appointed by the President of the United States, by and with the advice and consent of the Senate, and twenty of whom shall be annually elected at the banking house in the city of Philadelphia, on the first Monday of January, in each year, by the qualified stockholders of the capital of the said bank, and by a plurality of votes then and there actually given, according to the scale of voting hereinafter prescribed. And the directors, so duly appointed and elected, shall be capable of serving, by virtue of such appointment and choice, from the first Monday in the month of January, of each year, until the end and expiration of the first Monday in the month of January of the year next ensuing the time of each annual election to be held by the stockholders as aforesaid. And the board of directors, annually, at the first meeting after their election in each and every year, shall proceed to elect one of the five directors appointed by the President of the United States, to be president of the corporation, who shall hold the said office during the same period for which the directors are appointed and elected as aforesaid: *Provided, always,* That the first appointment and election of the directors and president of the said bank shall be at the time and for the period hereinafter declared: *And provided, also,* That, in case it should at any time happen that an appointment or election of directors, or an election of the president of the

said bank, should not be so made as to take effect on any day when, in pursuance of this act, they ought to take effect, the said corporation shall not, for that cause, be deemed to be dissolved; but it shall be lawful, at any other time, to make such appointments, and to hold such elections; (as the case may be) and the manner of holding the elections shall be regulated by the by-laws and ordinances of the said corporation; and until such appointments or elections be made, the directors and president of the said bank, for the time being, shall continue in office: *And provided, also,* That, in case of the death, resignation, or removal, of the president of the said corporation, the directors shall proceed to elect another president from the directors appointed by the President of the United States as aforesaid; and in case of the death, resignation, or absence from the United States, or removal, of a director from office, the vacancy shall be supplied by the President of the United States, or by the stockholders, as the case may be. But the President of the United States alone shall have power to remove the president of the bank, or any of the directors appointed by him as aforesaid.

SEC. 11. *And be it further enacted,* That, as soon as the sum of eight millions four hundred thousand dollars, in gold and silver coin, and in the public debt, shall have been actually received on account of the subscriptions to the capital of the said bank, (exclusively of the subscription aforesaid, on the part of the United States) notice thereof shall be given by the persons under whose superintendence the subscriptions shall have been made at the city of Philadelphia, in at least two newspapers printed in each of the places, (if so many be printed at such places respectively) where subscriptions shall have been made, and the said persons shall, at the same time, and in like manner, notify a time and place within the said city of Philadelphia, at the distance of at least thirty days from the time of such notification, for proceeding to the election of twenty directors as aforesaid, and it shall be lawful for such election to be then and there made. And the President of the United States is hereby authorized, during the present session of Congress, to nominate, and, by and with the advice and consent of the Senate, to appoint, five directors of the said bank; and the persons who shall be elected and appointed as aforesaid, shall be the first directors of the said bank, and shall proceed to elect one of the five directors appointed by the President of the United States as aforesaid, to be president of the said bank; and the directors and president of the said bank, so appointed and elected as aforesaid, shall be capable of serving in their respective office, by virtue thereof, until the end and expiration of the first Monday of the month of January next ensuing the said appointments and elections; and they shall then and thenceforth commence and continue the operations of the said bank, at the city of Philadelphia.

SEC. 12. *And be it further enacted,* That the directors for the time being shall have power to appoint such officers, clerks, and servants under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services, respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities, for the well governing and ordering of the officers of the said corporation, as shall be prescribed, fixed, and determined, by the laws, regulations, and ordinances, of the same.

SEC. 13. *And be it further enacted,* That the following rules, restrictions, limitations, and provisions, shall form and be fundamental articles of the constitution of the said corporation, to wit:

1. The number of votes to which the stockholders shall be entitled, in voting for directors, shall be according to the number of shares he, she, or they, respectively, shall hold, in the proportions following, that is to say: for one share, and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote; but no person, co-partnership, or body politic, shall be entitled to a greater

number than thirty votes; and after the first election, no share or shares shall confer a right of voting, which shall not have been holden three calendar months previous to the day of election. And stockholders actually resident within the United States, and none other, may vote in elections by proxy. But no person shall give, in the whole, a greater number of votes, as proxy, and in his own right, than he would be entitled to give in his own right only, according to the proportion of voting hereinafter prescribed.

2. Not more than three-fourths of the directors elected by the stockholders, and not more than four-fifths of the directors appointed by the President of the United States, who shall be in office at the time of an annual election, shall be elected or appointed for the next succeeding year; but the director who shall be the president at the time of an election may always be re-appointed by the President of the United States, and be re-elected president of the bank by the directors thereof.

3. None but a resident citizen of the United States shall be a director; nor shall a director be entitled to any emolument; but the stockholders may make such compensation to the president, for his extraordinary attendance at the bank, as shall appear to them reasonable.

4. Not less than seven directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence; in which case his place may be supplied by any other director whom he, by writing, under his hand, shall depute for that purpose. And the director so deputed may do and transact all the necessary business belonging to the office of the president of the said corporation, during the continuance of the sickness or necessary absence of the president.

5. A number of stockholders, not less than sixty, who, together, shall be proprietors of one thousand shares or upwards, shall have power at any time to call a general meeting of the stockholders, for purposes relative to the institution, giving at least ten weeks' notice in two public newspapers of the place where the bank is seated, and specifying in such notice the object or objects of such meeting.

6. Each cashier or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with a condition for his good behavior, and the faithful performance of his duties to the corporation.

7. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales, upon judgments which shall have been obtained for such debts.

8. The total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, over and above the debt or debts due for money deposited in the bank, shall not exceed the sum of fifty millions of dollars, unless the contracting of any greater debt shall have been previously authorized by a law of the United States. In case of excess, the directors under whose administration it shall happen, shall be liable for the same in their natural and private capacities; and an action of debt may in such case be brought against them, or any of them, their or any of their heirs, executors, or administrators, in any court of record of the United States, or either of them, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement, to the contrary notwithstanding. But this provision shall not be construed to exempt the said corporation, or the lands, tenements, goods, or chattels of the same, from being also liable for, and chargeable with, the said excess.

Such of the said directors, who may have been absent when the said excess was contracted or created, or who may have dissented from the resolu-

tion or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the President of the United States, and to the stockholders, at a general meeting, which they shall have power to call for that purpose.

9. The said corporation shall not, directly or indirectly, deal or trade in any thing except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or goods which shall be the proceeds of its lands. It shall not be at liberty to purchase any public debt whatsoever; nor shall it take more than at the rate of six per centum per annum for or upon its loans or discounts.

10. No loan shall be made by the said corporation, for the use or on account of the Government of the United States, to an amount exceeding five hundred thousand dollars, or of any particular State to an amount exceeding fifty thousand dollars, or of any foreign prince or State, unless previously authorized by a law of the United States.

11. The stock of the said corporation shall be assignable and transferable according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same.

12. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and his, her, or their executors or administrators, and of his or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees, and his, her, or their executors or administrators, to maintain an action thereupon in his, her, or their own name or names. And the bills or notes which may be issued by order of the said corporation, signed by the president, and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her, or their order, or to bearer, although not under the seal of the said corporation, shall be binding and obligatory upon the same, in like manner, and with like force and effect, as upon any private person or persons, if issued by him, her, or them, in his, her, or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons, that is to say: those which shall be payable to any person or persons, his, her, or their order, shall be assignable by endorsement, in like manner, and with the like effect as foreign bills of exchange now are; and those which are payable to bearer shall be assignable and negotiable by delivery only.

13. Half yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors advisable; and once in every three years the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid, after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of the profits, if any, after deducting losses and dividends. If there shall be a failure in the payment of any part of any sum subscribed to the capital of the said bank, by any person, copartnership, or body politic, the party failing shall lose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

14. The directors of the said corporation shall establish a competent office of discount and deposit in the District of Columbia, whenever any law of the United States shall require such an establishment; and it shall be lawful for the directors of the said corporation to establish offices wheresoever they shall think fit, within the United States or the territories thereof, and to commit the management of the said offices, and the business thereof, respectively, to such persons, and under such regulations, as they shall deem proper, not being contrary to law or the constitution of the bank. Or, instead of establishing such offices, it shall be lawful for the directors of the said corpora-

tion, from time to time to employ any other bank or banks, to be first approved by the Secretary of the Treasury, at any place or places that they may deem safe and proper, to manage and transact the business proposed, as aforesaid, to be managed and transacted by such offices, under such agreements, and subject to such regulations as they shall deem just and proper. Thirteen managers or directors, of every office established as aforesaid, shall be annually appointed by the directors of the bank, to serve one year; they shall choose a president from their own number; each of them shall be a citizen of the United States; and not more than three fourths of the said managers or directors, in office at the time of an annual appointment, shall be re-appointed for the next succeeding year: but the president may be always re-appointed.

15. The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same; of the moneys deposited therein; of the notes in circulation; and of the specie in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statement: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

SEC. 14. *And be it further enacted*, That, if the said corporation, or any person or persons, for, or to the use of the same, shall deal, or trade, in buying or selling goods, wares, merchandise, or commodities, whatsoever, contrary to the provisions of this act, all and every person and persons, by whom any order or direction for so dealing or trading, shall have been given; and all and every person and persons who shall have been concerned as parties or agents therein, shall forfeit and lose treble the value of the goods, wares, merchandises, and commodities, in which such dealing and trade shall have been, one half thereof to the use of the informer, and the other half thereof to the use of the United States, to be recovered in any action of law, with costs of suit.

SEC. 15. *And be it further enacted*, That, if the said corporation shall advance, or lend any sum of money, for the use, or on account of the Government of the United States, to an amount exceeding five hundred thousand dollars; or of any particular State, to an amount exceeding fifty thousand dollars; or of any foreign prince or State, (unless previously authorized thereto by a law of the United States) all and every person and persons, by and with whose order, agreement, consent, approbation, and connivance, such unlawful advance or loan shall have been made, upon conviction thereof, shall forfeit and pay, for every such offence, treble the value or amount of the sum or sums which have been so unlawfully advanced or lent, one fifth thereof to the use of the informer, and the residue thereof to the use of the United States.

SEC. 16. *And be it further enacted*, That the bills or notes of the said corporation, originally made payable, or which shall have become payable, on demand, shall be receivable in all payments to the United States, unless otherwise directed by act of Congress.

SEC. 17. *And be it further enacted*, That, during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall give the necessary facilities for transferring the public funds from place to place, and for distributing the same in payment of the public creditors, without charging commissions, or claiming allowance, on account of difference of exchange, and shall, also, do and perform the several and respective duties of the commissioners of loans for the several States, or of any one or more of them, at the times, in the manner, and upon the terms, prescribed by the Secretary of the Treasury.

SEC. 18. *And be it further enacted*, That the said corporation shall not, at any time, suspend, or refuse to pay, the notes thereof, in gold or silver coin, upon demand, according to the contract and promise of such notes: *Provided always, nevertheless*, That, upon the representation of the said corporation, Congress shall have power to authorize the suspension or refusal afore-



said, for a time to be limited by law; and that, during the recess of Congress, it shall be lawful for the President of the United States, upon a like representation, to authorize such suspension for a term which shall not exceed six weeks after the opening of the next ensuing session of Congress.

SEC. 19. *And be it further enacted*, That, in consideration of the exclusive privileges and benefits conferred by this act, upon the said bank, the President, Directors, and Company thereof, shall pay to the United States, out of the corporate funds thereof, the sum of one million and five hundred thousand dollars, in three equal payments, that is to say: five hundred thousand dollars at the expiration of two years, five hundred thousand dollars at the expiration of three years, and five hundred thousand dollars at the expiration of four years, after the said bank shall be organized and commence its operations, in the manner hereinbefore provided.

SEC. 20. *And be it further enacted*, That no other bank shall be established by any future law of the United States, during the continuance of the corporation hereby created, for which the faith of the United States is hereby pledged: *Provided*, Congress may renew existing charters for banks in the District of Columbia, not increasing the capital thereof; and may grant charters, if they deem it expedient, to any banking associations now in operation in the said district, and renew the same, not increasing the capital thereof. And, notwithstanding the expiration of the term for which the said corporation is created, it shall be lawful to use the corporate name, style, and capacity, for the purpose of suits, for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, real, personal, and mixed; but not for any other purpose, or in any other manner whatsoever, nor for a period exceeding two years after the expiration of the said term of incorporation.

FEBRUARY 26, 1816.

On motion of Mr. CALHOUN, the House postponed the intervening orders of the day, to proceed to the consideration of the National Bank bill.

The House having resolved itself into a committee of the whole, Mr. Nelson, of Va. in the chair, on that subject; the bill having been read, establishing a national bank, with a capital of thirty-five millions of dollars—

Mr. CALHOUN rose to explain his views of a subject so interesting to the republic, and so necessary to be correctly understood, as that of the bill now before the committee. He proposed at this time only to discuss general principles, without reference to details. He was aware, he said, that principle and detail might be united; but he should at present keep them distinct. He did not propose to comprehend, in this discussion, the power of Congress to grant bank charters; nor the question whether the general tendency of banks was favorable or unfavorable to the liberty and prosperity of the country; nor the question whether a national bank would be favorable to the operations of the Government. To discuss these questions, he conceived, would be an useless consumption of time. The constitutional question had been already so freely and frequently discussed, that all had made up their mind on it. The question whether banks were favorable to public liberty and prosperity, was one purely speculative. The fact of the existence of banks, and their incorporation with the commercial concerns and industry of the nation, proved that inquiry to come too late. The only question was, on this hand, under what modifications were banks most useful, and whether the United States ought or ought not to exercise the power to establish a bank. As to the question whether a national bank would be favorable to the administration of the finances of the Government, it was one on which there was so little doubt, that gentlemen would excuse him if he did not enter into it. Leaving all these questions, then, Mr. C. said, he proposed to examine the cause and state of the disorders of the national currency, and the question whether it was in the power of Congress, by establishing a national bank, to remove those disorders. This, he

observed, was a question of novelty and vital importance; a question which greatly affected the character and prosperity of the country.

As to the state of the currency of the nation, Mr. C. proceeded to remark that it was extremely depreciated, and in degrees, varying according to the different sections of the country, all would assent. That this state of the currency was a stain on the public and private credit, and injurious to the morals of the community, was so clear a position as to require no proof. There were, however, other considerations arising from the state of the currency, not so distinctly felt, not so generally assented to. The state of our circulating medium was, he said, opposed to the principles of the federal constitution. The power was given to Congress by that instrument, in express terms, to regulate the currency of the United States. In point of fact, he said, that power, though given to Congress, is not in their hands. The power is exercised by banking institutions, no longer responsible for the correctness with which they manage it. Gold and silver have disappeared entirely; there is no money but paper money, and that money is beyond the control of Congress. No one, he said, who referred to the constitution, could doubt that the money of the United States was intended to be placed entirely under the control of Congress. The only object the framers of the constitution could have in view, in giving to Congress the power "to coin money, regulate the value thereof, and of foreign coin," must have been, to give a steadiness and fixed value to the currency of the United States. The state of things at the time of the adoption of the constitution, afforded Mr. C. an argument in support of his construction. There then existed, he said, a depreciated paper currency, which could only be regulated and made uniform by giving a power, for that purpose, to the General Government. The States could not do it. He argued, therefore, taking into view the prohibition against the States issuing bills of credit, that there was a strong presumption this power was intended to be exclusively given to Congress. Mr. C. acknowledged there was no provision in the constitution by which States were prohibited from creating the banks which now exercise this power; but, he said, banks were then but little known—there was but one, the Bank of North America, with a capital of only 400,000 dollars; and the universal opinion was, that bank notes represented gold and silver, and that there could be no necessity to prohibit banking institutions under this impression, because their notes always represented gold and silver, and they could not be multiplied beyond the demands of the country. Mr. C. drew the distinction between banks of deposit and banks of discount, the latter of which were then but little understood—and their abuse not conceived until demonstrated by recent experience. No man, he remarked, in the convention, much talent and wisdom as it contained, could possibly have foreseen the course of these institutions; that they would have multiplied from one to two hundred and sixty; from a capital of 400,000 dollars to one of eighty millions; from being consistent with the provisions of the constitution, and the exclusive right of Congress to regulate the currency, that they would be directly opposed to it; that, so far from their credit depending on their punctuality in redeeming their bills with specie, they might go on, *ad infinitum*, in violation of their contract, without a dollar in their vaults. There had, indeed, Mr. C. said, been an extraordinary revolution in the currency of the country. By a sort of under-current, the power of Congress to regulate the money of the country had caved in, and upon its ruin had sprung up those institutions which now exercised the right of making money for, and in, the United States: for gold and silver are not the only money, but whatever is the medium of purchase and sale, in which bank paper alone was now employed, and had, therefore, become the money of the country. A change, great and wonderful, has taken place, said he, which divests you of your rights, and turns you back to the condition of the Revolutionary war, in which every State issued bills of credit, which were made a legal tender, and were of various value.

This then, Mr. C. said, was the evil. We have, in lieu of gold and silver, a paper medium, unequally but generally depreciated, which affects the trade and industry of the nation; which paralyses the national arm; which sullies

the faith, both public and private, of the United States—a paper no longer resting on gold and silver as its basis. We have, indeed, laws regulating the currency of foreign coin; but they are, under present circumstances, a mockery of legislation, because there is no coin in circulation. The right of making money, an attribute of sovereign power—a sacred and important right—was exercised by two hundred and sixty banks, scattered over every part of the United States, not responsible to any power whatever for their issues of paper. The next and great inquiry was, he said, how this evil was to be remedied? Restore, he said, these institutions to their original use; cause them to give up their usurped power; cause them to return to their legitimate office of places of discount and deposit; let them be no longer mere paper machines; restore the state of things which existed anterior to 1813, which was consistent with the just policy and interests of the country; cause them to fulfil their contracts; to respect their broken faith; resolve, that every where, there shall be an uniform value to the national currency;—your constitutional control will then prevail.

How, then, he proceeded to examine, was this desirable end to be attained? What difficulties stood in the way? The reason why the banks could not now comply with their contract was, that conduct, which, in private life, frequently produces the same effect. It was owing to the prodigality of their engagements, without means to fulfil them; to their issuing more paper than they could possibly redeem with specie. In the United States, according to the best estimation, there were not, in the vaults of all the banks, more than fifteen millions of specie, with a capital amounting to about eighty two millions of dollars; hence the cause of the depreciation of bank notes—the excess of paper in circulation beyond that of specie in their vaults. This excess was visible to the eye, and almost audible to the ear; so familiar was the fact, that this paper was emphatically called *trash*, or *rags*. According to estimation, also, he said, there were in circulation, at the same date, within the United States, two hundred millions of dollars of bank notes, credits, and bank paper, in one shape or other. Supposing thirty millions of these to be in possession of the banks themselves, there were perhaps one hundred and seventy millions actually in circulation, or on which the banks draw interest. The proportion between the demand and supply, which regulates the price of every thing, regulates also the value of this paper. In proportion as the issue is extensive, it depreciates in value—and no wonder, when, since 1810 or 1811, the amount of paper in circulation had increased from 80 or 90 to 200 millions. Mr. C. here examined the opinion entertained by some gentlemen, that bank paper had not depreciated, but that gold and silver had appreciated; a position he denied by arguments founded on the portability of gold and silver, which would equalize their value in every part of the United States, and on the facts, that gold and silver coin had increased in quantity instead of diminishing, and that the exchange with Great Britain had been, (at gold and silver value) for some time past, in favor of the United States. Yet, he said, gold and silver were leaving our shores. In fact, we have degraded the metallic currency; we have treated it with indignity; it leaves us, and seeks an asylum on foreign shores. Let it become again the basis of bank transactions, and it will re-visit us. Having established, as he conceived, in the course of his remarks, that the excess of paper issues was the true and only cause of depreciation of our paper currency, Mr. C. turned his attention to the manner in which that excess had been produced. It was intimately connected with the suspension of specie payments; they stood the cause and effect. First, the excessive issues caused the suspension of specie payments; and advantage had been taken of that suspension to issue still greater floods of it. The banks had undertaken to do a new business, uncongenial with the nature of such institutions; they undertook to make long loans to Government, not as brokers, but as stockholders—a practice wholly inconsistent with the system of specie payments. After showing the difference between the ordinary business of a bank, in discounts, and the making loans for twelve years, Mr. C. said, indisputably the latter practice was a great and leading cause of the suspension of specie payments.

Of this species of property (public stock) the banks in the United States held, on the 30th day of September last, about eighteen and a half millions, and a nearly equal amount of treasury notes, besides stock for long loans made to the State Governments, amounting, altogether, to within a small amount of forty millions, being a large proportion of their actual capital. This, he said, was the great cause of the suspension of specie payments. Had the banks (he now discussed the question) the capacity to resume specie payments? If they have *the disposition*, he said, they may resume specie payments. The banks are not insolvent, he said: they never were more solvent. If so, the term itself implies, that, if time be allowed them, they may, before long, be in a condition to resume payment of specie. If the banks would regularly and consentaneously begin to dispose of their stock, to call in their notes for the treasury notes they have, and moderately curtail their private discounts; if they would act in concert in this manner, they might resume specie payments. If they were to withdraw, by the sale of a part only of their stock and treasury notes, twenty-five millions of their notes from circulation, the rest would be appreciated to par, or nearly, and they would still have fifteen millions of stock disposable to send to Europe for specie, &c. With thirty millions of dollars in their banks, and so much of their paper withdrawn from circulation, they would be in a condition to resume payments in specie. The only difficulty, that of producing concert, was one which it belonged to Congress to surmount. The indisposition of the banks, from motives of interest, obviously growing out of the vast profits most of them have lately realized, by which the stockholders have realized from twelve to twenty per cent. on their stock, would be, he showed, the greatest obstacle. What, he asked, was a bank? An institution, under present uses, to make money. What was the instinct of such an institution? Gain, gain; nothing but gain: and they would not willingly relinquish their gain from the present state of things, which was profitable to them, acting as they did without restraint, and without hazard. Those who believed that the present state of things would ever cure itself, Mr. C. said, must believe what is impossible: banks must change their nature, lay aside their instinct, before they will aid in doing what it is not their interest to do. By this process of reasoning, he came to the conclusion, that it rested with Congress to make them return to specie payments, by making it their interest to do so. This introduced the subject of the national bank.

A national bank, he said, paying specie itself, would have a tendency to make specie payments general, as well by its influence as by its example. It will be the interest of the national bank to produce this state of things; because, otherwise, its operations will be greatly circumscribed, as it must pay out specie or national bank notes: for, he presumed, one of the first rules of such a bank would be to take the notes of no bank which did not pay in gold and silver. A national bank of thirty-five millions, with the aid of those banks which are at once ready to pay specie, would produce a powerful effect all over the Union. Further, a national bank would enable the Government to resort to measures which would make it unprofitable to banks to continue the violation of their contracts, and advantageous to return to the observation of them. The leading measure of this character would be to strip the banks refusing to pay specie of all the profits arising from the business of the Government—to prohibit deposits with them, and to refuse to receive their notes in payment of dues to the Government. How far such measures would be efficacious, in producing a return to specie payments, he was unable to say; but it was as far as he would be willing to go at the present session. If they persisted in refusing to resume payments in specie, Congress must resort to measures of a deeper tone, which they had in their power.

The restoration of specie payments, Mr. C. argued, would remove the embarrassments on the industry of the country, and the stains from its public and private faith. It remained to see whether this House, without whose aid it was in vain to expect success in this object, would have the fortitude to apply the remedy. If this was not the proper remedy, he hoped it would be shown by the proposition of a proper substitute, and not opposed by vague

and general declamation against banks. The disease, he said, was deep; it affected public opinion; and, whatever affects public opinion, touches the vitals of the Government. Hereafter, he said, Congress would never stand in the same relation to this measure in which they now did. The disease arose in time of war—the war had subsided, but left the disease, which it was now in the power of Congress to eradicate; but, if they did not now exercise the power, they would become abettors of a state of things which was of vital consequence to public morality, as he showed by various illustrations. He called upon the House, as guardians of the public weal, of the health of the body politic, which depended on the public morals, to interpose against a state of things which was inconsistent with either. He appealed to the House, too, as the guardians of public and private faith. In what manner, he asked, were the public contracts fulfilled? In gold and silver, in which the Government had stipulated to pay? No; in paper, issued by these institutions; in paper, greatly depreciated; in paper, depreciated from five to twenty per cent. below the currency in which the Government had contracted to pay, &c. He added another argument; the inequality of taxation, in consequence of the state of the circulating medium, which, notwithstanding the taxes were laid with strict regard to the constitutional provision for their equality, made the People in one section of the Union pay perhaps one-fifth more of the same tax, than those in another. The constitution having given Congress the power to remedy these evils, they were, he contended, deeply responsible for their continuance.

The evil he desired to remedy, Mr. C. said, was a deep one; almost incurable; because connected with public opinion, over which banks have a great control—they have, in a great measure, a control over the press: for proof of which he referred to the fact, that the present wretched state of the circulating medium had scarcely been denounced by a single paper within the United States. The derangement of a circulating medium, he said, was a joint thrown out of its socket; let it remain for a short time in that state, and the sinews will be so knit, that it cannot be replaced—apply the remedy soon, and it is an operation easy, though painful. The evil grows, whilst the resistance to it becomes weak; and, unless checked at once, will become irresistible. Mr. C. concluded the speech, of which the above is a mere outline, which the imagination of the reader must fill up, by observing, that he could have said much more on this important subject, but he knew how difficult it was to gain the attention of the House to long addresses.

Mr. RANDOLPH, in explaining an allusion which Mr. Calhoun had made to a remark of his, on a former occasion, took occasion to say, that he had listened to the honorable gentleman with pleasure. He was glad to see a cause so important in hands so able. He promised the honorable gentleman, though he might not agree in his mode of remedying the evil, he would go with him in the application of any adequate remedy, to an evil which he regarded as most enormous, &c.

Mr. WARD, of Massachusetts, made some remarks, not very distinctly heard at the time. He acknowledged the correctness of the representation of the existing evil, for which he appeared to think the remedy was near at hand, and more simple in its application than the establishment of a national bank, viz: by refusing to receive the notes of those banks which do not pay specie in dues to the Government. But for an alliance, which he considered disgraceful to the country, and unjust to individuals, between the Secretary of the Treasury and the banks which refused to pay specie, the evil never would have existed. If Congress adopted the measure which he (Mr. W.) proposed, those banks must go down, and public credit rise. Why not resort at first to the obvious expedient and then proceed to the consideration of the less urgent question of establishing a national bank? The banks, who, it was now agreed, had engaged in a business for which they were not calculated, having received a sufficient bonus for the loans they made to Government, and made

handsome profits by it, had no claim on Government to protect them in their refusal to pay specie, &c. Mr. W. rose not to propose any amendment to the bill, but to express his entire coincidence in the gentleman's opinion, that a great evil exists, which Congress had the power to remedy; and, if the remedy were not immediately applied, on them would be the responsibility and the blame.

Mr. SERGEANT moved to amend the first section of the bill by striking out the words "*thirty-five*," and inserting *twenty*, as the amount of the capital of the bank. He did not intend, he said, to go into a general consideration of the principle of the bill, or of the motion now submitted by him. He made the motion on the ground of the facts and arguments just delivered by the gentleman from South Carolina, (Mr. CALHOUN.) From the quantity of paper stated to be in circulation, he thought the calculation fair that the amount proposed to be added to the existing bank capital was larger than necessary, and entered into some calculations, not distinctly heard, to support the propriety of his motion.

Mr. CALHOUN hoped the motion would not prevail, and replied briefly to the calculations of Mr. SERGEANT. The necessity of a larger capital consisted, he said, in the important functions to be performed by the national bank. The desirable point was to fix the capital so large as to prevent undue profit, and so as to prevent a loss to the stockholders. Perhaps a bank of twenty millions might afford a fair profit; but the great business it would have to perform made a larger capital necessary, &c.

Mr. PITKIN supported the motion to reduce the capital. He thought the banking capital of the country already too great, and offered a few calculations to prove the position. In 1805, 1806, and 1807, said he, when the commerce of the country was very great, our banking capital did not exceed fifty or sixty millions; and yet, in those times, no complaint was heard of the deficiency of capital. If not more than that amount was wanted then, is it possible that one hundred and thirty or one hundred and forty millions can be necessary at this time? Mr. P. declared himself in favor of a national bank, if it could be established on good principles, such as would restore the old state of things, when bank notes were paid with specie. If, however, the bill passed with its present capital, it would, in his opinion, increase the evil instead of proving a remedy. Such a capital was not necessary, either, for the purposes wanted. As to loans, no bank could make long loans without stopping the payment of specie, and destroying the circulating medium; and, to support the assertion, he quoted the fate of various banks in Europe. A large capital for that purpose, therefore, was unnecessary. Loans, he said, must be made by individuals; it cannot be done by banks, without ruin; and a large capital was not necessary, therefore, to enable the Government to obtain from the bank all the aid it could, or ought properly to receive. Nor would a large capital, he said, restore the old state of things; that must be done by the co-operation of the large banks in the cities; the specie has got into those banks, and there it will remain until they resume the payment of it. Mr. P. said, likewise, he was unwilling to place fifty millions of money in the hands of any set of men in this country. They would use it oppressively; the old Bank of the United States had done so, and so would this. Such a power would enable them to wield the destinies of this nation. For this strong reason, Mr. P. said, as well as the others he had stated, he was in favor of reducing the capital; and, to allow more time to reflect on this important feature of the bill, he moved that the committee rise.

After a few remarks by Mr. CALHOUN, on what had fallen from Mr. PITKIN, The committee rose, reported progress, and obtained leave to sit again.

FEBRUARY 27, 1816.

In committee of the whole, Mr. SERGEANT's motion to reduce the proposed capital from *thirty-five* to *twenty millions*, being under consideration—



Mr. SMITH, of Maryland, rose to express his views of the subject generally, as well as on the particular point under consideration. He appeared to coincide in opinion with Mr. CALHOUN, that the establishment of a Bank of the United States would contribute, better than any other measure, to the restoration of a general medium of circulation of uniform value: he was afraid, he said, that it was the only remedy. Perhaps, he said, he should not agree with the gentleman in some of his positions, particularly as respected the conduct and state of the banks. It might be prudent on the part of Congress, he remarked, to let down these institutions as gently as they could, and do every thing to enable them to meet their engagements by specie payments, on some future day. With some modification of the plan proposed by this bill, he thought the establishment of a national bank would effectually contribute to that object. The banks, pending the war, were the pillars of the nation, on which, and through whose instrumentality, the Government was enabled to raise money and men to carry on the war, not only by their direct loans, but by enabling individuals to make loans to the Government. Now, that we could do without them, they had been called caterpillars. He would not call those *caterpillars* now, who in war had been the *pillars* of the Government. The information of the gentleman in relation to the state of the banks might be very good, but it did not coincide with the information or impression of Mr. S. who took a different view of it. He thought that, as far as he had information, the banks had not issued more notes than, from the amount of their capitals, they had a fair right to do. Adverting to Mr. C's statement of the number of the banks, (he wished there were not so many) and of their capital, he differed from the view which estimated the amount on which they draw interest, at an hundred and seventy millions. But, deducting from this amount the loans, &c. estimated at forty millions, a hundred and thirty millions would remain, as the estimated amount on which the banks draw interest, with a capital of eighty-two millions. Was this too much? With much less, could the banks pay bank expenses, and make a reasonable dividend? But, might not the gentleman have been mistaken, even in this estimate? Mr. S. thought he was, and supported this impression by a reference to such documents on the subject as were within his reach. He referred to the document on the table, showing the state of the chartered banks within the District of Columbia. He was rather inclined to believe, he said, that these banks had gone a little further than most of the banks of the United States in their issues, the cause of which might be traced to the large loans to the Government. The amount of the capital paid in by all these banks was 3,321,600 dollars; the bills and notes discounted 4,830,031 dollars. Was this too large a business on their capital? These banks, than which, perhaps, no banks in the Union had done larger business, had not discounted more than fifty per cent. beyond the amount of their capital paid in. As to the amount of paper which the gentleman estimated to be in circulation, Mr. S. differed widely from him. Instead of two hundred millions of dollars of paper being in circulation on a capital of eighty-two millions, he doubted whether the amount was half that of the capital of the banks, say forty-one millions of dollars. He had some acquaintance with the operations of banks, from his practice in them. Some banks could put out more paper than others, from their particular situation; but, in general, banks did not issue paper to more than half the amount of their capital. The notes of the banks of this district were more depreciated than any others; and if the depreciation was in fact owing to excessive issues, it might be presumed they had issued more largely than banks generally. These banks had notes in circulation to the amount of 2,094,000 dollars—a greater proportion of notes to their capital, than banks generally have in circulation; but only three-fifths of the amount of the capital paid in. There were not now in circulation, Mr. S. said, he verily believed, as many bank notes, properly so called, as there were prior to the stoppage of specie payments. Banks every where were endeavoring to draw in their notes. Mr. S. concluded on this point, that, as the banks had demonstrably not been prodigal in the issue of their paper, its depreciation was not owing to the excess of

issue. This brought Mr. S. to another point of Mr. CALHOUN's speech, in which they concurred in opinion. To the long loans he agreed, in a great measure might be attributed the depreciation of the paper of this city, of Baltimore, Philadelphia, and of New York. But he was not disposed to censure the banks for having made those loans. On the contrary, said he, they aided you in times of need; I give them credit for it. I would nurse them, and bring them back to the same healthy state as before they reduced themselves to serve you. At the same time Mr. S. said he agreed, that it was the duty of the banks to resume specie payments, so soon as it was possible to do it without loss. If they did not do it, they ought to be compelled to do it; and through the instrumentality of a Bank of the United States, the Government might be able to coerce them. The loans made to the Government, he said, had been principally confined to the country between the Hudson and the Potomac; a small amount only had been obtained North and South of these limits. The notes obtained by the treasury by way of loan, were disbursed in other quarters of the country than that in which they were obtained; they had been thrown back upon the banks, and specie demanded for them, with which demand, made in large quantities, the banks found themselves unable to comply. The gentleman had given his opinion how the evil might be remedied. This remedy, Mr. S. went on to observe, he was one of those who had pressed on the directors of the banks of the city he had the honor to represent. All the banks had to do, he said, was to send their millions of stock to the Eastward and Southward, sell their stock, and thus change the balance of exchange and trade in their favor. When they should do that, the cause of the depreciation of their paper being removed, Mr. S. said we should hear no more of it: in less than three months, those States which now had the advantage of the exchange, would be the debtor States. The difference in exchange was little more than nominal—very little specie being paid in any part of the country; where bank notes were nominally at par, the banks did very little or no business, and had comparatively no notes out. If merchants negotiated with those banks, they did not receive or pay them specie, but paper. Mr. S. coincided in Mr. C's view, that, if all the banks agreed to resume specie payments, they might do it; but he would use no coercion now to hasten the period, but suffer them to do it peaceably and quietly, and, therefore, safely.

Adverting to the observation in debate yesterday, respecting an alliance between the Secretary of the Treasury and the banks, which had prevented treasury notes from becoming a circulating medium, &c. Mr. SMITH vindicated the conduct of the treasury. Could the Secretary do otherwise, he asked, than receive the public dues in the currency of the country where they were collected? The Secretary had further undertaken (Mr. S. doubted whether that officer had not in this gone too far) to say, that the paper of those banks which did not receive treasury notes and issue them again, should not be received in payment of debts due to the Government. Gentlemen were mistaken, Mr. S. contended, if they supposed that they could make treasury notes a circulating medium; experience had proved it. Referring to the value of treasury notes, depreciated gradually in their progress from this district to Boston, he remarked, that although they were six per cent. above par at Baltimore, they were not there as valuable as the note of a merchant at New York. It would, it was true, be a great convenience, if Government could issue a paper of this sort which would serve as a circulating medium; but it could not; whatever paper was put out, of that sort, would become an article of merchandise, to be bought and sold. The community was now accustomed to bank notes, and partial to them; and their place could not be supplied by Government paper.

As to the motion now under consideration, to reduce the capital, Mr. S. said he had not expected it from a gentleman from Pennsylvania, and particularly not from the gentleman who made it. Reverting to the period of the establishment of the Bank of the United States, he said, ten millions bore a larger proportion to the uses and demands of that day, than thirty-five mil-

lions did to those of this. The price of every thing was then very low, commerce in its infancy, the shipping of the United States extremely and almost incredibly limited, &c. It was impossible that any man could suppose that a bank of the same amount could now perform the functions which the Bank of the United States then performed, particularly since the Government had spread taxes over the whole surface of the country, and made the aid of this institution more extensively necessary. With a reduced capital, Mr. S. said, the operations of the bank would be so circumscribed, that it would afford but little aid to merchants. He was not, indeed, very tenacious, he said, about four or five millions of capital, more or less; but he did not think thirty-five millions at all too much.

Mr. S. said he was not entirely satisfied with the plan of the bank, proposed by the committee; but might not the plan be so modified as to meet the views of a large majority of the House? He could find but few gentlemen, he said, who, in conversation, did not appear favorable to the establishment of a bank. Some preferred a plan less complex than the present; some were hostile to the control of the Government in it, in which, perhaps, they were right. Others were hostile to treasury notes forming any part of the capital; in which, Mr. S. said, he concurred. Where was the difficulty in yielding those minor points, for the sake of obtaining a general concurrence in favor of the bill? Other features were objected to: the power to authorize suspension of payments in specie, &c.; these he would also give up, rather than that they should defeat the bill altogether. As to the question, when the specie payments of the bank should commence, Mr. S. said, according to the proposed mode of payment, it would not be very soon, &c. To remedy this objection, he proposed that, for the seven millions of treasury notes to be paid in on account of the United States, there should be substituted a stock to be created for the purpose, bearing an interest of 5 per cent. per annum, which would leave a gain to the United States (the bank dividing eight per cent.) of three per cent. per annum on that amount; which would, by its accumulation and proper application, in the course of twenty years, absorb the whole of that stock, and operate as a bonus to the United States to that amount. He also showed, by calculation, that the United States, in this mode, by merely advancing their credit, might absorb twelve millions of the war debt; which he believed would be no unpalatable thing to the People, nor unwise in the Government. Further, Mr. S. said, he wished to see the bank go immediately into operation; that, while he lived, he might derive some advantage from it. He would, therefore, wish to see the whole of the specie part of the stock paid in within a given number of months. With seven millions of dollars in its vaults, the bank would have neither fear nor trembling in commencing specie operations; they would have time to send their stock to Europe for sale, or make such other arrangements as, in their opinion, might be proper. The specie thus to be paid in, would not drain the State banks, but would be imported for the purpose, from Europe and elsewhere, &c. In the mean time, he said, until all the specie payments were made to the bank, he did not think it would do any harm if the bank were to commence its operations without specie, but with an assurance in its charter, of payment of specie at a particular day. Such an assurance would make the bank notes equally good, in his eyes at least, as gold and silver. With these views of the subject, Mr. S. concluded his practical speech.

Mr. SERGEANT next addressed the Chair, in support of his motion to reduce the proposed capital of the bank. In reply to Mr. SMITH's expression of surprise at his having made this motion, he said, it was no reason why a representative from one part of the country should not move an amendment to a bill, that the bill in its present shape was more agreeable to another section. Mr. SERGEANT said, he had made the motion for two reasons; first, because, from the showing of the gentleman from South Carolina, the banking capital of the country was already large enough; and, secondly, that he might have an opportunity of hearing gentlemen explain their views on this subject, which

he believed was the correct mode of procedure, when members could not see their way very clearly on any subject, particularly when it was proposed to legislate without the power of repeal for twenty years to come, and when that legislation was to create a vast machine, the direction of whose momentum is to be put into the hands of we know not whom. A similar question, less extensive in its nature, on the proposition to renew the charter of the Bank of the United States, had agitated the country from one extreme of the continent to the other, and Congress particularly. This agitation had been so recent, that the proposition of a similar character ought to give rise, at this time, to serious reflection, at least, if half that had been then said on the subject was true. The present measure, Mr. S. said, presented itself to him in an infinitely worse aspect than that to which he had referred, and the two gentlemen who had discussed the question, had shown, that the best informed and most zealous in favor of the measure, did not understand its bearings, or agree in its effects or principles, &c. The question was yet to be decided between those gentlemen, he said, whether this was to be a specie, or a paper bank; but, for his part, he protested against the establishment of any bank which was not, from the beginning, a specie bank. He saw a wide distinction between the bank now proposed to be established, and the old Bank of the United States; the object of the latter was to increase the active capital of the country, and to facilitate the operations of the Government in the collection of the taxes, whilst the motive of this bank was directly the reverse; it was not to increase, but to diminish the paper medium of the country. The surcharged circulation of paper, Mr. S. then argued, would not be removed by throwing in the additional quantity of paper to be issued by this bank. The great extent of the proposed capital of the bank, three and an half times that of the late Bank of the United States, (with the privilege to increase it to five times the amount) imposed it as a duty on those who advocated it, to show the use of so large a capital. In answer to the argument that our commercial transactions had increased since 1791, in the proportion of five to one, Mr. S. said gentlemen appeared to have entirely lost sight of a consideration which was essential in the discussion of this subject; that, in 1791, we had but three banks, and now, we had two hundred and sixty, supplying a capital of more than twenty times the amount then in existence. This additional capital was, therefore, he argued, not necessary to the purposes of commerce. As the means of establishing an uniform medium of circulation, Mr. S. contended, that a capital of twenty millions would be large enough for any useful purpose, and would be able to throw into circulation a larger amount than that of depreciated paper, which the gentleman from South Carolina proposed to withdraw from circulation, in order to appreciate the notes of existing banks. This bank, established on true commercial principles, (and such he wished it to have) would be guided by that instinct of gain which the gentleman had ascribed to banking institutions, and, with a capital of twenty millions, would do a business quite extensive enough to answer any useful purposes.

Mr. S. further objected to the plan of the bank embraced in this bill, that there was nothing in it which would save this national bank from the same extremity of difficulty, bankruptcy if gentlemen chose to call it so, in which other banks had been involved; it had no other liability or responsibility for its engagements than those which are common to every other bank. Mr. S. did not join in the censure of banks for that which was said to have been the cause of suspension of specie payments, viz. the loans to Government, which the pressure of Government and public sentiment had urged them to make to the Government in a greater extent than they ought to have done. He was willing to coerce the banks to pay specie, if they were not disposed to do it when they could; but, he intimated, he was unwilling to try an experiment, which, if it did not operate as he wished, would only have a tendency to aggravate the evil.

If the State banks had violated their faith, how, he asked, did the Government stand in that respect? Let the Government set the example of redeeming its pledged faith. How was the public creditor paid at Philadelphia du-

ring the war? Instead of being paid in gold and silver, or their equivalent, they were paid in notes of the banks of Baltimore, which had depreciated five or six per cent. at that very time. This mischievous example having been set by the Government to the banks, ought fault to be found with them that they did not pay their notes, when Government had given them the example? With regard to the present time, he said he should be glad to know why the treasury of the United States had not now the command of the specie payments and rate of exchange in its own hands? How much better, if the Government had this power, as he believed they had, that they should exercise it to compel the resumption of specie payments?

Mr. S. then proceeded to examine the composition of the thirty-five millions of capital of this bank. Referring to the report of the state of the banks of Pennsylvania, he said the Philadelphia banks, confessedly not specie banks, were in very nearly the same situation as this bank would be when it commenced operations. The Bank of Pennsylvania, for instance, with a capital of 2,500,000 dollars, had 1,800,000 of public stock, 400,000 of specie, &c. How was that bank worse off than this bank of the United States would be, with three-fourths of its stock public debt and treasury notes, and one-fourth specie? &c.

In every view this was a measure of doubtful expediency, and it would be sufficient if he were to say he would not grope in the dark, on a measure of so doubtful a character; especially as it proposed to throw into circulation a quantity of paper on principles which he saw, in existing establishments possessing the same materials, could not be redeemed with specie, &c. He wished explicitly to understand whether this was to be a bank for commercial purposes, or a Government bank. He could not for the life of him conceive, he said, why the Government was to become a partner to a scheme of this sort at all. He was willing to have a bank on plain intelligible principles: not a bank of deposit merely; for at this time of day people could not be found who would willingly embark their funds in any thing so limited; but he would not authorize the bank to issue any paper beyond the amount which it could redeem with specie. The notes should express on their face the currency or paper with which they should be redeemed, specie, treasury notes, or stock: for, as he showed, by various elucidations, money only could justly redeem a note given for money by an individual or by a government, &c. Prior to 1814, it had not been supposed that the banks had not conducted themselves on fair principles; the very instant, however, a state of things arose to create alarm, or when, from whatever cause, their notes were presented for payment, that moment the banks were unable to proceed in specie payments. This bank being put in operation on the same principles, how would it succeed better? Mr. S. concluded the speech, of which the preceding is a mere skeleton, by saying that he yet remained to be convinced that twenty millions were not a sufficient capital for all the purposes for which the bank could be wanted.

*Note by the editors of the National Intelligencer.*

[We are requested by Mr. SERGEANT to give the following as a statement of what he said, or meant, on one point of his remarks on the bank question. It is scarcely necessary to say, that the reporter, in the hasty sketch of that debate, does not aim at any thing like verbal accuracy or amplitude—the limits of a newspaper, connected with the desire to place the *substance* of the arguments and proceedings promptly before the readers of the National Intelligencer, forbid it.]

Mr. SERGEANT said, that it was necessary first to decide whether we would have a specie bank or a paper bank. If we are to have a specie bank, I cannot consent to any bill for that purpose, unless it contains such provisions as will afford a reasonable certainty that it will be able to pay specie. If it should commence its operations as a specie bank, and afterwards be obliged to suspend specie payments, when its notes shall have gone extensively into circulation, it will produce all the consequences, so strongly described, which have followed the suspension by the State banks, in a still greater degree. I should

very much prefer a plan more simple and intelligible, that is, to allow the bank to issue no more notes for the payment of money than you are sure they can pay. If more paper is necessary, let it be paper in a different form, importing, on the face of it, no engagement to pay specie—certificates of credit, for instance, receivable in payments to the bank or the Government.

Mr. RANDOLPH rose to ask two questions, one of the gentleman from South Carolina, the other of the gentleman from Maryland: first, how the paper to be created by this bank will correct the vitiated state of our currency? And, secondly, how bank notes can answer the purpose of a circulating medium better than treasury notes? Though no stickler for treasury notes, Mr. R. intimated his opinion that they were, in time of peace, a better substitute for gold and silver, than any paper he had heard yet submitted. Mr. R. added some incidental observations, amongst which was the remark, that he was sorry to see the apathy, the listlessness on this subject; on a question, which, if it passed, would, perhaps, be the most important decided since the establishment of the constitution; and that, though he agreed fully as to the extent of the existing evil, the remedy had been totally mistaken, &c.

Mr. SMITH said, in reply, that the gentleman from Virginia, and himself, only differed in premises, not in their conclusions; and then answered at some length, the arguments of Mr. SERGEANT. Banks, to obtain a fair profit, he said, must discount to fifty per cent. more than the amount of their capital: but he would be willing they should not be allowed to issue paper to an amount beyond one-half their capital. He had stated that the banks of Columbia, at this time, had not more than two-fifths of their capital paid out in notes, and the old Bank of the United States, at no period, had out more than ten millions of notes; and this bank, unless it should sell its stock, could only do business to the extent of the cash in its vaults. Mr. S. protested against the attempt at dexterity, which was imputed to him by Mr. Randolph. He had distinctly stated his opinions, and argued fairly; he had asserted that the notes of this bank would be every where better than treasury notes; but it was on the presumption that the bank would redeem its issues with specie; and he repeated, that, if the bank be compelled to pay specie in a short time, as he was sure it would, then its notes would be greatly preferable to treasury notes, whether at Boston or New Orleans, &c.

Mr. WARD, of Massachusetts, hoped the amendment would prevail. He acknowledged that, in the progressive state of this country, it was not very important whether the capital was thirty-five or twenty millions; the latter amount could be used with nearly as much effect for any mischievous purpose as the former—that sum would be quite sufficient to influence the destinies of this nation. But he preferred the smaller sum, because he believed that amount large enough for every commercial purpose. During the existence of the old Bank of the United States, a period of very great commercial activity, that institution answered all the demands of the country; and he was confident that twenty millions now, in addition to the local capital, was enough. Mr. W defended the Boston banks from the charge of deception, in promising to pay specie without doing so. They had not, he said, broken their faith to the public, and any man could there obtain specie whenever he presented one of their notes for payment. If this bank is to pay specie, said Mr. W. I admit that it will be very useful; but if it does not, its notes will be much below the value of treasury notes, and will not answer any good purpose. He quoted the price of treasury notes at different places, and detailed the reasons for their unequal value; and such he said would be the condition of the notes of a national bank, unless bottomed and conducted on a specie capital. To expect a paper of unequal value to answer the purposes of a general medium, would be as bad, he said, as to expect pieces of cloth of different lengths to cover an equal space of ground in every part of the country. Mr. W. believed that nothing but mismanagement had caused the inequality in the value of treasury notes.



These notes were a common paper, emanating from the trustees of the people, to whom all the people were more or less indebted; and this paper could only have been depreciated by misconduct; which opinion he entered into some details to prove.

This bank, it was asserted, would remedy the great evil now existing in our depreciated currency. He did not believe it would. If the gentleman from Maryland, (Mr. SMITH) were to lay down before him a machine, and tell him it would fly, the gentleman would pardon him for saying he could not credit it, until he showed some means which would enable it to do so. So it was, he said, with the bank now under consideration. He deprecated the present state of things as much as any one, and hoped an adequate remedy would be provided. The United States, he said, lost, at present, by the depreciated currency, more per annum than the whole amount derived from the direct tax in the large State of Maryland. Such an evil called loudly for a remedy, and he hoped one would be applied; but a bank on the plan now proposed would disappoint its advocates, and fail to cure the evil. That this cure would be complete he did not however expect from any plan—some inconvenience would attend any remedy; it was to be expected—like the amputation of a limb to preserve life. In reply to an assertion made in the course of the debate, Mr. W. denied that the banks had loaned to the Government from any other motives than those of gain. Their turn had been served, he said, and in devising the plan of a national bank he should not be influenced by any strong regard for their interest. But the present question was on reducing the amount of capital; and he concluded by saying that, as the larger sum would increase the means of doing mischief, and the smaller would be sufficient for every useful purpose, he should vote to reduce it to twenty millions.

Mr. WRIGHT made a few remarks against the amendment. In former times, a capital of ten millions was found necessary; and the increased demands of the country would certainly require now the amount proposed by the bill. He declined giving, at present, he said, any opinion on the measure itself; but if a bank was to be created, it ought not to be less than thirty-five millions.

MR. TUCKER said that, before the question was taken, he would offer a few remarks on the propriety of rejecting the proposition of the gentleman from Pennsylvania, and of retaining the amount of capital which formed a constituent part of the plan of the committee that reported the bill. He would not enter into the general question at this time; he would waive all inquiries, for the present, into the constitutionality of the scheme, and into the policy of establishing an institution such as was in contemplation. By the amendment proposed, he considered it to be admitted that a bank was necessary, and that a considerable capital would be required to effect the important, the essential purposes which had induced the Committee of Finance to submit to the House a measure of so much magnitude, for their adoption. The question immediately before the House, and to which he should, therefore, strictly confine himself, is not whether this institution shall be erected, but whether the capital proposed be too great to accomplish its object.

In this inquiry, said Mr. TUCKER, I shall not dwell upon the danger of the bank as a great political engine, because I am inclined to agree with an honorable gentleman from Virginia, that, in this point of view, there is very little difference between a bank with a capital of twenty millions and one with a capital of thirty-five millions. If the bank can be used, and shall be used as an engine of oppression, the smaller sum would have little to recommend it in preference to the larger. We should scarcely discern the difference between the pressure of the two, distributed as the capital must be, through all the States of the continent. If, then, gentlemen are averse to a bank with thirty-five millions of capital, because they conceive it dangerous to the liberties of the country, are they serious in declaring that they are in favor of such an institution, with a capital of twenty millions? Have they shown any reason for the opinion that the latter will not be injurious, if the former will prove

destructive; or are we to understand the proposition as indicative of a disposition hostile to the institution altogether, and not merely hostile to the bill before you, because of the exorbitant capital proposed? I hope not. Gentlemen assure us that they are favorable to the establishment of a bank with such a capital, and on such principles as are consistent with the general welfare, and I am willing to place all proper confidence in their sincerity. I must suppose, therefore, that they rest their objections to the amount of the capital on other grounds than that which has been suggested, since that would be equally fatal to every such institution, whose capital was at all calculated to effect the ends of the establishment.

The question as to the proper extent of the capital, must mainly depend on the result of an inquiry as to the probability of a bank of thirty-five millions carrying on its business profitably to the stockholders. If the proposed bank can readily find employment for the whole of the proposed capital, there can be no reason for diminishing it, with a view to the profits of those concerned. That such will be the case, must readily be admitted, when we refer to acknowledged facts, and apply them to the situation in which this institution will be placed. Of the amount of thirty-five millions, twenty-eight millions will consist of United States' stock, carrying an interest of six per cent., and thus, of itself, affording employment for so much of the capital. The residue, of seven millions, distributed through the Union, cannot fail to find employment. Facts within our knowledge, furnish the best test on this subject. We have been told, in the course of the debate, that when the old bank of the United States was established, there was only one other bank in existence whose capital did not exceed four hundred thousand dollars. Since that time, the number of banks has increased to upwards of two hundred and fifty, and the bank capital to more than eighty-two millions. Does not this fact prove the readiness with which bank capital can find employment among us? Does it not prove that, in this new country, which is every day opening to the population, new occupations for capital—in agriculture, commerce, and manufactures, there is no difficulty in disposing of real or fictitious capital in stimulating the active industry of the nation? Is it not, indeed, in strict conformity with the doctrines of all political economists and with the experience of every practical man, that in all new and growing countries, the great difficulty is not to find employment for capital, but to supply the demand for it? Is not our comparatively high interest itself an evidence that, notwithstanding the immense increase of capital, the demand has kept pace with the increase? If, as has been justly contended, the rate of interest is governed by the proportion between the demand for capital and the supply, the rate of interest here proves, that capital has not yet equalled that proportion to the demand which exists in other countries. The argument, then, which has been advanced in debate, that we cannot require so large a capital, because that of Great Britain is not as great, is not entitled to much consideration, for the reasons I have mentioned. New countries always require a greater capital, in proportion to their actual wealth and population, than old ones, because the field for its employment is always more extended in the former than in the latter. And, if the question as to the expediency of establishing new banks, depended only on the probability of their finding employment for their capital, none could doubt of the propriety of the measure. We have, indeed, on this subject, a test which rarely errs. Mercantile men are aware that additional capital can be employed in banking, with great advantage to the bankers. They form a class of our population which is proverbially said to understand its pecuniary interests, and to make accurate calculations of profit. These and others are every where engaged in the effort to establish new banks. In New York, as I have understood, it is contemplated to put into activity an additional bank capital of fourteen millions. In the State which I have the honor to represent, efforts have been lately made to establish fifteen new banks, with a capital, I presume, of about seven millions. Do not these things prove that there is a fair prospect of profit; and that, however we may differ as to the policy of increasing those establishments, there is no ground for supposing

they will find difficulty in employing their capital? If so, I think we may reasonably suppose, that the bank of the United States (of whose capital twenty-eight millions will be at once actively employed) can readily find occupation for the residue.

Another important subject of inquiry in relation to the extent of the capital of the proposed bank, is connected with a supposed probable increase of the circulating medium or of the bank notes in circulation. It has been contended by the gentleman from Pennsylvania, (Mr. SERGEANT) that the establishment of this bank would increase instead of diminishing the evil which the chairman of the Committee of Finance has so ably inveighed against. That evil is the surcharged state of the circulation; and the idea seems to have been entertained, that the issue of the United States' Bank will still further "surchARGE it."

If this argument be correct, it would be fatal to a bank of twenty millions; nay, to every bank that can be now established. Will the gentleman then urge it, when he professes his friendly disposition to the establishment of a bank with a smaller capital? It is, however, I conceive, an argument at variance with acknowledged facts. It is not true, that a superabundant paper medium can be forced into circulation, so long as specie redemptions are preserved. Bank notes cannot go out, unless they are wanted, so long as the banks redeem them when demanded. It is an aphorism among political economists, that it is impossible to surcharge the circulation, whilst specie is the basis of that circulation. The truth is self-evident, and has been happily illustrated by the celebrated author of the *Wealth of Nations*, who has remarked that the channel of circulation can only contain a certain quantity, and if more be attempted to be poured into it, it will flow back upon its source. I am ready to admit, that unlimited and blind confidence in banking institutions, may sometimes enable them to overdeal; but I need not stop to show that no such blind confidence now exists or is likely to prevail.

The danger of a surcharged circulation when specie redemption shall have been resumed, seems then to be visionary. The Bank of the United States will either be unable to send its notes into circulation, or it will drive in a part of the notes of the State banks. That the former will not be difficult, every day's experience demonstrates. Every bank that is established, soon finds means to push out as much paper as its business requires. Why, therefore, should we believe for a moment, that the Bank of the United States, whose paper will be desirable for so many reasons, will find that an insuperable barrier, which is so easily surmounted by others? If, as has been shown, it can lend its capital, its *borrowers* will circulate its paper, and the natural effect will be to diminish, in proportion, the circulation of the paper of the State banks. But this effect will be produced without an injury to them. It is an error to suppose that the business of a bank is always measured by the quantity of its paper in circulation. It rarely happens that any bank has notes in circulation equal to the amount of its actual capital, and it is notorious that they sometimes draw interest upon twice the amount of the paper which they have afloat. Having risen, without preparation, merely to reply to some of the arguments that have been used by gentlemen, I am unprovided with the estimate lately published of the state of the Philadelphia banks. If I am not mistaken, the amount of notes discounted, Government stock, &c. on which they drew interest, was nearly three times as great as their notes in circulation. I have before me, a statement of the banks of this District, whose issues have been generally deemed more excessive than those of any other place. From this, I find that, whilst their actual capital somewhat exceeds the sum of three millions of dollars, their notes in circulation are only two millions ninety-four thousand; and whilst the same institutions have lent out in discounted notes and Government stock six millions two hundred and eighty thousand dollars, their notes in circulation have not exceeded two millions ninety-five thousand dollars, which is about *one third* of the sum on which they are making a profit. Here, then, we have decisive evidence of what every man, at all acquainted with banking transactions, must know, that

the profits of banks cannot fairly be measured by the amount of their notes in circulation. The same statement furnishes still more decisive evidence. While the Bank of Columbia has lent to Government and to individuals much more than twice the amount of their capital, to wit: about one million nine hundred thousand dollars, it has in circulation only three hundred thirty-six thousand eight hundred, or about one sixth of the amount of its loans. Whereas, the Union Bank (for instance) has lent to Government and individuals, much *less* than twice the amount of its capital, to wit: only seven hundred and thirty-six thousand nine hundred dollars, and has in circulation more than four hundred and twenty-seven thousand dollars, largely upwards of one half the amount of its loans; from which it is evident, that the Bank of Columbia, whilst it has the smallest amount in circulation, has proportionably the largest capital at interest, and is, of course, making the largest profit.

These statements are furnished, not as affording a test of the comparative merits of these institutions, but merely to establish what I think they unequivocally prove, that the profits of banks bear no direct ratio to the amount of their notes in circulation, and that it is not fair to conclude that the United States' Bank will injure the State banks generally, by reducing the amount of their circulating paper.

I must not, however, be understood to contend that the establishment of the United States' Bank, if its effects are to re-establish the specie basis for our circulation, will not reduce the profits of any of the banks. It doubtless will, and ought to reduce the profits of those which have overdealt. Those profits have been too large, just so far as the banks have been guilty of over-dealing. They ought to be corrected, but it will be the resuming of the payment of specie through the operation of the United States' Bank, which will correct them. If this bank were to go into operation on any other than a specie basis, the issue of its notes would not affect the profits of the State banks. It is not, then, the competition of their notes for the circulation, but the necessity of specie payments, that will compel them to curtail their discounts and reduce their profits. This is as it should be; the effect upon the State banks will be wholesome and salutary. Whilst the profits of some are reduced, those of others will be increased by the operation of a national bank upon the national currency. Whilst some must curtail their business to meet the demands of specie, others, which are now restrained because specie redemption is confined to themselves, will be once more enabled to enlarge their business to its accustomed extent. Gentlemen from the Eastern States, I should imagine, are, therefore, peculiarly interested in the measure, because it is so eminently calculated to re-produce that equalization of profits among the banks which has, for some time, been suspended, so much to their disadvantage.

It will be observed, that I have, throughout, proceeded upon the idea that this bank is always to redeem its paper with specie. A specie basis is the only true foundation of all banking. Any other will be found delusive and destructive. The committee, therefore, had taken a precaution which seemed to have escaped the observation of the gentleman from Pennsylvania, (Mr. SERGEANT.) That gentleman has asked what greater security we have for the payment of specie by *this* bank than by others? I answer, that it is a *condition of their charter!* It is expressly provided by that charter, that they shall *not*, at any time, suspend specie payments without authority to do so. If they do, their charter is violated—it is void. For my own part, as a member of the committee who reported this bill, I was disposed "to make assurance doubly sure and take a bond of fate," by an express provision, that the charter should be void if they suspended specie payment. Professional gentlemen, however, on the committee, and among others, if I mistake not, the able gentleman from Pennsylvania, (Mr. HOPKINSON) believed such a clause unimportant, because it was necessarily implied in the condition attached to the charter by the provisions of the bill. It is then an essential part of the system, that the bank should redeem its notes in specie. I would never give my vote to any bank of another character. We have, then, in this bank, an as-

surance of specie payment, not afforded by others, except, perhaps, by those of the Eastern States. Of this much we are assured, that, as soon as it ceases to be a specie bank, it ceases to exist, so that we are in no danger of encountering the evil which the gentleman appears to apprehend.

But, the same gentleman appears to suppose that the contemplated bank will be enabled to pay specie, because the Bank of Pennsylvania, having its capital in specie and United States' stock, in equal proportions with those proposed by this bill, finds itself without the power of meeting its engagements. I cannot admit the analogy contended for. Though the *proportion* of specie to stock may be the same, yet the *amount* of specie capital in this bank will be so much *greater* as to add to its capacity to keep its notes in circulation. But this is not the only reason. The Bank of Pennsylvania has already in circulation a vast deal of paper, with only a small amount of specie in their vaults. Were they to commence specie payments, their notes would return upon them for payment, to the imminent danger of the bank, unless they should previously adopt the precautionary measures in their power. But the Bank of the United States, when it goes into operation, will have its one million four hundred thousand of specie, without a note in circulation. In issuing their paper, they will be governed by circumstances, and should it return upon them too rapidly for specie, they will, at once, lessen the quantity thrown into circulation. There is, then, all the difference between the situation of the two banks, that may reasonably be expected between two concerns, one of which is just commencing business, while the other is deeply involved, and supposed to be unable to meet the just demands of its creditors. Thus we see, that, whilst the Bank of Pennsylvania is neither bound to pay specie by the conditions of its charter, nor able, at once, to redeem its notes, the Bank of the United States will be *able* and *obliged* to make gold and silver the basis of its circulation.

Mr. TUCKER concluded his remarks by shortly recapitulating the grounds which he had attempted to maintain. He had endeavored to show that a capital of thirty-five millions would readily find employment; that the proposed bank would not still farther surcharge the circulation, as had been contended; that the establishment of the Bank of the United States would not injure the State banks, though he admitted the resuming of specie payments would necessarily reduce the profits of some of them; and that this bank would be bound by its charter, and enabled by its funds, to rest its circulation upon the solid foundation of a specie basis. He hoped, therefore, the amendment proposed would be rejected.

FEBRUARY 26th, 1816.

The House again resolved itself into a committee of the whole, Mr. NELSON, of Virginia, in the chair, on the bill—the motion to reduce the capital, being still under consideration.

Messrs. WEBSTER, HOPKINSON, SERGEANT, and PITKIN, advocated the motion, and Messrs. CUTHBERT, SHARP, and CALHOUN, opposed it.

Mr. WEBSTER first addressed the House. He regretted the manner in which this debate had been commenced, on a detached feature of the bill, and not a question affecting the principle; and expressed his fears that a week or two would be lost in the discussion of this question, to no purpose, inasmuch as it might ultimately end in the rejection of the bill. He proceeded to reply to the arguments of the advocates of the bill. It was a mistaken idea, he said, which he had heard uttered on this subject, that we were about to reform the national currency. No nation had a better currency, he said, than the United States—there was no nation which had guarded its currency with more care; for the framers of the constitution, and those who enacted the early statutes on this subject, were *hard-money men*; they had felt, and therefore duly appreciated the evils of a paper medium; they, therefore, sedulously guarded the currency of the United States from debasement. The legal currency of

the United States was gold and silver coin; this was a subject in regard to which Congress had run into no folly.

What, then, he asked, was the present evil? Having a perfectly sound national currency, and the Government having no power in fact to make any thing else current but gold and silver, there had grown up in different States a currency of paper issued by banks, setting out with the promise to pay gold and silver, which they had been wholly unable to redeem: the consequence was, that there was a mass of paper afloat, of perhaps fifty millions, which sustained no immediate relation to the legal currency of the country—a paper which will not enable any man to pay money he owes to his neighbor, or his debts to the Government. The banks had issued more money than they could redeem, and the evil was severely felt, &c. Mr. W. declined occupying the time of the House to prove that there was a depreciation of the paper in circulation: the legal standard of value was gold and silver; the relation of paper to it proved its state, and the rate of its depreciation. Gold and silver currency, he said, was the law of the land at home, and the law of the world abroad; there could, in the present state of the world, be no other currency. In consequence of the immense paper issues having banished specie from circulation, the Government had been obliged, in direct violation of existing statutes, to receive the amount of their taxes in something which was not recognized by law as the money of the country, and which was, in fact, greatly depreciated, &c. This was the evil.

As to the conduct of the banks, Mr. W. said he would not examine whether the great advances they had made to the Government, during the war, were right or wrong in them, or whether it was right or wrong in the Government to accept them: but, since the peace, he contended, their conduct had been wholly unjustifiable, as also had that of the treasury in relation to them. It had been supposed the banks would have immediately sold out the stocks, with which they had no business, and have fulfilled their engagements; but public expectation had in this respect been disappointed. When this happened, Mr. W. continued, the Government ought, by the use of the means in its power, to have compelled the banks to return to their specie payments. In his opinion, Mr. W. said, any remedy now to be applied to this evil, must be applied to the depreciated mass of paper itself; it must be some measure which would give heat and life to this mortified mass of the body politic. The evil was not to be remedied by introducing a new paper circulation; there could be no such thing, he showed by a variety of illustrations, as two media in circulation, the one credited and the other discredited. All bank paper, he argued, derives its credit solely from its relation to gold and silver; and there was no remedy for the state of depreciation of the paper currency but the resumption of specie payments. If all the property of the United States was pledged for the redemption of these fifty millions of paper, it would not thereby be brought up to par; or, if it did, that would happen which had never yet happened in any other country. An issue of treasury notes, he added, would have no better effect than the establishment of a new bank paper. He illustrated this general position by referring to a period anterior to the time of the reformation of the coin of England, when the existing coin had been much debased by clipping, &c. which had created much alarm. An attempt had been made to correct the currency thus vitiated, by throwing a quantity of sound coin into circulation with the debased; the result was, that the sound coin disappeared, was hoarded up, because more valuable than that of the same nominal value which was in general circulation, &c.

The establishment of a national bank not being in his opinion the proper remedy, he proceeded to examine what was. The solvency of the banks was not questioned: there could be no doubt, he said, if the banks would unite in the object, they might in three weeks resume the payment of specie, and render the adoption of any measure by this House wholly unnecessary. The banks, he said, were making extravagant profits out of the present state of things, which ought to be curtailed. He referred, for illustration of this point, to the state of the Bank of Pennsylvania, as exhibited in the return to the Legisla-



ture of that State, which, with a capital of 2,500,000 dollars, had done a discount business of 4,133,000 dollars, at the same time that it held 1,811,000 dollars of the United States stock—so that, without taking into account a mass of treasury notes, real estate, &c. that bank was receiving interest on six and a half millions, nearly three times the amount of its capital. This he considered an extraordinary fact. That bank had been pronounced by the Legislature to be in “a flourishing state”; it was so to the stockholders in the bank, he doubted not; but how was it to those who were affected by the depreciation of it—to the man who comes into an office for life, and relinquishes all his prospects and profits for a fixed salary, not to be diminished during his continuance in office; to the poor pensioner, whose wounds, received in his country’s service, are yet bleeding?

These banks not emanating from Congress, what engine were Congress to use for remedying the existing evil? Their only legitimate power, he said, was to interdict the paper of such banks as do not pay specie, from being received at the custom house. With a receipt of forty millions a year, Mr. W. said, if the Government was faithful to itself and to the interests of the people, they could control the evil; it was their duty to make the effort. They should have made it long ago, and they ought now to make it. The evil grows every day worse by indulgence. If Congress did not now make a stand, and stop the current whilst they might, would they, when the current grew stronger and stronger, hereafter do it? If this Congress should adjourn without attempting a remedy, he said, it would desert its duty.

If this bank were calculated to do good at all, Mr. W. contended it was only as an agent of the revenue officers of the Government. As a bank established for ordinary banking purposes, what would be its operation? If this were to be a specie bank, it would go into operation at Philadelphia; would promise but little, but would perform all its promises: independent of its connexion with the Government, it would not be able to get its notes into circulation—nobody would borrow of it; it would operate merely as a bank of deposit. All its transactions would be confined to the negotiation of paper for merchants, to enable them to anticipate for a short time so much of their income as was necessary to pay their bonds for duties on importations; and so far, but no farther, it would have a positive good operation. But, as a measure to supply a remedy for the disorders of our currency, Mr. W. argued this bank would be of no efficacy; because, if he were not mistaken in his views, its bills would have but a very limited circulation.

As to the evil of the present state of things, Mr. W. admitted it in its fullest extent. If he was not mistaken, there were some millions in the treasury, of paper, which were nearly worthless and were now wholly useless to the Government, by which an actual loss of considerable amount must certainly be sustained by the treasury. This was an evil which, he said, ought to be met at once; because it would grow greater by indulgence. In the end, the taxes must be paid in the legal money of the country; and the sooner that was brought about the better. Such was the operation of the present state of the circulating medium, he proceeded to show, that the duties laid by the United States were at a rate of ten per cent. higher in Boston than in Baltimore, and in Baltimore higher than in Washington, &c. If Congress were to pass forty statutes on the subject, he said, they would not make the law more conclusive than it now was, that nothing should be received in payment of duties to the Government but specie; and yet, no regard was paid to the imperative injunctions of the law in this respect. The whole strength of the Government, he was of opinion, ought to be put forth to compel the payment of the duties and taxes to the Government in the legal currency of the country.

In regard to the plan of this proposed bank, Mr. W. said he would consent to no bank which, to all intents and purposes, was not a specie bank; and in that view he was in favor of the proposed amendment. He expressed some alarm at the stock feature of the bank; which would enable and might induce the existing bank corporations to come forward and take up the whole stock of this national bank. He should be glad to see a bank established, he ob-

served, in the course of his remarks on this point, which would command the solid capital of the country. There were men, he said, of wealth and standing, who would embark their funds in a bank constituted on commercial specie principles, but who would not associate in such an institution with the stockholders in the country, any more than a good currency would associate with a bad one. A national bank, he said, ought to be regarded, not as the power to rectify the present state of the currency, but as a means to aid the Government in the exercise of *its* power in this respect. He concluded his remarks by saying that the power of the Government must be exercised in some way, and that speedily, or evils would result, the extent of which he would not attempt to describe.

Mr. CUTHBERT followed, in opposition to the proposed amendment; though he remarked, there were few of the positions of the gentleman from New Hampshire in which he did not concur, without agreeing with him, however, in his results. In reply to his objection to the stock feature of the bank, as forming an obstacle to its paying specie, Mr. C. argued that it would have a contrary effect, thus: That, to become and remain a specie bank, the institution must be slow in its operations, and the directors and stockholders be content with small gains on their capital; that the interest they would draw, of six per cent. on the stock part of their capital, would aid them in this course, and induce them to be satisfied with less gains in the way of discounts, &c. In opposition to the proposal to reduce the capital of the bank, he took, for his ground work, two facts, which would not be questioned: first, that this is a growing nation, in population, resources, wealth, and commerce; secondly, that there is, from the nature of things, an absolute uncertainty as to the quantity of capital which may be required, and the extent of the business which may be done by a national bank. He argued, from these positions, that the bank ought to have the power of contracting or expanding itself to the wants of the country; and, if the business of the country required the use of a larger amount of discounts than would be made on twenty millions, that the operations of the bank ought not to be cramped. In this nation, growing in population, enterprise, and wealth, where all those uses of society, which require active capital and a general circulating medium, were every day rapidly multiplying and extending, he would not place narrow limits on the useful agency of this bank—he compared such a course to placing a case of iron on the swelling muscles and growing energies of a vigorous youth. It was much better, he concluded, to have a capital larger than necessary, than one much too small. Mr. C. next proceeded to examine the utility of a national bank, as compared with the State banks, in promoting exchanges, remittances, and transfers, by Government and individuals. He stated their various operations, in a plain and intelligible manner; and from his facts on this subject, drew the conclusion, that a national bank, only, could efficaciously promote the exchange of moneys and commodities—that internal commerce, which serves to knit together and fertilize every section of the country. A national bank he compared to the ocean of commerce, which bears on its bosom the freights of all regions from one to the other; the State banks to the rivers, which are the channel of communication within their particular limited sphere. In reply to the argument, that the evil of the redundancy and depreciation of the present paper circulation, would not be corrected by throwing other paper into circulation, he said that the national bank, instead of increasing the quantum of paper, would substitute other paper in lieu of a portion of that now in circulation, and, by this operation, the remainder would be brought to a specie value. A further argument he urged in favor of a large capital, was this: that a bank of twenty millions would issue as much paper as a bank of thirty-five millions, as the issue would be limited by the demands of society; but, with a large capital, there would be greater security to individuals. The difference, between the two capitals, would be the difference between two merchants carrying on the same commercial speculations, the one with a large, the other with a small capital; the creditors of the first

having, undoubtedly, better security than those of the last, &c. On these and other grounds, Mr. C. opposed the amendment.

Mr. HOPKINSON took the other side of the question. He had come to Congress, he said, with a decided impression in favor of a national bank; not that he believed its agency indispensable in reproducing specie payments, but, because he believed it would be useful in this respect, and always had believed that a national bank was a useful agent in managing the financial concerns of the Government. With these views, he said, he had hoped to have seen a scheme of a bank proposed to this House for consideration, requiring little or no discussion. Referring to the voluminous discussions, at preceding sessions, on this subject, and to the various plans of a bank presented, examined, and dismissed, he had hoped that gentlemen, laying aside their visionary theories, would have resorted to the test of experience, and established a bank according to its lessons. In this remark Mr. H. had reference to the late Bank of the United States, to the management and winding up of which, he paid a high compliment. He was sorry, he said, to find the plan now proposed was so different from that simple character he approved, as to determine him not to give it even his feeble support. He cautioned the House not to be too hasty in acting on this subject; to weigh it well, and coolly consider it. We all feel the present evil, said he; and a state of suffering is not favorable to deliberation. He warned the House not inconsiderately to adopt this expedient, lest they should act like an unfortunate debtor, who plunges on in expedient after expedient, all under pretence and hope of a remedy, until he is involved in irretrievable ruin; when, if he had acted with a patient prudence, leaving something to time, and much to caution, he might have overcome his difficulties. The late war, Mr. H. said, (in speaking of the present state of the currency) had been a tremendous shock to all the institutions of the country, which had suffered in all its interests, and in none more than in its financial concerns. Could it, he asked, have been reasonably expected, as had been suggested, that, on the return of peace, the evil, in this respect, would have been immediately remedied? No, he said; great evils require a slow remedy. In this young nation, and with its vast resources and solid wealth, the remedies would come of themselves, in a great degree, if we have patience to wait a little for them: at least, he said, let us not, by our rashness, destroy all hope of remedying the evil. After other general remarks of this character, Mr. H. then proceeded to discuss the question immediately before the House.

He was in favor of a reduction of the capital, though there were in the system other features much more exceptionable to him than the amount of the capital; if the motion to reduce the capital, therefore, succeeded, he wished it to be considered that he should not feel himself thereby pledged to accept the bill. Mr. H. urged many arguments against a large amount of capital, treating as wholly ideal the notion of a bank of thirty-five millions of capital confining its operations to seven, eight, ten, or twenty millions, as the wants of the country might require; the bank, he said, must do a business in proportion to its capital, and such a business it would always do as to secure it a competent dividend on its whole capital. Mr. H. said he was not one of those who advocated a bank beyond the principle of its being a means of aiding the Government in its fiscal administration. He advocated not such an institution as an engine of Government: in that shape, he said, they should get beyond the powers of Congress to establish a bank. He, therefore, argued, that the Government ought to have no concern in the stock of this bank; nor, beyond what the value of its custom or business gave it, ought the Government to have any control over the bank. There might be occasions when, and reasons why, a Government should put stock into a bank; but, as an engine of power and profit, the Government ought to have nothing to do with it. Mr. H. then examined the arguments in favor of the proposed amount of capital of the bank, and replied to them, contending that the argument, of increased demand for bank capital, was wholly fallacious, because it put out

of view the multiplication of private banks within a few years past; and illustrating his views on this head by reference to the history of banking in Europe. By every test to which he could resort, the amount even of twenty millions was much too large. There was great danger, he then argued, in establishing an institution of this kind—no such engine could be created, much less of this enormous magnitude, without danger—as the most beneficial agents, ill applied, become dangerous and destructive, &c. He defended the State banks from imputations cast on them, and contended that they had great claims on the attention and respect of even the General Government, from their extensive and beneficial influence. Every injury to them, so ramified were they into all the relations of society, must be a deep injury to the general interest; and their interests ought, therefore, to be duly regarded. He excepted from this encomium the litter of banks lately created in Pennsylvania, which he considered the offspring of private speculation and legislative fraud, in defiance of the wise interposition of the constitutional power of the Governor of that State against them. If the State banks in our cities had yielded to the threats and seductions of the Government, and, in a degree, to public sentiment, in making loans to the Government more extensive than prudent, it ought to be here no ground of accusation against them; every engine, he said, had been put in motion to influence them; even the Secretary of the Treasury had, in person, implored their agency in relieving the treasury from its difficulties. Mr. H., in the course of his argument, denied that the excessive issues had been the cause of the stoppage of specie payments; there had been no such excessive issues, as represented; nor, as far as regarded the banks at Philadelphia, at least, was there, at this moment, an excessive issue of paper. Referring to the state of those banks, as reported to the State Legislature, he said, some of them have not paper in circulation to the amount of one-third of their capital; and this was not as far as they might fairly go. The depreciation was not owing, he also argued, to the scarcity of specie in the country: there was enough specie in the country for the ordinary bank transactions, on the existing bank capital, and to do a specie business, too. Why, then, he then proceeded to examine, do not the banks pay specie? The *cause* of suspension of payment in specie, he said, was not the excessive issues of paper, or scarcity of specie, but that loss of public confidence which attends, at all times, public calamity and danger—those periods of gloom and dismay in which all men are disposed to obtain, in lieu of paper, what will be of value to them in any and every state of things, &c. Had the banks of Philadelphia continued their vaults open four and twenty hours longer than they had done, there would not, probably, have been a doit in them; in one day, it was said, that one bank in that city had distributed, in specie, for which a general run was made on it, three hundred thousand dollars. The banks had been compelled to close their vaults. In this course, he showed, by various facts and arguments, they had been supported by public opinion. To resume payments in specie, he said, was a work of time and caution. To enable them to do it, the public stock the banks hold must be sold, but gradually sold, or it cannot be sold without a heavy loss. The banks, he said, were now, and for some time had been, taking measures with due prudence and caution, for a resumption of specie payments. It was a strong reason, he concluded his argumentative speech by saying, with him, against this bank, that it would, according to the showing of its advocates, operate coercively, and, of course, injuriously, on the State banks.

Mr. SHARP next addressed the Chair on this subject, expressing, in the outset, his regret that the attack on this bank had been on its details, instead of its principle. Mr. S. explained his views of the difference between the aspect of this question at this time, and that which it presented at the last winter, when it had been so long fruitlessly agitated. The principal object of the advocates of a national bank, at the last session, was to afford to the Government the facility of obtaining occasional loans to carry on the operations of the Government, &c. and to sustain the public credit; the object at present

was of a different character—to remedy the evil of a vitiated currency, which had lately been much exaggerated, and which demanded a remedy. Mr. S. here examined the operation of this depreciation on the revenues of Government, which, he clearly showed, were most injuriously affected by it. The Government sustained a clear loss of large amount—a loss which must be made up by taxes levied on the industry and labor of the community; and who gained by it? Those whose duty it is to remedy the evil; it is the owners of bank stock who derive the benefit from the depreciation of their own paper. All acknowledged the extent of the evil, and the necessity of a remedy, though they differed as to the nature of the remedy.

In reply to the argument of Mr. WEBSTER, that the remedy for the evil was in the power of the Secretary of the Treasury, by requiring payment of the dues to Government in specie, Mr. S. said the gentleman had not demonstrated that there was specie enough in the country for the purposes of the payment of the revenue to the treasury, nor that the banks have not the means, ultimately, to force the treasury to take their paper in payments to the Government. The disposition was not wanting in the officer at the head of that Department, to apply the remedy, if it were in his power; but, Mr. S. said, an act of Congress only could apply an adequate remedy. If that now proposed was the proper measure, let it be adopted; if a better can be proposed, let it be shown. He was not, he added, so opined as to assert that this was the only remedy; but a national bank was a measure tried and understood, and he, therefore, preferred it—if it should not succeed, he would support any other measure adequate to the object in view.

In reply to Mr. HOPKINSON'S reference to the old Bank of the United States, as an institution whose wisdom had been tested by experience, Mr. S. said he could not see the force of the wide distinction the gentleman had drawn, between the plan of that bank and of this. He compared these features, and showed that their dissimilarity was not such as to change their principle. This, he said, was intended to be a specie bank, gradually put in operation, and by it, business connected with the measures of the Government, to introduce a general resumption of specie payments and circulation. In regard to the State banking institutions, Mr. S. avowed as strong an attachment to their interest and prosperity, as the gentleman from Pennsylvania; but his attachment to them as individuals, must be regulated by the correctness of their conduct. If they abandoned the path of probity and duty, he must renounce his attachment to them, unless they showed a disposition to return to it. In regard to the means alleged to have been employed to obtain loans from these banks, when they yielded to the solicitations of the treasury, Mr. S. said they took care to get the best bargain they could out of its necessities; in addition to the just interest of six per cent. they got a premium of somewhere about twenty per cent. for their friendly loans to the Government. To prove that they had made a good business of it, he said that there was not one of those banks but could sell out its stock for specie, and make a handsome profit on the whole transaction, besides the advantages they have already derived; but, he said, they did not want to do it—they had rather keep their stock, bearing interest, and issue paper on it, &c.

As to the idea of danger to the Government from a bank of thirty-five millions, he said it was fanciful. How far could a bank be dangerous to the Government? When banking was a monopoly in the hands of a Government, or of a few individuals; and then only. Competition, he said, destroyed monopoly, and destroyed the danger from such an institution; and it could not be argued that there was not now competition enough to deprive such an institution as this of the character of an engine dangerous to the liberties of the country. A bank, he said, might be more profitable to the stockholders with a capital of twenty millions; but it would be more useful to the community with a larger capital, &c. Having offered these and other views of the subject, he concluded by expressing his hope that this bill would pass with very little alteration of its present provisions.



Mr. CALHOUN then rose, and, in an energetic manner, vindicated the bill, and his views of it, from the attack which had been made on them. He said no man in the House would reprobate, more than he, the establishment of a bank which was not a specie bank. A bank not to pay specie, he said, would be an instrument of deception; it would have no character or feature of a bank—he should regard it with disgust and abhorrence. This bank, he asserted, in reply to contrary assertions, if established, would be a specie bank. He professed himself ready to remedy any defects which should be pointed out; but he hoped the committee would not be influenced to destroy its essential features by such vague arguments as had been urged against them. This was to be a specie bank, or he would have nothing to do with it. He called upon gentlemen not to give way to objections to the details of the bill, made by those who were altogether inimical to the establishment of any bank; their arguments, he intimated, ought to be received with suspicion, because their views of the subject might be supposed to be warped by their hostility to the project altogether. Mr. C. then spoke at length in explanation and reply to those gentlemen who had preceded him in debate. In regard to the estimation of paper in circulation, &c. he took occasion to say, that he and General SMITH had not widely differed in opinion on that head, when they came to understand terms. Mr. C. said he had not specified the particular items in his estimate of the amount of bank issues and transactions—his object had been merely to show, without descending to particulars, that the banks had overtraded. He referred, for illustration, to the Bank of Washington, reputed a prudent bank, which, on a capital of 350,000 dollars, what with stock and discounts to individuals, drew interest on 800,000 dollars. His object, he said, when up before, was to prove that the banks generally, had done a business which would authorize them to divide at the enormous rate of fourteen and a half per cent. on their capital paid in, &c.

Mr. SERGEANT spoke at some length, in explanation of his views.

Mr. PICKIN followed, in support of the motion to reduce the capital of the bank, declaring himself decidedly friendly to the incorporation of a bank of something like moderate capital, on true commercial and practical principles, but on no other.\*

The question was then taken on the motion to reduce the capital to twenty millions, and decided in the negative, as follows: For the motion, 49. Against it, 74.

And the committee then rose.

On the 29th of February, 1816, the House having resolved itself into a committee of the whole, Mr. NELSON, of Va. in the chair,

On motion of Mr. CADY, with the assent of Mr. CALHOUN, the bill was amended, by striking out so much of the bill as gives to Congress the privilege, hereafter, of extending the capital of the bank from *thirty-five* to *fifty* millions.

Mr. CADY moved to strike out so much of the bill as authorizes the Government to subscribe a certain proportion (seven millions) of the stock.

The motion was opposed by Mr. CALHOUN and Mr. SMITH, of Maryland, and supported by Mr. RANDOLPH, Mr. CADY, and Mr. WARD, of Mass.

The following is a sketch of the debate that ensued on this motion:

Mr. CADY having moved to amend the bill by striking out so much thereof as authorizes a subscription by the Government of seven millions to the capi-

\* The Reporter regrets that his necessary absence from the hall at the time Mr. P. spoke, prevents him from presenting even the substance of his argument,—*Nat. Int.*



tal stock of the bank, supported his motion by a number of observations. He contended that no advantage would accrue to the United States from the possession of this interest in the bank. The money to pay for this stock, he said, would cost the United States more than any profit they could derive from it, (that is, by the expense attending its collection, all the funds of the Government accruing sooner or later from taxation on the People) and would, besides, render necessary the imposition of additional taxes to meet it. It would be like an individual's taking up money at eighteen per cent. (which he estimated as the cost of collection, &c.) to put into this bank. The seven millions of money, he added, would contribute more to the wealth and improvement of the country, would produce in the end a better interest to the United States, by suffering it to remain in the hands of the people, than it could possibly do by being invested in the stock of this bank. But it had been intimated that a stock might be created, bearing five or six per cent. interest, for the purpose of paying the proportion of the United States' subscription to the bank, the bank interest on which would redeem it in time. Though this idea was plausible, Mr. C. argued it was not solid; the United States must ultimately pay the stock; and, as to the income of profit to the Government from the bank, it would be much more simple to compel it to pay such a sum annually to the treasury, without the circuitous process of taking stock in it, &c. He suggested other modes by which the bank could be made to contribute to the general wealth, without the Government's becoming a stockholder, &c.

Mr. CALHOUN opposed the motion, so decidedly, that he said he should consider the success of it as tantamount to a decision to strike out the first section of the bill. He showed, by his statement of the operation of vesting this stock in the bank, (which by the bill is to be done in certain annual proportions) that there would be a clear gain to the Government of at least two per cent. per annum, being the difference between the interest the Government pays on the stock, and the interest it would receive on its bank shares.

Mr. RANDOLPH supported the motion, and availed himself of the occasion of his rising, to enter largely into the subject, in a speech of considerable length. His general views follow. He said he should vote for this motion, because one of his chief objections (one of them, he repeated) was the concern which it was proposed to give to the United States in the bank. He referred to the sale, by the Secretary of the Treasury, some years ago, of the shares belonging to the Bank of the United States, and stated the reasons of his approving that step; but, he added, that it was a strong argument against the feature of the bank bill now under discussion, that, whenever there should be in this country a necessitous and profligate administration of the Government, that bank stock would be laid hold of by the first Squanderfield at the head of the treasury, as the means of filling its empty coffers. But, if there was no objection to this feature stronger than that it would afford provision for the first rainy day, it might not be considered so very important. He argued, however, that it was eternally true, that nothing but the precious metals, or paper bottomed on them, could answer as the currency of any nation or any age, notwithstanding the fanciful theories that great payments could only be made by credits and paper. How, he asked on this point, were the mighty armies of the ancient world paid off? Certainly not in paper or bank credits. He expressed his fears, lest gentlemen had got some of their ideas on these subjects from the wretched pamphlets under which the British and American press had groaned, on the subject of a circulating medium. He said he had himself once turned projector, and sketched the plan of a bank, of which it was a feature that the Government should have a concern in it; but he became convinced of the fallacy of his views—he found his project would not answer. His objections to the agency of the Government in a bank was, therefore, he said, of no recent date, but one long formed—the objection was vital; that it would be an engine of irresistible power, in the hands of any administration; that it would be, in politics and finance, what the celebrated

proposition of Archimedes was in physics—a place, the fulcrum; from which, at the will of the Executive, the whole nation could be hurled to destruction, or managed in any way, at his will and discretion.

This bill, in the view of Mr. R., presented two distinct questions: the one frigidly and rigorously a mere matter of calculation; the other, involving some very important political considerations. In regard to the present depreciation of paper, he did not appear to agree with those who thought the establishment of a national bank would not aid in the reformation of it. If he were to go into the causes which produced the present state of things, he said, he should never end. As to the share the banks themselves had in producing it, he regarded the dividends they had made, since its commencement, as conclusive proof. The present time, Mr. R. went on to remark, was, in his view, one of the most disastrous he had ever witnessed in the republic, and this bill proved it. The proposal to establish this great bank, he described as a crutch, and, as far as he understood it, it was a broken one: it would tend, instead of remedying the evil, to aggravate it. The evil of the times, he said, was a spirit engendered in this republic, fatal to republican principles—fatal to republican virtue; a spirit to live by any means but those of honest industry; a spirit of profusion: in other words, the spirit of Catiline himself—*alieni avidus sui profusus*—a spirit of expediency, not only in public, but in private life: the system of Diddler in the farce—living any way and well: wearing an expensive coat, and drinking the finest wines, at any body's expense. This bank, he imagined, (he was far from ascribing to the gentleman from South Carolina any such views) was, to a certain extent, a modification of the same system. Connected, as it was to be, with the Government, whenever it went into operation, a scene would be exhibited on the great theatre of the United States, at the contemplation of which he shuddered. If we mean to transmit our institutions, unimpaired, to posterity; if some, now living, wish to continue to live under the same institutions by which they are now ruled—and with all its evils, real or imaginary, he presumed no man would question that we live under the easiest Government on the globe—we must put bounds to the spirit which seeks wealth by every path but the plain and regular path of honest industry and honest fame. This was one of the grounds on which he was hostile to this bill.

Alluding to Mr. WEBSTER'S observation respecting the laws fixing the currency of the United States, he said it was very true they were clear and peremptory in their provisions; if the existing laws did not compel men to pay their debts, the establishment of a bank would not. Let us not disguise the fact, said he, pursuing his remarks on what he had described as the evil of the times; we think we are living in the better times of the republic: we deceive ourselves—we are almost in the days of Sylla and Marius: yes, we have almost got down to the time of Jugurtha. It was unpleasant, he said, to put one's self in array against a great leading interest in a community, be they a knot of land speculators, paper-jobbers, or what not; but, he said, every man you meet, in this House or out of it, with some rare exceptions, which only served to prove the rule, was either a stockholder, president, cashier, clerk, or door-keeper, runner, engraver, paper maker, or mechanic, in some way or other, to a bank. The gentleman from Pennsylvania, he said, might dismiss his fears for the State banks, with their one hundred and seventy millions of paper, on eighty-two millions of capital. However great the evil of their conduct might be, he asked, in the course of his illustrations, who was to bell the cat? who was to take the bull by the horns? You might as well attack Gibraltar with a pocket pistol, as to attempt to punish them. There were very few, he said, who dared to speak truth to this mammoth; the banks were so linked together with the business of the world, that there were very few men exempt from their influence. The true secret is, said he, the banks are creditors as well as debtors; and if we were merely debtors to them for the paper in our pockets, they would soon, like Morris and Nicholson, go to jail (figuratively speaking) for having issued more paper than they were able to pay when presented to them. A man had their note, he said, for fifty dollars,

perhaps, in his pocket, for which he wants fifty Spanish milled dollars; but they have his note for five thousand in their possession, and laugh at his demand. We are tied hand and foot, Mr. R. said, and bound to conciliate this great mammoth, which is set up to worship in this Christian land: we are bound to propitiate it, &c. Thus, he said, whilst our Government denounces hierarchy; will permit no privileged order for conducting the service of the only true God; whilst it denounces nobility, &c.—has a privileged order of new men grown up, the pressure of whose foot he, at this moment, felt on his neck. If any thing could reconcile him to this monstrous alliance between the bank and the Government, he could, if the object could be attained, of compelling these banks to fulfil their engagements, almost find in his heart to go with the gentleman in voting for it.

Mr. R. proceeded to a minute examination of the state of the paper currency, and its various phases, recently and in earlier times. The stuff uttered on all hands, and absolutely got by rote by the haberdasher's boys behind the counters in the shops, that the paper now in circulation would buy any thing you want as well as gold and silver, was answered, he said, by saying, that you want to buy silver with it. He examined in detail the present mode of banking, which, he said, goes to demoralise society; it was as much swindling, to issue notes, with the intent not to pay, as it was burglary to break open a house. If they were unable to pay, the banks were bankrupts; if able to pay, and would not, they were fraudulent bankrupts, &c. But, he said, a man might as well go to Constantinople to preach Christianity, as to get up here and preach against banks. He despaired, he said, almost, of remedying the evil they cause, when he saw so many men of respectability, directors, stockholders, debtors of the banks. To pass this bill, he said, would be like getting rid of the rats by setting fire to the house: whether any other remedy could be devised, he did not now undertake to pronounce. The banks, he said, had lost all shame, and exemplified a beautiful and very just observation of one of the finest writers, that men, banded together in a common cause, will collectively do that at which every individual of the combination would spurn. This observation had been applied to the enormities committed and connived at by the British East India company; and would equally apply to the modern system of banking, but still more to the spirit of party, &c. on which Mr. R. digressed at some length.

He then resumed the consideration of the history of bank paper in this country, and stated the fact that, not many years ago, the New England paper had been at almost as great a discount here, as the paper of this part of the country now was there: and that, even in New England, the notes of some of the banks were not current within their own States, except at a discount. As to establishing this bank to prevent a variation in the rate of exchange of bank paper, he said, you might as well expect it to prevent the variations of the wind: you might, said he, as well pass an act of Congress (for which, if it would be of any effect, he should certainly vote) to prevent the northwest wind from blowing in our teeth as we go from the House to our lodgings. After a minute discussion of the causes and dates of the difference of exchange in the paper of various banks, Mr. R. concluded his remarks by pledging himself to agree to any adequate means to cure the great evil, that were consistent with the administration of the Government, in such a manner as to conduce to the happiness of the people and the reformation of the public morals.

Mr. WARD defended the Massachusetts banking institutions from imputations, which he thought a part of Mr. R's remarks on the currency calculated to cast on their correct management.

Mr. SMITH, of Maryland, then rose, and addressed the House at considerable length, in opposition to the motion before it, and in reply to MESSRS. CADY, RANDOLPH, and others. He explained, by ample illustrations, the preference which a note of the national bank would have over the notes of other banks, and even over treasury notes bearing interest, and the manner in which it would

guard itself from a run for specie, &c. by a combination of individuals, or other banks. In regard to the direction and management of fiscal affairs, he said, the late Secretary of the Treasury, (meaning Mr. Gallatin) who went into that department with as many prejudices as any man could well entertain, thought all was wrong there, and he was the very person to set all right. He had examined the subject day and night, and, after all his examination, he had not found a single iota of Mr. Hamilton's system which it was necessary to alter, &c. By this anecdote, Mr. S. illustrated the advantage of practice over theory. He made many remarks, to shew the operation which made treasury notes generally more valuable than the notes of any bank not paying specie, and less valuable than the notes of any bank which does pay specie; and he said, if this were not to be a specie bank, he should not have been found in favor of it. The depreciation of paper, he said, was not wholly owing to the suspension of specie payments, as he proved by a reference to the difference of exchange between Baltimore and New York, in both of which places specie was not paid by the banks, and yet the exchange was nine and a half per cent. against Baltimore, &c. This was owing to the balance of trade being thrown against them during the war, the Chesapeake having been almost wholly shut up, whilst Baltimore vessels put into the port of New York, with their cargoes and prizes, &c. He did not wish the Government to pay any money into this bank, but stock to be created, &c. respecting which, he did not know but he should move an amendment, and also to expedite the payment of the specie portion of the subscription by individuals to the bank: for, without three-fourths of the proposed amount of specie in its vaults, the bank would not dare to issue a note, &c.

Mr. CADY again spoke in support of his motion, and in reply to the objections against it. When he concluded,  
The committee rose.

MARCH 1, 1816.

The House again resolved itself into a committee of the whole, Mr. NELSON, of Virginia, in the chair, on the bill. The motion to strike out so much of the first section as allows Government to subscribe for seventy thousand shares of the stock, being still under consideration.

Mr. WRIGHT opposed the amendment at some length. He was sorry to see a plan which promised such great benefit to the country, in the present deranged state of its currency, endangered by the present motion. If the motion prevailed, he should be compelled, he said, to vote against the bill, much as he was in favor of establishing a bank. He wished to see the bank possessed in part by the Government, and partly by the citizens, because the stock of it would be extremely profitable. The Government ought to have an interest in the bank, as they would thereby be informed of all the plans which might be at any time entertained by the directors of so powerful an institution. He was not afraid, however, to trust our citizens, nor ought they to be suspicious of the Government; and the participation of the Government could not, he conceived, be productive of injury or mischief. Mr. W. adverted to the assertion, that such an institution would realize the imagined lever of Archimedes, with which the world might be moved. He wished it did possess that mighty power, and it could be brought to bear on the rotten and corrupt Governments of Europe. We have, he said, given to that portion of the world examples of liberty, of valor, on the sea and on the land, and he should be glad if, by any power, we could crush the despotisms which oppress it, &c. He said he was surprised at the objections, made by gentlemen from the East, to establishing this bank on so large a proportion of the public stock, as the effect would be to raise that stock immediately to par, &c.

Mr. JEWETT, in reply, said, the gentleman who has just sat down, had excoriated the House in the outset, and had threatened it with voting against the

bill if it did not suit him. He would not follow the example of that gentleman; he would not go to Europe to put down Governments, to light names, and put out fires, but would state a few matters of fact. This question, he said, affected the interest of every State and town in the country; it was of great magnitude; it would either restore the credit of our currency, or make it worse than it is already; and to illustrate his opinion on this important subject, he would state a case in point. Some ten or fifteen years ago, he said, there was a certain State (Vermont) which had no bank; but there were banks in adjoining States, which afforded much profit; and the people of the State thought they might as well grow rich by banking as their neighbors. They supposed, if the limited means and numbers of private banks could make money, that the extended means of a State would make an institution still more profitable; that it would drive out the paper of other banks, facilitate the operations of the State, &c., as had been argued in favor of the bank now proposed. A State bank was accordingly established, on a small specie capital, and paper to a large amount issued, which they thought would never be returned for payment. What was the consequence? The paper of other banks, it was true, disappeared, but it was because of the suspicion which attached to the State paper. The machine, if it might be called so, went on badly; it was attributed to bad management of its concerns; and attempts were made to remedy the defects, but in vain. The paper depreciated from six to ten, and from ten to fifteen per cent.; and finally, by the juggle, the people of the State lost—how much he was not certain—but a great amount he knew. So it would be, he said, with the plan now contemplated, if not amended; and, if the objections to it were not obviated, he should be compelled to vote against the bill, although he was strongly in favor of a bank on proper principles. If passed in its present shape, it would entail evils on the country which money could not compensate, &c.

Mr. Ross advocated the motion to amend the bill. He did not believe, as had been argued, that a participation in the bank would strengthen the arm of the Government, or be very profitable. If, however, the arm of the Government was to be strengthened by weakening that of the citizens, and uniting with a privileged aristocracy, he was decidedly opposed to it. He did not wish the Government to become partners in such a privileged order. If the reasons for retaining the principle in the bill were correct, he thought the proportion allowed too small: if Government was to derive this great profit from the participation, its share was not great enough. It had been said that the influence of one bank (the Manhattan) could have prevented the election of Mr. Jefferson to the presidency. If that bank had been under Executive control, he believed its power would have been exercised. This was a proof of the danger of giving Government a great influence in such institutions. He was opposed to the plan, chiefly from his objections to joining a moneyed aristocracy, and his fears that it might operate injuriously to the liberties of the country, &c.

Mr. GOLDSBOROUGH made a few remarks on the motion. If the provision was inserted as an apology for the appointment of the five directors by the Government, then he was opposed to it; but, if it would be as profitable as was predicted, and would enable us to dispense with some of the existing internal taxes, he should be glad to vote for it. A good bank, Mr. G. said, would be very serviceable; and he should vote against the motion, because he could not see that any harm would arise from the nation participating in a pecuniary establishment, &c.

The question was then taken on striking out the provision, and decided in the negative, as follows: For the amendment, 38. Against it, 61.

The committee proceeded with the consideration of the rest of the bill.

After the adoption of some verbal amendments—

Mr. WRIGHT moved to substitute Washington city for Philadelphia, as the place to which to return the books, &c. (to place the bank at Washington.) Mr. W. said, having a strong desire that the bill should pass, and knowing some to feel a delicacy in supporting it, from constitutional scruples, he thought it better to fix the bank where there could be no objections on that score, and where, also, its operations would be facilitated. Washington is the seat of Government of the nation; and here, he said, it would be under the eye of the Government, where there would be less danger from so great a moneyed aristocracy, and the national interests would be better guarded than at any other place. Mr. W. said it was not his purpose to anticipate objections to his motion, but the principal one he knew to be, that a sufficient number of persons could not be found at Washington, qualified for directors. The force of this objection he denied in the extent to which it was urged. In the city and neighboring country, he was convinced there could be found abundant talents for managing the concerns of the bank. The people of this district, moreover, deserved highly of the Government; they had, in time of need, done as much, or more, in proportion to numbers, to aid the country, than any other section of the Union. Mr. W. adverted to the source whence the bill originated, and insinuated that much of the ground for recommending Philadelphia must be attributed to the partiality of those who had named that city in the bill; and concluded by saying, that the motive for fixing the old bank of the United States at Philadelphia, was the same that ought now to place the present bank here, to wit, that it is the seat of Government.

Mr. ROBERTSON said he coincided with the gentleman in some of his views. He could see no strong reason for preferring Philadelphia; because, if the object was to select a city on account of its commerce, Philadelphia was not the most commercial place; and if that reason carried the bank from the seat of Government, the same reason would prevent its being located at Philadelphia. But Mr. R. said he had another reason for disapproving the place mentioned in the bill—he was unwilling to impose upon Philadelphia an institution so obnoxious to the Representatives from that city, all of whom were so decidedly hostile to the bank. However, he said, he should not vote for the motion, because, as a place of greater commerce, he preferred Philadelphia to Washington.

At the suggestion of Mr. CALHOUN, who thought the motion had better be offered in a subsequent stage of the bill, Mr. WRIGHT withdrew his amendment for the present.

On motion of Mr. WEBSTER, the bill was amended by inserting a clause making foreign coins receivable for subscriptions, at their real ascertained value, and not according to the rate fixed by the former act of Congress, which was admitted to be incorrect, particularly in the value placed on Spanish gold coins.

Mr. SMITH, of Maryland, adverted to the insinuation which had been thrown out, that the bank was not intended to be, and could not be, a *specie bank*; and repeating that he, for one, had in view a bank of no other kind; to ensure to it that character, therefore, and remove the doubts now entertained by others, he moved to strike out the word *five*, (the amount of the first payment required in specie) with the intention of moving to substitute a larger sum. He thought it better to enable the bank to do, as soon as practicable, a liberal business, and, at the same time, lessen the chance of drawing out, by any run on it, the specie at first paid in, &c.

Mr. CALHOUN had not much objection to the motion, though he thought the bank could certainly do safely a business to the amount of the first specie payment, and, if a greater business was offered to them, they would have it in their power to increase their specie at pleasure. His only objection to enlarging the first cash instalment was, that it might have the effect to draw the specie out of the existing banks.



Mr. SMITH's motion to strike out the word *five* was carried; and He then moved to fill the blank with the word *fifteen*; which was also agreed to—ayes 56, noes 44.

Mr. ROOT said the section under consideration was the essential part of the contemplated institution, as it contained its constituent or vital parts; and proceeded to enumerate the various stocks receivable in subscriptions; the rates fixed for them by the bill; the price paid for them by the lenders to the Government, and the profits now about to be given to those lenders, by raising the stocks to par; thus granting a bounty to those men. The same reasons did not exist, he said, for such a measure, at present, as existed at the last session. Then, the credit of the Government was weak, now it is strong. He would not deny that the lenders to the Government might have been actuated by patriotic motives, but that was no reason for granting to them any thing more than was bargained for; and he proceeded to show, that, by allowing the commissioners of the sinking fund to buy up this stock, instead of permitting it to be subscribed in the bank, at the rates prescribed by the bill, the Government would save about two millions of dollars in its redemption, &c. For these and other reasons adduced, he moved to amend the bill by fixing the rate at which the six per cent. stock shall be received in subscription to the bank at *ninety* per cent. instead of *par*.

Mr. CALHOUN objected to the motion. Its obvious effect, if not its object, he said, was to increase the bonus. If the stocks are depreciated, said Mr. C., it is not the fault of the holders of it, but of the Government itself, and it would be improper in the Government to take advantage of this depreciation. The measure would also have an injurious influence on the subscriptions to the bank, without answering any good purpose, and he, therefore, hoped the motion would not prevail.

Mr. ROOT said, in reply, that those who boasted so much of having loaned their money to the Government, only gave their depreciated notes, and received, in return, the note of the Government, by which they made a great profit, and that was all their merit, &c.

Mr. GOLDSBOROUGH made a few remarks on the motion. He thought it questionable whether a Government ought to fix on its own stock a manifest depreciation, and, in this instance, it would be an act of very great injustice, and a violation of public faith, because, in the next clause, it was provided that the stock should be redeemed and liquidated at the rates at which it was paid into the bank, &c.

Mr. ROSS thought the circumstance deprecated by the gentleman last up, existed already; which opinion he supported by a few arguments. The whole system of this bill, he said, was an encouragement to stockjobbers, and was of the same character as the measure which once benefitted the speculators, at the expense of the Revolutionary soldier, by funding their certificates, &c.

The question was then taken on the motion of Mr. ROOR, and negatived, only seven or eight gentlemen rising in favor of it.

The committee then rose, reported progress, and obtained leave to sit again.

MARCH 4, 1816.

The House again resolved itself into a committee of the whole, Mr. NELSON in the chair, on the bill.

Mr. SMITH, of Maryland, moved to strike out of the 6th section the words "treasury notes," as forming a constituent part of the Government subscription to the bank, the effect of which amendment would be to limit the mode of payment of the subscriptions to stock and specie.

The motion was supported by Mr. SMITH, assented to by Mr. CALHOUN, and opposed by Mr. HOPKINSON; and then agreed to without a division.

Mr. SMITH then moved further to amend the same section, by making the amount of the shares reserved to the Government receivable in stock, bearing an interest of *five* instead of *six* per cent., with the view, also, of providing subsequently, that the whole subscription of the Government shall be made on the first of January, 1817, instead of being paid in instalments, at distant dates.

After some objection on the part of Mr. WEBSTER, the motion was agreed to; ayes 63, noes 40.

The bill was subsequently amended, so as to make its provisions correspond with the preceding amendments.

After the adoption of some other amendments, involving no principle,

Mr. PITKIN moved to strike out of the 10th section so much as gives to the President and Senate the power of appointing five directors of the bank.

This motion was supported by Messrs. PITKIN, WARD, HOPKINSON, M'KEE, HUGER, SHEFFEY, ROSS, and GROSVENOR; and opposed by Messrs. SMITH, of Maryland, CALHOUN, TUCKER, and ROBERTSON.

The reporter has only generalized the argument. On the one hand it was said, this control over the bank would be an engine in the hands of the Government, which might be used in a manner dangerous to the best interests of the country; that this feature would be pernicious to the interests of the bank, which would be best managed without the interference of the Government; that the reservation of this power would be of no advantage to the Government, (except that it would tend to increase Executive patronage, already much too extensive) as every necessary investigation could be made into the state of the institution, without the aid of this power; that the Government would have quite as much influence over the bank as it ought to have, without this power being given to it; that the principle would be most odious to moneyed men, and of such an inquisitorial character as would deter many of our most respectable citizens from embarking in the institution, &c. On the other hand, it was contended, by gentlemen in favor of retaining the provision, that it was necessary, as well to guard the public interest as to secure a just administration of the affairs of the bank, as regarded the public, that a proportion of the direction should be appointed by the Government; that it was certainly not unfair that the Government should stand on a footing with the individual stockholders, by having a share in the direction of the bank; that such a feature existed in the charters of many State banking institutions, and was not abused, as far as was known; that this power could not be dangerous either to the bank or the nation, as the twenty directors appointed by the individuals would always be competent to control the five appointed by the Government; some State banks were cited, in which the State possessed an entire control, from which no disadvantage had been realized; and, as the selection by the Government, in this case, would certainly be made with a reference to the wealth and respectability of the persons chosen, no abuse ought to be anticipated, any more than it could succeed, if attempted.

Before deciding the question, the committee rose, and obtained leave to sit again.

MARCH 5, 1816.

The House again resolved itself into a committee of the whole, Mr. NELSON in the chair, on the bill; the question to strike out the provision giving to the President and Senate the power of appointing five of the directors, being still under consideration.

On this question the debate was resumed, and continued to a late hour before the decision took place. The gentlemen who supported the amendment were Messrs. GASTON and PICKERING; and those who opposed it were Messrs. WILDE, TELFAIR, WRIGHT, CLAY, CALHOUN, and FORSYTH.

Mr. FORSYTH said he was one of those who was unfortunate enough to attach great importance to that part of the plan of the bank which was intended to be altered by the motion of the gentleman from Connecticut. At the last session of Congress he had, in vain, endeavored to convince the members composing it, of the necessity of retaining such an influence over the management of the institution. The honorable gentleman from North Carolina (Mr. GASTON) had suggested, that the opposition to the amendment proposed, came from the Treasury Department, or from the Executive. He begged leave to assure him, that the recommendation or opinion, of the Department or of the President, was not the foundation of his belief of the necessity of this measure. Although he did not expect to satisfy others who differed with him, of the incorrectness of their views of the subject, he did hope to be able to show, at least, plausible reasons in favor of his own. At the last session of Congress, he had the honor to advocate, with a zeal arising from a thorough conviction of the necessity of the measure, the establishment of a bank differing from the present, only because it imposed an obligation to make a large loan to Government. He had to regret that the ability with which that duty was discharged, was not equal to his zeal, and still more, that his exertions were not crowned with success. It would have produced at least one good effect—this discussion would have been avoided, and the time occupied in it might have been usefully employed on a different subject. This plan failed for causes it was unnecessary to trace, and its failure was rendered comparatively unimportant by the restoration of peace. He did not believe, with some gentlemen, that this measure was *now necessary*. The necessity for it had ceased. It was no longer essential; but it was both politic and prudent to adopt it. If it fails, no dangerous consequences will result from its failure. He should survive the shock, although this bill should follow its predecessor to the tomb. The body politic was obstructed by a diseased circulation, but time would furnish a healing remedy, although the application of this panacea should be rejected by the State physicians. Mr. F. said, he did not wish to be understood as recommending the establishment of *any* bank as prudent and politic. It was not a bank, but a bank of peculiar character, which was required. We had banks enough already; they rose like mushrooms, from every hot bed in the country. It was not a moneyed bank only—a bank exclusively regulated by the moneyed interest, and governed by the jealousy, avarice, or factious views of moneyed men, capable of being made the instrument of artful and designing combinations, to cramp your resources, and destroy your capacity to make either permanent or temporary loans. It must be a bank having a national character, regulated by the national interest, and under the influence of the national councils. If it was not of this character, its failure or success was indifferent to him. It seemed to be admitted on all hands, that we ought to have an interest in the proposed institution. It was admitted, too, that we ought to have an influence; and the dispute was, between a direct influence by the appointment of directors, or an indirect influence by the operation of the revenue system. It would not be difficult to demonstrate, that an indirect influence would be altogether insufficient. Your \$7,000,000 of interest in the capital gives you no power, unless it is coupled with the authority to appoint a portion of the directors. This, it is said, must not be given, because you have ample influence by means of your revenue system. What difference will be produced by the establishment of this new plan? Will your indirect influence over it be greater than over the State institutions? You may withhold your deposits; so you may from the State banks. You may refuse to receive its paper in payment of taxes or imposts. You may refuse the paper of the State banks. You may tax either at your pleasure. After this plan is perfected, the annulment of the charter is, for twenty years, as completely beyond your authority, as the annihilation of the State banks. The sole difference is, that, at the end of twenty years, the Bank of the United States will be dependent on you for a renewal of its charter, while the State banks look only to the State Legislatures. Your power, then, over the present banks, is equally great with your power over the one proposed. And this is notorious—

ly ineffectual. An honorable gentleman from New York (Mr. GROSVENOR) has told you, and truly told you, that when you threaten the State banks, they laugh at your threats; when you menace them, they menace you in turn. If a mere local institution cannot be beneficially controlled by your indirect influence, how can you expect to affect an institution extending through the whole community, which combines the great moneyed capital of all the States into one solid column of power! It seems, however, to be imagined, a direct control is unnecessary. The keen magnetic sense of the directors will always induce them to pursue their own interest, and their interest will always produce a compliance with the reasonable wishes of the Government. This sense was too magnetic for Mr. F's taste; it pointed with unerring polarity to self; and the general interest, when in conflict with self-interest, did not produce even a vibration of the needle. Besides, there was such a thing as the sacrifice of pecuniary to political interest or party policy. This institution might, in the course of time, fall into the hands of men who would think it immoral and criminal to loan their money for the necessary purposes of Government. What would be the situation of the country in such an event, at a time when this institution furnished the great mass of the medium of circulation? It was to guard against such an event that an immediate agency in the direction was necessary: there was a greater probability of finding eight reasonable and virtuous men out of twenty, than thirteen out of twenty-five.—Mr. F. regretted that the number of directors to be appointed by Government was not greater; and, also, the amendment which prevented the President from appointing more than three at the seat of the mother bank; but he supposed he must be satisfied with it as it stood, as there was little hope of obtaining more. It was objected, however, that moneyed men would not like the introduction of this direct influence. This was perfectly natural. Moneyed men have no objection to manage your funds for their benefit, but have no desire to admit your influence in the management of theirs. But will the introduction of this principle prevent the subscription of the capital from being filled? No gentleman had, or would venture to predict, such an effect. They will no doubt make wry faces, but the bitter pill would be swallowed if it was well gilded. Arguments had been urged against this part of the plan, founded upon the supposition that improper appointments would be made. The President and Senate had not the same information to enable them to choose proper directors. Stockholders were better judges of the necessary qualifications of directors. Corrupt men would solicit and procure these appointments for improper purposes. Great injury would result to the bank from their success. They would procure for themselves and friends accommodations to which they were not entitled.—A slight examination of these arguments would show their fallacy. Intelligence and integrity were the qualifications required in directors. The same ability existed to ascertain who possessed them, for this, as for all other offices. The President and Senate can command or procure the most accurate information of the character of persons who are thought of for these appointments, from every source to which it may be necessary to apply. Is it not passing strange, that a man who has raked up money from every kennel into which he may have dipped his fingers, is, from that circumstance, a better judge of the proper person for a director, than the President and Senate? That a stupid fellow, who had blundered into a fortune in New Orleans or Providence, should be able to procure better information of the character and circumstances of individuals, than the President, residing at Washington, and the Senators, coming from the several States? These men, however, who intend to swindle the bank, will worm themselves into the good graces of the President, and receive the appointment. After their appointment, paper will be discounted, having their names upon it, which ought not to be discounted; because the extreme delicacy of the other directors will not permit them to object to it. This morbid delicacy, too, is to be found in persons chosen by the keen-sighted individual stockholders, who are the best judges of the persons competent to manage their concerns. Such is the argument. It supposes folly in the President and Se-

nate, who make the appointments; corruption in the persons seeking to be appointed; and stupidity and criminality in the other directors, in permitting this folly and corruption of the choosers and the chosen, to injure the institution.

Mr. F. asked, what advantages could be derived from this institution, if this amendment prevails, which could not be produced through the agency of the State banks? It is admitted, that the great object of this bill, the restoration of specie payments, might be effected by a rigorous system of measures against the State institutions. Mr. F. said, he did not feel that indignation against the State banks, for stopping the payment of specie, which had been expressed by others. His indignation had been so thoroughly exhausted upon the smugglers of English goods, and the cash dealers in British Government bills, for the use of the Canadian army, that he had none left for the banks who had loaned their notes to their own Government, who, in consequence of an extraordinary emission of their paper, had been under the necessity of dishonoring it. He was not, however, the apologist of the banks for withholding specie payments since the restoration of peace. It was, however, certain, that no one bank could, without ruin, resume the payment of specie. The resumption must be simultaneous. He had no objection to any system which should induce the banks to perform their obligations in this regard to the community. But he protested against the cruelty and injustice of any rigorous measures which should compel them, immediately, either to sell their Government stock, or to curtail their discounts. It was saying to these banks, you have loaned us too much of your paper; you have made too much money out of the General Government; your paper has, indeed, performed the trifling service of carrying us triumphantly through a dangerous conflict; but we are not now in want of a further accommodation; you must take in your paper; you must sell your stock; you must disgorge your gains; you must resume your specie payments. And what will be the consequence of all this? They are forced to sell their stock—it goes into market, and its price is depressed. Are you in a situation to buy, to take advantage of this disgorging of their unrighteous gains? Far from it. You cannot be benefitted; you cannot enter as a competitor into the market. And who are the gainers by this system of rigor? The hard money men, who withheld their money in the hour of your necessity and peril—who combined together for the purpose of defeating your loans. Mr. F. begged the House, if these banks were to be punished, to wait until the Government, who had been the sufferer, should be prepared to take advantage of their punishment. At all events, to be so cautious in their castigation, that, in punishing puny, petty speculation, they do not reward the vilest of all gamblers: those who staked their money against the safety of your empire, who sought to destroy you by cramping your resources, who sought to beggar the country, that an administration might be ruined.

Mr. TELFAIR observed that the great cause of difference of opinion on this question, seemed to arise from a misapprehension of those who advocated the amendment, as to the primary objects for which this institution is designed. Gentlemen argue as though the moving cause for the establishment of a national bank was the interest of the individuals who may become subscribers, and that the Government has but one interest, and that is, the attainment of the highest possible *bonus*.

In this view of the subject, I must be permitted totally to differ from those who are disposed to deprive the Government of all participation in its direction. Did I deem it practicable to manage such an institution without great liabilities to corruption of its principles, I should most decidedly prefer one whose stock was exclusively the property of the nation. But it requires no great political sagacity, and but ordinary experience, to ascertain that those institutions, which derive their principle of action from private interest, are more active in pursuit of their object, more vigilant in the detection of error, and more likely to prosper, than those which derive their impulse from the spirit of patriotism, and have in contemplation solely the public good. Private

interest is ever more active—more vigilant—more pervading—more alive to its object, than national, which is more sluggish, because its direction is towards remote or general good—less quicksighted, because its instinct is not so strong.

This institution is designed not merely to fulfil the ordinary purposes of banks of discounts; it aspires to great national objects; it contemplates a restoration of the legitimate currency of the country; its end is to give an uniform and valuable medium to the whole empire; its design is to facilitate the fiscal operations of the Treasury Department. It is, in one word, to restore to this Government the rightful and constitutional control over the national medium, which is vested in every civilized government, and which was intended to be vested in the Congress of the United States, when to it was assigned the superintendency of the mint establishment. These are the primary and essential objects of its creation; from the attainment of these great objects, certainly benefits flow to every class of the community; but exclusive benefits are designed to none, save so much as may be deemed necessary to the obtention of these ends, and conformable to these results.

According to these views, then, the interest of the stockholders is not to be considered as holding a priority of station to that of the Government; on the contrary, the institution is to be looked upon as the property of the nation, and that of individuals for political considerations, viz: because their aid will facilitate, or, if you please, is necessary to participate in it; immediate profits—that it may not be wanting in that spirit which characterizes the schemes of individual pursuit; that, while its capacities and controlling power be national, its impulse, its life and animation, shall be private interest. But private interest, unrestrained, naturally produces much mischief. I have admitted that a bank, exclusively managed by the Government, would be exposed to a corruption of its principles; and, with so many facts to support me while casting an eye upon the numberless banks around, I certainly shall not be charged with overweening suspicion, when asserting that banks, too exclusively managed by stockholders, are liable to become instruments of public evil from the invitations of self-interest.

The true policy, in the creation of a bank, then, is to give it a double character—to combine in it the elements of public and private interest; but to secure to the former a control over the latter: for the Government, which creates this institution, is responsible for its fulfilment of the great objects of its creation, and it is wiser to use means of precaution, than to rest upon ultimate means of severe correction. But the gentleman from North Carolina, (Mr. GASTON) who has certainly spoken with ability on this subject, is satisfied with the incidental powers and benefits which the Government would derive from this bank. And this brings me to two objections which have been urged: first, an indescribable dread is felt of the influence of the Government over this institution, provided it participates in its direction. In what way, let me ask, can the influence of the Government be injurious? Is it presumable that the influence of the Government would induce the bank to loan to individuals who were incapable of repaying the debt? Can it be believed that the Government would ever descend, by its influence over the bank, to benefit one class of individuals by loans, while it oppresses another by refusing to extend these benefits? Or, can it be imagined that the Government, which is so deeply interested in preserving an uniform and valuable currency, would, in ordinary circumstances, induce the bank to make over issues, and thereby cause a depreciation of its paper? I presume not; these are apprehensions too fantastical to be ascribed to gentlemen of sense; they are absurdities too great for them to ascribe to a Government as enlightened as ours; but, if they mean that the Government, under the pressure of trying emergencies, may, by their influence, induce loans from the bank, which prudence, in ordinary times, would forbid them to make, I shall not deny the probability; but must be permitted to answer, there are, or may be, periods, during a nation's travail, when exertions of such means would be attended with less



evil than a want of money; and, as this objection has reference to an extreme case, I am willing to await the crisis.

But, their second objection, which is not a little inconsistent with the first, is, that the President will appoint ignorant, inefficient, and needy directors. What weight, then, could these directors possess? But, let us approach this objection a little nearer, and look it in the face. Why is the presumption indulged, that the President will be thus injudicious? Has he not the same respectable class of merchants from whom to make his selection as the stockholders have? Is it reasonable to suppose that any President would be willing thus to commit his fame and reputation; and, if such a one could be found, is there no reliance to be put upon the vigilance of the Senate? But, the gentleman from North Carolina thinks that the Government is never safe in trusting its money concerns in the hands of an individual. How, then, Mr. Chairman, is any nation to transact its financial concerns? Does our Government not daily trust individuals with its money? Is it not obliged to do so? And if, in this case, it did not trust directors appointed by itself, would it not be obliged, exclusively, to trust those appointed by the stockholders? If the gentleman's argument is carried a little further, it would recommend the system of farming the revenue, as pursued in France, instead of appointing our own officers to collect it. Our policy, in collecting the dues of the Government, has been to couple the interest of the officer with our own; he derives a profit or per centage upon the money collected, and hence the stimulus superadded to that of a sense of duty. The interest of this bank should be made subservient to the interest of the public—of the People; and hence I wish for some control in its direction.

In the course of the day, an amendment was adopted, on motion of Mr. CONDICT, to confine the selection of directors, to be made by the President and Senate, to persons holding stock in the bank.

On motion of Mr. SMITH, of Maryland, an amendment was also adopted, to prevent more than three of the directors, appointed by the President and Senate, from being taken from any one State.

The main question was at length taken, about 4 o'clock, on Mr. PITKIN's motion, to exclude the Government from the appointment of any of the directors, and decided in the negative.

For the amendment, . . . . .	64,
Against it, . . . . .	79.

The committee then rose, reported progress, and obtained leave to sit again.

MARCH 6, 1816.

The House again resolved itself into a committee of the whole, Mr. NELSON, of Virginia, in the chair, on the bill.

Mr. SMITH, of Maryland, moved to amend the 10th section, so as to allow the choice of president of the bank to be made from *any* of the directors, and not to confine the selection of that officer to one of the directors appointed by the president and Senate. Mr. S. made a few remarks in justification of his motion.

Mr. CALHOUN had no objection to the amendment. He thought the clause proposed to be amended not necessary to give the Government a due control over the concerns of the bank; and that it would still retain as much influence, as would serve every beneficial purpose.

Mr. ROBERTSON condemned the motion. He thought it would diminish too greatly the power which it was necessary the Government should have over the bank. He did not want merely a great money machine, but an institution of a national character; and therefore could not consent to part with, one after another, all the features of the bill which gave the Government a

proper and necessary control over the bank. He adverted to the liberality which had been manifested by the chairman who reported the bill, (Mr. CALHOUN) and thought the principle of accommodation might be carried too far—he admonished gentlemen to remember the painter, who flattered every body and pleased nobody. His fate would be that of the bill, if this spirit of concession was carried too far; and he could not, for one, be so far governed by it, as to give up those powers which were necessary to the salutary management of the bank, and without which it would not be worth having.

Mr. Ross could see no reason why the president of the bank should not be selected from the whole twenty-five directors, if it was the object to get the best man. If the President and Senate appoint a director the most proper for the office, he would doubtless be elected, but if not, why exclude the fittest character? It would have been just as well to confine the selection of President of the United States to one State, though it might not contain a person as well qualified as one in another State. Mr. R. called the attention of the House to the importance of the office and duties of the president of the bank, and the absolute necessity of selecting the director best qualified. Such a course was congenial with our political institutions, although he believed the bank itself was by no means congenial with the constitution; being, as he viewed it, a moneyed aristocracy. He condemned the policy of giving so much additional strength to the Executive arm. Alexander Hamilton himself, in the zenith of his influence, would not have dared to propose such a grant of power to the President, as the control and regulation of a great moneyed institution. Mr. R. concluded by saying he thought it would be much safer to adopt the amendment, and withhold from the Executive so important a power, &c.

Mr. CALHOUN rose to make a remark or two in reply to his friend (Mr. ROBERTSON.) He almost despaired of the passage of the bill, after some of the indications which he had witnessed, and began to doubt whether any bill would pass at all on the subject. For himself, Mr. C. said, his anxiety for the measure was not extreme; but, as long as there was a lingering hope of its success, he should omit no effort to make it an efficient remedy for the evils of the present currency. If, after making it suit, as far as possible, the taste of every one, gentlemen determined to oppose it, it was time for them to look out for some other remedy. Mr. C. said he felt deeply the evil of the disordered state of our currency, and the necessity of a cure. In devising that cure, difficulties were to be expected. The direction of the bank he knew had been made a *sine qua non* by some gentlemen, on one side of the House, and he was sorry to find it was one also with some on the other. It was a fate peculiar to great measures, to fall in their details. The obstinacy of gentlemen in matters of what they deemed principle, was honorable to them, but he feared it would be fatal to the bill. He lamented it—the disorders were so deep, so great, that justice to the country called for a remedy at the hands of the Government. If gentlemen would seriously consider the character, and power, and nature of the evil—two hundred and sixty banks issuing almost as many millions of depreciated paper—they must see the necessity of co-operating in the measure of relief. The necessity for union was great and urgent, for the disease was almost incurable—it was a leprosy on the body politic, &c.

The question was then taken on Mr. Smith's motion, and carried: ayes 80, nays 46.

After some further amendment, affecting no principle,

Mr. RANDOLPH moved to add the word *native* in the clause which limits the choice of directors to citizens of the United States; which motion was agreed to without debate—ayes 68.

After the committee had proceeded to the clause, which provides for the appointment of directors for the branch banks, which clause likewise restricted the choice to citizens of the United States—

Mr. JEWETT moved that the word *native* be inserted also in that clause, so as to limit the appointment to *native citizens*.

Mr. CALHOUN objected to the amendment. It was the first time, he said, that any attempt had been made in this country to discriminate between native and naturalized citizens. The constitution recognised no such distinction, except in the eligibility of the highest office in the Government, and he could see no reason for introducing, on this occasion, so odious and unprecedented a distinction.

Mr. RANDOLPH, in reply, spoke at considerable length in support of the motion. He inveighed with much acrimony against the whole class of naturalized citizens, attributing to them the declaration of war, and almost all other political evils; and maintaining that they ought to be admitted only on the footing of denizens, without any participation in the counsels of the country, and the benefit only of protection during good behavior, &c.

Mr. WRIGHT replied with warmth to Mr. RANDOLPH; after which

The question was taken on Mr. JEWETT's motion, and lost, without a division.

Mr. SMITH, of Maryland, then moved to strike out that part of the 17th section which gives the President of the United States power, during the recess of Congress, on the application of the stockholders, to authorize the bank to suspend the payment of specie.

Mr. CALHOUN, after admitting the propriety of the motion, said he had no objection to extend it to the whole proviso of the section, so as to deprive Congress, as well as the President, of the power to suspend specie payments.

Mr. FORSYTH opposed this proposition, and Mr. RANDOLPH supported it; after which,

The committee rose, reported progress, and obtained leave to sit again.

MARCH 7, 1816.

The House resolved itself into a committee of the whole, Mr. NELSON, of Virginia, in the chair, on the bill: the motion to strike out the proviso which gives to Congress the power of authorizing the bank, on application of the stockholders, to suspend the payment of specie, being still under consideration.

The discussion of this motion was widely debated by various gentlemen.

The debate was resumed on this question, and continued about two hours.

The motion to strike out the proviso was decided in the affirmative, by a large majority.

Some other amendments were also made to the bill.

The committee at length got through the bill, when it rose, reported progress, and obtained leave to sit again.

MARCH 9, 1816.

The intervening orders of the day were, on motion, postponed, and the House resolved itself into a Committee of the Whole, Mr. BRACKENRIDGE, of Virginia, in the chair, on the national bank bill.

Mr. CADY offered an amendment to prevent the establishment of more than one branch of the bank in any one State.

The motion was opposed by Messrs. CALHOUN, BRADBURY, and WRIGHT, and supported by Messrs. CADY, and CULPEPER, and then negatived, without a division.

After some unimportant amendments, and the bill having been gone through, the question was stated: "Shall the committee rise and report the bill to the House?" when

Mr. CLAY rose, and delivered at length, his sentiments in favor of the bill, its principle, and details.

[The speech delivered on this occasion, by Mr. CLAY, appears not to have been printed in the newspapers of the day, and, of course, cannot be inserted as uttered in the House; but, after the return of Mr. C. to Kentucky, he made an address to his constituents, in which the part he took in the House, in regard to the bank, is explained. The following is what he then said upon this subject.]

On one subject, that of the Bank of the United States, to which, at the late session of Congress, he gave his humble support, Mr. CLAY felt particularly anxious to explain the grounds on which he had acted. This explanation, if not due to his own character, the State and the district to which he belonged had a right to demand. It would have been unnecessary, if his observations, addressed to the House of Representatives, pending the measure, had been published; but they were not published, and why they were not published he was unadvised.

When he was a member of the Senate of the United States, he was induced to oppose the renewal of the charter to the old Bank of the United States, by three general considerations: The first was, that he was instructed to oppose it by the Legislature of the State. What were the reasons that operated with the Legislature, in giving the instruction, he did not know. He had understood from members of that body, at the time it was given, that a clause, declaring that Congress had no power to grant the charter, was stricken out; from which it might be inferred, either that the Legislature did not believe a bank to be unconstitutional, or that it had formed no opinion on that point. This inference derives additional strength from the fact, that, although the two late Senators from this State, as well as the present Senators, voted for a National Bank, the Legislature, which must have been well apprised that such a measure was in contemplation, did not again interpose, either to protest against the measure itself, or to censure the conduct of those Senators. From this silence, on the part of a body which has ever fixed a watchful eye upon the proceedings of the General Government, he had a right to believe that the Legislature of Kentucky saw, without dissatisfaction, the proposal to establish a National Bank; and that its opposition to the former one was upon grounds of expediency, applicable to that corporation alone, or no longer existing. But when, at the last session, the question came up as to the establishment of a National Bank, being a member of the House of Representatives, the point of inquiry with him was, not so much what was the opinion of the Legislature, although, undoubtedly, the opinion of a body so respectable would have great weight with him under any circumstances, as what were the sentiments of his immediate constituents. These he believed to be in favor of such an institution, from the following circumstances: In the first place, his predecessor (Mr. HAWKINS) voted for a National Bank, without the slightest murmur of discontent. Secondly, during the last Fall, when he was in his district, he conversed freely with many of his constituents upon that subject, then the most common topic of conversation, and all, without a single exception, as far as he recollected, agreed that it was a desirable, if not the only efficient remedy for the alarming evils in the currency of the country. And, lastly, during the session, he received many letters from his constituents, prior to the passage of the bill, all of which concurred, he believed, without a solitary exception, in advising the measure. So far, then, from being instructed by his district to oppose the bank, he had what was perhaps tantamount to an instruction to support it—the acquiescence of his constituents in the vote of their former representative, and the communications, oral and written, of the opinions of many of them in favor of a bank.

The next consideration which induced him to oppose the renewal of the old charter, was, that he believed the corporation had, during a portion of the

period of its existence, abused its powers, and had sought to subvert the views of a political party. Instances of its oppression, for that purpose, were asserted to have occurred at Philadelphia, and at Charleston; and, although denied in Congress, by the friends of the institution, during the discussions on the application for the renewal of the charter, they were, in his judgment, satisfactorily made out. This oppression, indeed, was admitted in the House of Representatives, in the debate on the present bank, by a distinguished member of that party which had so warmly espoused the renewal of the old charter. It may be said, what security is there that the new bank will not imitate this example of oppression? He answered, the fate of the old bank—warning all similar institutions to shun politics, with which they ought not to have any concern; the existence of abundant competition, arising from the great multiplication of banks, and the precautions which are to be found in the details of the present bill.

A third consideration upon which he acted in 1811 was, that, as the power to create a corporation, such as was proposed to be continued, was not specifically granted in the constitution, and did not then appear to him to be necessary to carry into effect any of the powers which were specifically granted, Congress was not authorized to continue the bank. The constitution, he said, contained powers delegated, and prohibitory—powers expressed and constructive. It vests in Congress all powers *necessary* to give effect to the enumerated powers; all that may be necessary to put into motion and activity the machine of government which it constructs. The powers that may be so necessary, are deducible by construction; they are not defined in the constitution; they are, from their nature, indefinable. When the question is in relation to one of these powers, the point of inquiry should be, is its exertion necessary to carry into effect any of the enumerated powers and objects of the General Government? With regard to the *degree* of necessity, various rules have been, at different times, laid down; but, perhaps, at last, there is no other than a sound and honest judgment exercised, under the checks and control which belong to the constitution and the people.

The constructive powers being auxiliary to the specifically granted powers, and depending for their sanction and existence upon a necessity to give effect to the latter, which necessity is to be sought for and ascertained by a sound and honest discretion, it is manifest that this necessity may not be perceived, at one time, under one state of things, when it is perceived, at another time, under a different state of things. The constitution, it is true, never changes; it is always the same; but the force of circumstances, and the lights of experience, may evolve to the fallible persons, charged with its administration, the fitness and necessity of a particular exercise of constructive power to-day, which they did not see at a former period.

Mr. C. proceeded to remark, that, when the application was made to renew the old charter of the Bank of the United States, such an institution did not appear to him to be so necessary to the fulfilment of any of the objects specifically enumerated in the constitution, as to justify Congress in assuming, by construction, a power to establish it; it was supported mainly upon the ground that it was indispensable to the treasury operations. But the local institutions in the several States were, at that time, in prosperous existence, confided in by the community, having a confidence in each other, and maintaining an intercourse and connexion, the most intimate. Many of them were actually employed by the treasury, to aid that department in a part of its fiscal arrangements; and they appeared to him to be fully capable of affording to it all the facility that it ought to desire in all of them. They superseded, in his judgment, the necessity of a national institution. But how stood the case in 1816, when he was called upon again to examine the power of the General Government to incorporate a National Bank? A total change of circumstances was presented—events of the utmost magnitude had intervened.

A general suspension of specie payments had taken place, and this had led to a train of consequences of the most alarming nature. He beheld, dispersed over the immense extent of the United States, about three hundred banking

institutions, enjoying, in different degrees, the confidence of the public, shaken as to them all, under no direct control of the General Government, and subject to no actual responsibility to the State authorities. These institutions were emitting the actual currency of the United States—a currency consisting of a paper, on which they neither paid interest nor principal, whilst it was exchanged for the paper of the community, on which both were paid. He saw these institutions, in fact, exercising, what had been considered at all times, and in all countries, one of the highest attributes of sovereignty—the regulation of the current medium of the country. They were no longer competent to assist the treasury, in either of the great operations of collection, deposit, or distribution of the public revenues. In fact, the paper which they emitted, and which the treasury, from the force of events, found itself constrained to receive, was constantly obstructing the operations of that department; for it would accumulate where it was not wanted, and could not be used where it was wanted for the purposes of Government, without a ruinous and arbitrary brokerage. Every man who paid or received from the Government, paid or received as much less than he ought to have done, as was the difference between the medium in which the payment was effected and specie. Taxes were no longer uniform. In New England, where specie payments have not been suspended, the people were called upon to pay larger contributions than where they were suspended. In Kentucky, as much more was paid by the people in their taxes, than was paid, for example, in the State of Ohio, as Kentucky paper was worth more than Ohio paper.

It appeared to Mr. C. that, in this condition of things, the General Government could depend no longer upon these local institutions, multiplied and multiplying daily; coming into existence by the breath of eighteen State sovereignties, some of which, by a single act of volition, had created twenty or thirty at a time. Even if the resumption of specie payments could have been anticipated, the General Government remaining passive, it did not seem to him that the General Government ought longer to depend upon these local institutions exclusively for aid in its operations; but he did not believe it could be justly so anticipated. It was not the interest of all of them, that the renewal should take place of specie payments; and yet, without concert between all, or most of them, it could not be effected. With regard to those disposed to return to a regular state of things, great difficulties might arise as to the time of its commencement.

Considering, then, that the state of the currency was such, that no thinking man could contemplate it without the most serious alarm; that it threatened general distress, if it did not ultimately lead to convulsion and subversion of the Government, it appeared to him to be the duty of Congress to apply a remedy, if a remedy could be devised. A National Bank, with other auxiliary measures, was proposed as that remedy. Mr. C. said he determined to examine the question, with as little prejudice as possible arising from his former opinion; he knew that the safest course to him, if he pursued a cold calculating prudence, was to adhere to that opinion, right or wrong. He was perfectly aware, that, if he changed, or seemed to change it, he should expose himself to some censure; but, looking at the subject, with the light shed upon it by events happening since the commencement of the war, he could no longer doubt. A bank appeared to him not only necessary, but indispensably necessary, in connexion with another measure, to remedy the evils of which all were but too sensible. He preferred to the suggestions of the pride of consistency, the evident interests of the community, and determined to throw himself upon their candor and justice. That which appeared to him, in 1811, under the state of things then existing, not to be necessary to the General Government, seemed now to be necessary, under the present state of things. Had he then foreseen what now exists, and no objection had laid against the renewal of the charter, other than that derived from the constitution, he should have voted for the renewal.

Other provisions of the constitution, but little noticed, if noticed at all, on the discussions in Congress in 1811, would seem to urge that body to exert



all its powers to restore to a sound state the money of the country. That instrument confers upon Congress the power to coin money, and to regulate the value of foreign coins; and the States are prohibited to coin money, to emit bills of credit, or to make any thing but gold and silver coin a tender in payment of debts. The plain inference is, that the subject of the general currency was intended to be submitted exclusively to the General Government. In point of fact, however, the regulation of the general currency is in the hands of the State Governments, or, which is the same thing, of the banks created by them. Their paper has every quality of money, except that of being made a tender, and even this is imparted to it by some States, in the law, by which a creditor must receive it, or submit to a ruinous suspension of the payment of his debt. It was incumbent upon Congress to recover the control which it had lost, over the general currency; the remedy called for, was one of caution and moderation, but of firmness. Whether a remedy directly acting upon the banks, and their paper thrown into circulation, was in the power of the General Government, or not, neither Congress, nor the community, were prepared for the application of such a remedy; an indirect remedy, of a milder character, seemed to be furnished by a National Bank. Going into operation with the powerful aid of the treasury of the United States, he believed it would be highly instrumental in the renewal of specie payments. Coupled with the other measure adopted by Congress, for that object, he believed the remedy effectual. The local banks must follow the example which the National Bank would set them, of redeeming their notes by the payment of specie, or their notes will be discredited and put down.

If the constitution then warranted the establishment of a bank, other considerations besides those already mentioned strongly urged it. The want of a general medium is every where felt; exchange varies continually, not only between different parts of the Union, but between different parts of the same city. If the paper of a National Bank were not redeemed in specie, it would be much better than the current paper; since, although its value, in comparison with specie, might fluctuate, it would afford an uniform standard.

If political power be incidental to banking corporations, there ought, perhaps, to be in the General Government some counterpoise to that which is exerted by the States. Such a counterpoise might not indeed be so necessary, if the States exercised the power to incorporate banks equally, or in proportion to their respective populations. But that is not the case. A single State has a banking capital equivalent, or nearly so, to one-fifth of the whole banking capital of the United States. Four States combined have the major part of the banking capital of the United States. In the event of any convulsion, in which the distribution of banking institutions might be important, it may be urged that the mischief would not be alleviated by the creation of a National Bank, since its location must be within one of the States. But, in this respect, the location of the bank is extremely favorable, being in one of the middle States, not likely, from its position, as well as its loyalty, to concur in any scheme for subverting the Government; and a sufficient security against such contingency is to be found in the distribution of branches in different States, acting and reacting upon the parent institution, and upon each other.

A desultory debate followed, between Mr. JACKSON, Mr. CLAY, and Mr. RANDOLPH, on one or two points of Mr. CLAY's arguments.

After which, the committee rose, and reported the bill and amendments.

MARCH 11, 1816.

The House resumed the consideration of the bill.

The House successively concurred in the amendments of the committee of the whole, without objection, until it reached that which substituted the sum of *fifteen* dollars, as the second cash instalment to the bank, instead of *five*.

Mr. CALHOUN repeated the objections that he made in the committee, to this amendment, and moved that the House disagree thereto, with the view hereafter of making the sum *ten* dollars.

After a few remarks from Mr. SMITH, of Maryland, in justification of the amendment,

It was disagreed to by the House.

The House then proceeded to that amendment of the committee which restrained the Government from appointing more than three of its directors from any one State.

This amendment was objected to, in a few words, by Mr. TELFAIR, and opposed, also, by Mr. ROBERTSON, at some length, who wished the clause restored to its original state.

After a few remarks from Mr. SMITH, of Maryland, in favor of the amendment, it was concurred in.

The next amendment considered, was that which added the word "*native*" to a clause of the bill, and thereby excluded from the direction naturalized citizens.

Mr. CALHOUN opposed the adoption of this amendment, on the ground formerly stated; and Mr. RANDOLPH again advocated it, in a short speech; when

The decision of the committee was reversed, and the word "*native*" rejected; ayes 44, noes 67.

On motion of Mr. WEBSTER, the bill was then so amended, after a short discussion, in which Mr. SMITH, of Maryland, opposed the motion, as to make it equally compulsory and penal on the bank to pay its *deposites* in specie, as its notes or bills.

When the House arrived at the amendment providing sanctions for compelling the bank to perform its engagements,

Mr. WRIGHT made a motion substantially to strike out the clause which makes the charter forfeitable, in case of the non-payment of specie, and thereby leave only the penalty of paying ten per cent. on their notes, if not so paid.

MARCH 12, 1816.

The House proceeded to the order of the day, being the report of the committee of the whole House on the bill; the motion to strike out that part of an amendment reported by the committee which makes the charter forfeitable for non-payment of its notes in specie, being still under consideration.

Mr. CALHOUN supported the motion to amend the amendment. It was with much reluctance, Mr. C. said, that he opposed any provision which the House had deemed necessary to perfect the bill, but, in the present instance, he was compelled to make an objection. The fundamental character of this bank was, that it should pay its notes in gold or silver coin; and a sufficient penalty was provided to effect that end. It is a good rule in law, said Mr. C., that, where you attach a separate penalty to a particular violation of a law, you weaken the general penalty; and, as he thought the general penalty would attach in the case, without this special provision, which would, therefore, weaken the general sanctions of the bill, he hoped it would be stricken out.

[The amendment under consideration, proposed by the committee of the whole, was this: to add to the 18th section, "And, in case of failure of the said corporation to pay and discharge the notes thereof, in gold or silver coin, on demand, *then, and in that case, the charter hereby granted shall be void;* and, moreover, the holder of every such note, the payment whereof, in gold or silver, shall have been refused, may recover of the said corporation the amount thereof, together with interest, at the rate of ten per centum per annum, from the time at which the same shall have been demanded until payment. Mr. WRIGHT's motion was to strike out the words in italic; and it was agreed to, without a division.]

Mr. RANDOLPH then moved to amend the amendment of the committee, by making the interest demandable on the notes of the bank, in case of refusal to pay specie, *twenty* per cent. instead of *ten*.

Mr. CALHOUN repeated the reluctance with which he objected to any motion which, in the opinion of the gentleman who made it, would improve the bill; but, he had thought that even the propriety of *ten* per cent. contemplated by the bill, was very questionable, as he doubted whether that provision might not produce combinations against the bank, which were so anxiously guarded against. Every man acquainted with the subject knows, that no bank can, at all times, possess the means of meeting a general run upon it; and he submitted it to the House, whether such a provision as was now proposed, would not be dangerous to the institution, by inviting a run on it, and thereby producing a suspension of payment. He admitted that it was all important to the benefit anticipated from the bank, that it should pay its notes, at all times, in specie; and he thought that end already secured by other sanctions sufficiently guarded. This bank, said Mr. C. is no more than a part of the commercial community in which it is established, and any embarrassment of the bank must press, also, on the whole commercial community; that community would be the first to give way in such a case, and this would produce a run on the bank, and compel the stoppage of payment. If the amendment would produce a greater certainty of specie payments, it might be proper; but believing that it might defeat its own object, and produce that which it was intended to guard against, he thought it dangerous, &c.

Mr. WARD, of Massachusetts, was in favor of the amendment. He thought Mr. CALHOUN had over-rated the mischiefs which might possibly ensue from its adoption. Mr. W. believed that no person would resort to the penalty, unless where the bank might exceed a temporary refusal to pay its notes. If the bank declined payment for a short time only, there was no person who would peremptorily go to law for the penalty; and there was no danger of the combination predicted. It was his opinion that the provision would be beneficial to the bank, by the character it would give it as a specie bank, the superior confidence which it would of course possess throughout the country, and the great business it would consequently be enabled to do, &c.

Mr. RANDOLPH said the argument of the gentleman from South Carolina (Mr. CALHOUN) was a very powerful objection to the principle of the bill, but none against the amendment; it was an argument which he had been keeping in reserve by himself, for another stage of the bill. He had no objection to take fifteen per cent. as the penalty, but he preferred twenty, for another reason. The flagitious conduct of the banks, for some time back, had proven that they could make ten per cent. more than their fair profits: and his object was to make the damages surpass any profits the bank could make by refusing to pay specie. We ought, he said, to remember certain surplusses which the banks, on particular occasions, distributed, in addition to the declared dividends, and it was proper in this case to guard against speculation of this kind. All banking institutions were alike in their desire to swell their profits to the greatest extent, howsoever correct and virtuous the directors might be in their private characters; and he would guard against every public robber of every grade, whether he be a governor general of India or a Bagshot highwayman. He would put it out of the power of this bank to commit frauds on the community, without ruin to itself. Let the penalty be ample, said Mr. R. Make the bank a good one, and there is no danger of their being unable always to pay specie.

The question on making the penalty twenty instead of ten per cent. was then taken, and negatived: ayes 52, noes 70.

The House then proceeded with the remaining amendments of the committee of the whole; the consideration and decision on which having been completed,

Mr. CALHOUN moved to amend the bill, by fixing the amount of the second cash payment at ten dollars, instead of five, as it stood in the bill. This being agreed to, and some other minor motions being disposed of,

Mr. WEBSTER moved to amend the clause which declares that the bank may sue and be sued "in all courts whatsoever," by designating the State courts.

Mr. HALL asked if it would not be better, before this motion was acted on, to inquire a little whether Congress have the power to grant jurisdiction to the State courts, which, in some cases, they had refused to exercise, he thought properly, and the constitutionality of which was very doubtful.

Mr. WEBSTER said the question was an important one; but this was not the first time Congress had legislated on it, though the courts of Virginia had resisted their jurisdiction. Without, however, discussing the question at present, Mr. W. said the bill was just as objectionable as it stood, because it gave the bank the power to appear in "all courts whatsoever."

After some further discussion between MESSRS. CALHOUN, WRIGHT, WILDE, and GROSVENOR, on the propriety of granting jurisdiction to the State courts, specifically,

The question was taken, and the amendment adopted.

Mr. ROOT then renewed the motion he had unsuccessfully made, in committee of the whole, to reduce the rate at which six per cent. stock is to be received in subscriptions to the bank, from *par* to *ninety per cent.* Mr. R. repeated briefly his reasons for the motion, already stated, and Mr. CALHOUN, his objections to it; when, after some remarks in support of it by Mr. ROSS,

The question was taken, and decided in the negative: yeas, 34; nays, 106.

Mr. HALL, of Georgia, then moved a new section to the bill, the object of which was to apply the bonus arising to the Government from the incorporation of the bank, to the internal improvement of the country; and, to avoid any contention about the part of the country at which to commence the work, Mr. H. said he would leave that to the decision of a future Congress. The bonus, he thought, would afford, from year to year, as much as could be easily employed, and, by the end of twenty years, when the charter would expire, the proceeds would have accomplished every object of improvement which would be proper for the General Government to attempt.

Mr. CALHOUN declared his approbation of the object, but feared the adoption of the amendment might drive off some who would otherwise support the bill. Unfortunately for us, he said, there was not a unanimous feeling in favor of internal improvement, some believing this not the proper time to commence that work; and such a provision might deprive the bill of some friends, which, at present, was the main object of his solicitude.

Mr. HALL thought this the most proper moment for commencing the great work of internal improvement; but, if he thought this amendment would draw off any support from the bill, he would not urge it. He believed, however, it would produce a different effect, and would gain friends for the bill, who, otherwise, would not vote for it. His principal reason for wishing to provide for his object in this bill, was, that it would then be sanctioned by a charter, and not revocable, &c.

Mr. GROSVENOR had no objection to the application of the bonus in the way proposed, but he disapproved of providing for the object in this bill. Government might hereafter wish, for various reasons, to get rid of its stock in the bank, but it would be precluded from doing so, if this amendment was adopted. There was no good reason for attaching it to this bill, because, if a majority of the House were, as he hoped they were, friendly to internal improvements, they could act on the subject separately.

Mr. WRIGHT and Mr. WILDE successively offered some remarks in favor of the motion.

The amendment was rejected by a considerable majority.

Mr. CONDUCT proposed to amend the bill, by substituting "New York" for "Philadelphia," in the clause which fixed the location of the bank. It was,

Mr. C. remarked, unnecessary to say any thing as to the considerations which ought to prevail, in fixing a bank for commercial purposes. He would merely remark, that, in addition to the superior commerce of New York, the bank, in that city, would serve the financial purposes of the Government as well as it could at Philadelphia. In the latter city, he believed, moreover, there was already a plenty of bank capital, &c.

Mr. CALHOUN observed that this was a question on which, he presumed, all had made up their minds; and it would be superfluous to say any thing on it. He hoped, however, the motion would not prevail. The old Bank of the United States was established at Philadelphia, and he would prefer that city for the present institution.

Mr. ROBERTSON said that Mr. CALHOUN's reason for preferring Philadelphia, if it had any weight at all, operated against himself; for the old bank having been fixed in Philadelphia was an argument for placing this bank in some other city, that the benefits might not be given to one place alone; besides, if the bank was taken from the seat of Government, to place it in a more commercial situation, it ought to be fixed in that city which was most commercial. But he had another objection, in this case, to Philadelphia, and, with him, the strongest one; this was, the hostility of the representatives of that city to the bank itself. He would not consent to impose upon a place an institution which was so odious to them, &c.

Mr. WRIGHT also spoke in favor of the motion, and incidentally urged the high claims of Baltimore and of Washington city.

Mr. COMSTOCK argued in favor of New York, as possessing superior commercial advantages, and the propriety of selecting that city for a bank intended to aid commercial activity, &c.

The motion to strike out *Philadelphia*, and insert *New York*, was then decided in the affirmative:

For the motion,	- - - - -	70,
Against it,	- - - - -	64.

Mr. ATHERTON, with a view to restrain attempts to speculate in the stock of the bank, by persons subscribing for more than they could pay for, and selling it afterwards at an advanced price, and to make all the subscriptions *bona fide* ones, moved substantially to amend the bill, by providing that, in apportioning the shares, no subscription should be reduced as long as there was on the list a larger subscription.

After a few words from Mr. SMITH, of Maryland, who thought the provision would be ineffectual and was unnecessary, the amendment was adopted, ayes 67, noes 43.

Mr. MAYRANT offered a new section to the bill, the object of which was to allow the five directors appointed by the Government, each, a salary of \_\_\_\_\_ dollars; and to prevent their obtaining any loan or accommodation from the bank.

In support of his proposition, Mr. M. spoke at some length. He adverted to the immense funds of the Government which would pass through this bank, amounting annually to the sum of twenty-five millions, exclusive of the stock owned therein by the Government. We were entering into partnership, he said, with persons unknown to us, and about to place in their hands the immense revenues of the country. It was indispensable, therefore, that the Government should not only have a strong influence in the bank, but its directors ought to be made independent, and, as far as possible, placed beyond the temptation of betraying their trusts—he would make them, indeed, as independent as the judges. Mr. M. quoted examples from many countries in Europe to prove the necessity of giving the Government greater influence in the bank, which, in none of the instances he had cited, had ever been injurious to the prosperity of those institutions.

Mr. CALHOUN replied that his colleague's object could not be effected by his amendment; because, if the directors were precluded from borrowing from the bank, directly, they could borrow in the name and through the medium of some friend. Mr. C. remarked further, that the salary offered must be very large to induce a commercial man of any standing to forego the benefits of the bank.

Mr. MAYRANT thought a salary of 3,000 dollars would be a sufficient inducement to men, well qualified for the direction, to relinquish the privilege of borrowing from the bank. After some further observations, in answer to Mr. CALHOUN,

Mr. MAYRANT's motion to amend the bill was negatived, without a division.

The only remaining motion, meriting particular notice, was by

Mr. ATHERTON, who moved that the rate at which the three per cent. stock shall be received for subscription, shall be reduced from 65 to 50 per cent.

Some debate ensued on this motion, which had not concluded, when

The House adjourned.

MARCH 13, 1816.

Mr. ATHERTON's motion, to make the rate of subscribing the three per cent. stock, fifty instead of sixty-five per cent. being still under consideration,

This motion was negatived; and Mr. ATHERTON subsequently moved to receive the three per cent. at sixty, instead of sixty-five per cent. which was also negatived: Yeas 53, Nays 55.

Mr. CLENDENIN moved to reconsider the vote of yesterday, which fixed the principal bank at the city of New York.

This motion produced a debate of some length, and considerable animation.

Messrs. SMITH, of Maryland, and WRIGHT, spoke in favor of the re-consideration, and incidentally urged the claims of Baltimore to the possession of the mother bank. Messrs. HOPKINSON, SERGEANT, CALHOUN, PICKERING, ROSS, and INGHAM, likewise advocated the re-consideration, and the claims of Philadelphia. Those who spoke against the re-consideration, and of course in favor of New York, were Messrs. CONDUCT, SOUTHARD, ROOT, TAYLOR, of New York, ROBERTSON, GROSVENOR, GOLD, and HULBERT.

The question was finally decided in the affirmative, as follows:

For re-consideration, . . . . .	81,
Against it, . . . . .	66.

And the House then struck out "New-York," and replaced Philadelphia.

Mr. WRIGHT then moved to strike out Philadelphia, and insert Baltimore; which was decided in the negative.

Mr. ROOT, after observing that the State of New York possessed a considerable portion of United States' three per cent. stock, and wishing, as the Legislature of that State was now in session, if so disposed, to subscribe that stock in the bank, moved to insert the word "States," in the clause permitting companies or corporations to subscribe; which motion was agreed to.

Mr. WRIGHT moved to restore to Congress the power of increasing the capital of the bank to forty-five millions, [the clause which granted to Congress the power of increasing the capital to fifty millions, was stricken out, it will be recollected, in committee of the whole.] Mr. W. supported his motion with a variety of remarks on the impropriety of tying up the hands of the Government for twenty years, and prohibiting it by charter, from legislating according to the growth of our population, the wants of the country, &c. He concluded by requiring the yeas and nays, which were refused; and then his proposition to amend the bill was rejected, only nine or ten rising in its favor.

Mr. WRIGHT, also, moved to strike out the word "individual," in the second line of the third section, and insert the word "citizen," as descriptive



of those who might subscribe for stock, but the question on the motion was determined in the negative.

Mr. M'LEAN, of Ky. rose to renew a motion which he had made without success, in committee of the whole, and which he should not again have offered, if he did not conceive that his former attempt had been decided under an incorrect view of the subject. Mr. M'LEAN then moved the following clause to the bill.

“*Provided*, That no branch shall be established in any State, unless such State shall authorize the same by law.”

Mr. M'LEAN supported his proposition at some length; showing, by facts, the injury which might result to some States, extensively interested in their own banks, by forcing a branch of the National Bank upon them. This was the case in Kentucky, where the State owned a great portion of the stock of the State bank, which was very prosperous, and its stocks very profitable; and Mr. M'L. said he was unwilling to put it in the power of any twenty-five men, to impose upon that State, without its consent, an institution which might be extremely prejudicial to its interests, &c.

Mr. CALHOUN replied briefly, that this motion appeared to involve an inquiry into the constitutional power of Congress to establish banks in the States. This was a question which he had wished to avoid on the present occasion, and he should decline saying any thing on it. When the necessity arose for discussing the question, he should be prepared to meet it.

Mr. M'LEAN's motion was negatived, without a division.

Mr. PITKIN then proposed to amend the bill, by striking out entirely, the provision which gives the President and Senate the power of appointing five of the directors, and thereby leaving the whole of the direction to be chosen by the corporation.

Mr. P. went into a general investigation of this question, the arguments on which were so fully given when before the committee. In support of his motion, he said that, with all the interest of the Government in the old Bank of the United States, it appointed none of the directors, yet there was no complaint ever heard of the public concerns being mismanaged in that bank. If there was no necessity for exercising the power in that bank, he argued there was none for it in the present one. Neither the safe keeping of its deposits nor the care of its interest in the bank required the Government to possess the power, because there would necessarily always be a close connexion between the bank and the Government, produced by the strongest of motives, interest. If the power was not necessary for any useful purpose, he would not willingly risk any danger from the possibility of the power being converted into an engine of oppression, in the hands of the Government. He argued that it was probable that but few directors would be appointed in Philadelphia by the stockholders; that seven being sufficient to do business, and the Government directors being always on the spot, they might frequently constitute a majority of the board, and be able to wield the bank as they pleased. No man, he was confident, would embark his money in a banking concern, when one of the partners had the absolute appointment of one fifth of the directors. Mr. P. concluded by declaring that, if the provision he objected to was not stricken out, he should be compelled to vote against the bill.

Mr. CALHOUN rose, not to argue this motion, because it had been fully discussed in committee; but only to express his regret at the determination declared by Mr. PITKIN. He was aware that great difference of opinion existed on this subject, and that great difficulties must be encountered in maturing its details; but he had begun to hope, from the concessions which had been made, that gentlemen would reconcile their various views, and that the bill would survive the conflicting opinions under which it started. It was therefore he regretted to hear Mr. P. declare the direction a *sine qua non* with him.

After a few words by Mr. PITKIN, stating that he had invariably declared, in conversation, that this feature was with him a *sine qua non*,

The question was decided in the negative: Yeas 54, Nays 92.

Those who voted in the affirmative, are,

Messrs. Atherton,	Messrs. Hopkinson,	Messrs. Pickering,
Baer,	Huger,	Pitkin,
Boss,	Hulbert,	Randolph,
Bradbury,	Jewett,	Reed,
Breckenridge,	Kent,	Ruggles,
Brown,	Langdon,	Sergeant,
Cady,	Law,	Smith, of Pa.
Champion,	Lewis,	Stanford,
Clayton,	Lovett,	Stearns,
Cooper,	Lyle,	Strong,
Culpeper,	Lyon,	Sturges,
Davenport,	Marsh,	Taggart,
Gaston,	Mason,	Tallmadge,
Gold,	M'Kee,	Tate,
Goldsborough,	Milnor,	Vose,
Grosvenor,	Moseley,	Ward, of Mass.
Hale,	Nelson, of Mass.	Wheaton,
Hanson,	Noyes,	Wilcox—54.
Herbert,	Parris,	

Those who voted in the negative, are,

Messrs. Adgate,	Messrs. Goodwyn,	Messrs. Robertson,
Alexander,	Griffin,	Root,
Baker,	Hahn,	Savage,
Barbour,	Hall,	Sharp,
Bassett,	Hammond,	Smith, of Md.
Bateman,	Hardin,	Smith, of Va.
Betts,	Hawes,	Southard,
Birdsall,	Henderson,	Taul,
Blount,	Hungerford,	Taylor, N. Y.
Burnside,	Ingham,	Taylor, S. C.
Caldwell,	Irving, N. Y.	Telfair,
Calhoun,	Jackson,	Thomas,
Cannon,	Johnson, of Va.	Throop,
Chappell,	Kerr, Va.	Townsend,
Clark, N. C.	Love,	Tucker,
Clark, Kentucky,	Lowndes,	Wallace,
Clendenin,	Lumpkin,	Ward, of N. Y.
Clopton,	Lyle,	Ward, of N. J.
Comstock,	Maclay,	Wendover,
Condict,	Mayrant,	Whiteside,
Conner,	M'Coy,	Wilde,
Crawford,	M'Lean, Kentucky,	Wilkin,
Creighton,	M'Lean, Ohio,	Williams,
Crocheron,	Middleton,	Willoughby,
Cuthbert,	Moore,	Thomas Wilson,
Darlington,	Murfree,	William Wilson,
Desha,	Newton,	Woodward,
Edwards,	Ormsby,	Wright,
Forney,	Pickens,	Yancey,
Forsyth,	Pinkney,	Yates—91.
Gholson,	Piper,	

Mr. PITKIN then made a motion to reduce the capital of the bank from thirty-five to twenty millions of dollars.

This motion was decided, without debate, in the negative.

Mr. GOLDSBOROUGH, after a few remarks, moved an amendment, to provide that, if the Government should at any time sell or relinquish its stock in the bank, it should then cease to have the appointment of any part of the directors; which motion was also negatived.

After rejecting various other propositions to amend the bill, amongst which was a motion of Mr. WEBSTER, to increase the value of the shares to \$400, and diminish the number to 37,500,

The question was taken on ordering the bill to be engrossed and read a third time, and decided in the affirmative, as follows:

Those who voted in the affirmative, are,

Messrs. Adgate,	Messrs. Hawes,	Messrs. Piper,
Alexander,	Henderson,	Robertson,
Atherton,	Huger,	Sharp,
Baer,	Hulbert,	Smith, of Md.
Bateman,	Hungerford,	Smith, of Va.
Betts,	Ingham,	Southard,
Boss,	Irving, of N. Y.	Sturges,
Bradbury,	Jackson,	Taul,
Brown,	Jewett,	Taylor, of N. Y.
Calhoun,	Kerr, of Va.	Taylor, of S. C.
Cannon,	King, of N. C.	Telfair,
Champion,	Langdon,	Thomas,
Chappell,	Love,	Throop,
Cilley,	Lowndes,	Townsend,
Clark, of N. C.	Lumpkin,	Tucker,
Clark, of Ken.	Maclay,	Ward, of N. J.
Clendenin,	Mason,	Wendover,
Comstock,	M'Coy,	Wheaton,
Condict,	M'Kee,	Wilde,
Conner,	Middleton,	Wilkin,
Creighton,	Moore,	Williams,
Crocheron,	Moseley,	Willoughby,
Cuthbert,	Murfree,	Wm. Wilson,
Edwards,	Nelson, of Ms.	Woodward,
Forney,	Noyes,	Wright,
Forsyth,	Pickens,	Yancey, and
Gholson,	Pinkney,	Yates.—62.
Grosvenor,		

Those who voted in the negative, are,

Messrs. Baker,	Messrs. Hale,	Messrs. Pickering,
Barbour,	Hall,	Pitkin,
Bassett,	Hanson,	Randolph,
Blount,	Hardin,	Reed,
Breckenridge,	Herbert,	Root,
Burnside,	Hopkinson,	Ross,
Cady,	Johnson, of Va.	Ruggles,
Caldwell,	Kent,	Sergeant,
Clayton,	Law,	Savage,
Clopton,	Lewis,	Smith, of Pa.
Cooper,	Lovett,	Stanford,
Crawford,	Lyle,	Stearns,
Culpeper,	Lyon,	Strong,
Darlington,	Marsh,	Tallmadge,
Davenport,	Mayrant,	Vose,
Desha,	M'Lean, of Ken.	Wallace,
Gaston,	M'Lean, of Ohio,	Ward, of Ms.
Gold,	Milnor,	Webster,
Goldsborough,	Newton,	Whiteside, and
Goodwyn,	Ormsby,	Wilcox.—61.
Hahn,		

MARCH 14, 1816.

The bill was read a third time, and the question stated on its passage.

Mr. WEBSTER and Mr. CADY delivered speeches at some length against the bill, and Mr. GROSVENOR and Mr. HULBERT in favor of it.

Mr. STANFORD, Mr. CLOPTON, Mr. HANSON, and Mr. PICKERING, also spoke against the bill, and Mr. CALHOUN concluded the debate by a few remarks in favor of it.

The question was loudly called for, during the latter part of the sitting; and, being taken at a late hour, the vote was as follows:

Those who voted in the affirmative, are,

Messrs. Adgate, of *N. Y.*  
 Alexander, *Ohio.*  
 Atherton, *N. H.*  
 Baer, *Md.*  
 Betts, *N. Y.*  
 Boss, *R. I.*  
 Bradbury, *Mass.*  
 Brown, *Mass.*  
 Calhoun, *S. C.*  
 Cannon, *Tenn.*  
 Champion, *Con.*  
 Chappell, *S. C.*  
 Clark, *N. C.*  
 Clark, *Ken.*  
 Clendenin, *Ohio.*  
 Comstock, *N. J.*  
 Conduct, *N. J.*  
 Conner, *Mass.*  
 Creighton, *Ohio.*  
 Crocheron, *N. Y.*  
 Cuthbert, *Geo.*  
 Edwards, *N. C.*  
 Forney, *N. C.*  
 Forsyth, *Geo.*  
 Gholson, *Va.*  
 Griffin, *Penn.*  
 Grosvenor, *N. Y.*  
 Hawes, *Va.*  
 Henderson, *Tenn.*  
 Huger, *S. C.*  
 Hulbert, *Mass.*  
 Hungerford, *Va.*  
 Ingham, *Penn.*  
 Irving, *N. Y.*  
 Jackson, *Va.*  
 Jewett, *Vermont.*  
 Kerr, *Va.*  
 King, *N. C.*  
 Love, *N. C.*  
 Lowndes, *S. C.*

Messrs. Lumpkin, *Geo.*  
 Maclay, *Penn.*  
 Mason, *R. I.*  
 McCoy, *Va.*  
 McKee, *Ken.*  
 Middleton, *S. C.*  
 Moore, \*  
 Moseley, *Con.*  
 Murfree, *N. C.*  
 Nelson, *Mass.*  
 Parris, *Mass.*  
 Pickens, *N. C.*  
 Pinkney, *Md.*  
 Piper, *Penn.*  
 Robertson, *Louisiana.*  
 Sharpe, *Ken.*  
 Smith, *Md.*  
 Smith, *Va.*  
 Southard, *N. J.*  
 Taul, *Ken.*  
 Taylor, *N. Y.*  
 Taylor, *S. C.*  
 Telfair, *Geo.*  
 Thomas, *Tenn.*  
 Throop, *N. Y.*  
 Townsend, *N. Y.*  
 Tucker, *Va.*  
 Ward, *N. J.*  
 Wendover, *N. Y.*  
 Wheaton, *Mass.*  
 Wilde, *Geo.*  
 Wilkin, *N. Y.*  
 Williams, *N. C.*  
 Willoughby, *N. Y.*  
 Wilson, Thos. *Penn.*  
 Wilson, Wm. *Penn.*  
 Woodward, *S. C.*  
 Wright, *Md.*  
 Yancey, *N. C.*  
 Yates, *N. Y.*—80.

Those who voted in the negative, are,

Messrs. Baker, of *New Jersey.*  
 Barbour, *Va.*

Messrs. Bassett, *Va.*  
 Bennett, *N. J.*

\* Thomas Moore was from South Carolina, and Nicholas R. Moore from Maryland, one of whom only voted on this question; but which it was, it is not easy to discover, as they are not distinguished in the Journals by their Christian names.

Messrs. Birdsall, <i>N. Y.</i>	Messrs. Lyon, <i>Vermont.</i>
Blount, <i>Tenn.</i>	Marsh, <i>Vt.</i>
Brackenridge, <i>Va.</i>	Mayrant, <i>S. C.</i>
Burnside, <i>Penn.</i>	McLean, <i>Ken.</i>
Burwell, <i>Va.</i>	McLean, <i>Ohio.</i>
Cady, <i>N. Y.</i>	Milnor, <i>Penn.</i>
Caldwell, <i>Ohio.</i>	Newton, <i>Va.</i>
Cilley, <i>N. H.</i>	Neyes, <i>Vermont,</i>
Clayton, <i>Del.</i>	Ormsby, <i>Ken.</i>
Clopton, <i>Va.</i>	Pickering, <i>Mass.</i>
Cooper, <i>Del.</i>	Pitkin, <i>Con.</i>
Crawford, <i>Penn.</i>	Randolph, <i>Va.</i>
Culpeper, <i>N. C.</i>	Reed, <i>Mass.</i>
Darlington, <i>Penn.</i>	Root, <i>N. Y.</i>
Davenport, <i>Con.</i>	Ross, <i>Penn.</i>
Desha, <i>Ken.</i>	Ruggles, <i>Mass.</i>
Gaston, <i>N. C.</i>	Savage, <i>N. Y.</i>
Gold, <i>N. Y.</i>	Sergeant, <i>Penn.</i>
Goldsborough, <i>Md.</i>	Sheffey, <i>Va.</i>
Goodwin, <i>Va.</i>	Smith, <i>Penn.</i>
Hahn, <i>Penn.</i>	Stanford, <i>N. C.</i>
Hale, <i>N. H.</i>	Stearns, <i>Mass.</i>
Hall, <i>Geo.</i>	Strong, <i>Mass.</i>
Hanson, <i>Md.</i>	Sturges, <i>Con.</i>
Hardin, <i>Ken.</i>	Taggart, <i>Mass.</i>
Herbert, <i>Md.</i>	Tallmadge, <i>Con.</i>
Hopkinson, <i>Penn.</i>	Vose, <i>N. H.</i>
Johnson, <i>Va.</i>	Wallace, <i>Penn.</i>
Kent, <i>N. Y.</i>	Ward, <i>Mass.</i>
Langdon, <i>Vermont.</i>	Ward, <i>N. Y.</i>
Law, <i>Con.</i>	Webster, <i>N. H.</i>
Lewis, <i>Va.</i>	Whiteside, <i>Penn.</i>
Lovett, <i>New York.</i>	Wilcox, <i>N. H.—71.</i>
Lyle, <i>Penn.</i>	

So the bill was passed, and sent to the Senate for concurrence.

By an analytical arrangement of the vote, the sense of the different States, upon the passage of the bank charter, appears to have been expressed as follows:

	For its passage.	Against it.
New Hampshire,	- 1 vote.	- 5 votes.
Massachusetts,	- 7	- 7
Rhode Island,	- 2	- 0
Connecticut,	- 2	- 5
Vermont,	- 1	- 4
New York,	- 12	- 8
New Jersey,	- 4	- 2
Pennsylvania,	- 6	- 12
Delaware,	- 0	- 2
Maryland,	- 4	- 3
Virginia,	- 8	- 11
North Carolina,	- 9	- 3
South Carolina,	- 7	- 1
Georgia,	- 5	- 1
Kentucky,	- 4	- 4
Tennessee,	- 3	- 1
Ohio,	- 3	- 2
Louisiana	- 1	- 0

## IN SENATE.

MARCH 22, 1816.

The bill from the House of Representatives, to incorporate the subscribers to the Bank of the United States, was taken up as in committee of the whole.

The first section having been read,

Mr. CAMPBELL stated, as chairman of the Committee of Finance, that, whilst this bill was before that committee, amendments had been proposed to it, but, though a majority of the committee had been of opinion that the bill required amendment, as they did not entirely concur as to the nature of the amendments, they had determined to report the bill without amendment. He was one, he said, who considered the bill defective. It had been his intention to have this day submitted his views of the bill, and to have moved amendments to it accordingly; but the state of his health would not permit him at this time to perform that duty. He should, therefore, leave the bill to be disposed of by the Senate in such way as the Senate might think proper, reserving to himself the right at some future moment to give his views of the bill, &c.

Mr. MASON, of N. H. then moved to amend the bill so as to make the proportion of the first specie payment on each share *ten* dollars instead of five, as it now stands.

This motion gave rise to a wide debate; in which it was supported by the mover and by Mr. KING and Mr. SANFORD, and opposed by Mr. BIBB, Mr. BARBOUR, Mr. TAYLOR, and Mr. DANA.

The two first of these gentlemen, though they also opposed the amendment on principle, took the broad ground that it would be unadvisable to amend the detail of the bill in unessential particulars, unless it might appear in the Senate exceptionable in principle, which it did not to them; they being strongly in favor of it. The debate, therefore, covered the whole ground of the motives and the details of the bill. The debate continued till 4 o'clock.

No decision took place on the motion of Mr. MASON before adjournment.

Mr. MASON, of N. H. moved to strike out *five*, the proportion of specie to be paid in at the time of subscription, and in lieu thereof to insert *ten*: the effect of which motion would be to make the whole amount of specie paid in at the time of subscription 2,800,000 dollars, instead of 1,400,000. The two great objects proposed by the friends of this bill, he said, were, 1st, to release the country from the mass of spurious paper which was said to be the circulating medium; 2dly, to aid the Government in its finances. To effect the first object, the bank must commence its operations in specie. To enable it to do this, he proceeded to show, that, in his view, a larger proportion of specie was necessary to the first payment. The U. States' stock, subscribable and payable at the same time, to the amount of seven millions, would, he said, be no more aid to the bank in discounting, with a view to redeeming its notes with specie, than would so many bank bills. The amount of 1,400,000 dollars in specie, divided among the different branches, which he presumed would be immediately established, would, he argued, be insufficient for any operation whatever. Let the bank issue paper sufficient to produce any effect, and the specie in its vaults would be instantly withdrawn from them; twenty-five days would be sufficient for that purpose. In Baltimore, Philadelphia, and the District of Columbia, he said, the notes of the bank would be seized on by every individual who has any occasion for specie, &c.—the bank, then, to be safe, would be able to issue no more paper than to the amount of its specie paid in. Would such an issue, he asked, serve to reform the currency, or give the Government any aid in its finances? It might be said, the bank would commence operations slowly and with caution: but Mr. M. said, any man acquainted with the institution of banks knows that the sum first paid in is nearly all that the stockholders ever



pay. The bank would continue in operation for ever, he said, without taking from the stockholders any considerable sum more than the first instalment: for, as far as the bank discounted, the second instalment would be paid into the bank with the specie of the first instalment, &c. This was a position so fully supported by all experience, that he presumed it would not be denied. For its specie capital, then, the bank must depend principally on the amount first paid in: the bank might sell some stock, &c. to obtain specie, but the direct bringing in of specie would not be much after the first instalment. The sum of 2,800,000 dollars was not a large instalment to be first paid in on a capital of thirty five millions, and, according to the statements of gentlemen, there would be no difficulty in obtaining the necessary amount of specie to make the first payment. He concluded by saying that his motion, if adopted, would essentially aid the bank in commencing its operations, and increase its effect in reforming the circulation of the country, as far as this bill can have that effect.

Mr. KING, of New York, supported this motion. Before he proceeded to make any remarks on the motion, he touched upon a question preliminary in its character, and which he regarded as of great importance, inasmuch as it superseded all detail, and, if decided affirmatively, rendered it utterly useless to discuss the details of the bill. Adverting to the discussion which had taken place in this House on late occasions, in regard to public opinion, he said that public opinion, well defined and understood, the well-considered judgment of the majority of the nation, no one doubted, was entitled to profound respect from this House. Public opinion, he said, was not so embodied, not cast into such a shape, that much confidence could be placed in that argument on the subject of the establishment of a national bank. Yet, he said, public opinion does exist; and, where it is relative to constitutional questions—to questions of great municipal law—it may be relied on as authority. The legislative power of the nation was placed in two separate branches; public opinion, in favor of this distribution of it, was so general and strong, that no educated man in the nation could doubt it. It was, therefore, not only a provision of the constitution, but unquestionably the decision of public opinion, that, upon any measure fit to be made a law, the discussion on all its provisions ought to be subjected to separate examination in the separate branches of the Legislature, and that the decision of one branch should not operate to preclude a re-examination by the other; that each branch of the Legislature should deliberate on any measure which has passed the other branch, with the same freedom as if the bill had originated in that House. The subject now under consideration, Mr. KING went on to say, was a most important measure, and had passed the other branch of the Legislature. Those very considerations, rather than forbidding, demanded a peculiar and circumspect examination of the bill in this branch of the Legislature. It may, for example, have fortuitously passed the other House; care ought to be taken that it do not, in like manner, fortuitously pass the Senate. The smallness of the majority in the other House, the possibility of its varying, &c. instead of being reasons for hurrying over this bill, were reasons why it should be examined more freely. If this reasoning were not true, the constitution and public opinion were equally wrong: the Legislature should consist of but one branch. He was not, therefore, permitted to doubt, he said, that the Senate, disregarding the suggestion, that possibly the bill might fail on being again brought before the other House by amendments from this House, would decide according to the obligations of their stations here, and with an unbiased regard to their fitness, on such amendments as should be proposed; leaving the responsibility for the consequences of a performance of their duty, where, by the constitution, it ought to rest. These suggestions flowed from an apprehension, on the part of Mr. KING, that, although the question was surrounded with difficulties, the Senate would be urged to pass the bill without amendment, lest, on its return to the House, if the Senate did its duty by amending it, the bill would fail. Mr. K. then turned his attention to the bill, which, he said, was imperfect in its provi-

sions in the view which any gentleman might take of it, as could be easily shown. The particular proposition now before the Senate, though important, he said, was not as much so as other points in the bill. But the gentleman from New Hampshire had conclusively shown that one and a half millions was the greatest extent to which, as it now stood, the bank could safely issue on a specie system. Illustrating his view of the subject by a detailed statement of the process, he said that the first discounts of the bank being necessarily to those most pressed by the State banks, the proceeds of the discounts would immediately find their way into the vaults of the State banks, &c. Under this view, a million and a half of dollars would be a sum entirely too small wherewith to enter into competition with the existing banks. If the issues of the bank exceeded the specie paid in, the first process would be, immediately to transfer the specie from the general bank to the local banks; if the bank confined its discounts within that sum, its agency would be very limited indeed, &c. Connected with this subject, Mr. K. said, was another idea, which, perhaps, it would be premature now to enlarge on: which was, that, according to the provisions of this bill, as he understood them, the bank need not, may not, will not, be a specie bank; the very circumstances already suggested, would compel the bank to become a paper bank, to issue a paper that will not command specie. This, then, should be an additional motive to the Senate to increase the amount of the specie payment, that the bank may be enabled to avoid such a state of its affairs as would compel it to become a paper bank, &c. With these views, Mr. K. hoped the Senate would agree to the amendment proposed.

Mr. BIBB, of Georgia, rose to oppose the amendment. Feeble as he was, he said, nothing less than the most imperious obligations of public duty could have brought him to the Senate. But, believing, as he did, that the adoption of any amendment whatever to the bill would certainly endanger or defeat its passage, and that, upon its fate, depended, more than on any other measure to which the attention of Congress could be drawn at this moment, the welfare and prosperity of the country, he felt bound, unmindful of the consequences, to make a great effort to aid, with his vote, at least, the progress of the bill. He regretted, exceedingly, the physical incapacity which would prevent him from laying before the Senate at large his views of the question, which, however, he proceeded to assign as far as he was able. It appeared to him, he said, impossible for a statesman, in the habit of contemplating national questions, and considering cause and effect, not to look at the present condition of the country with apprehension and alarm. By a combination of circumstances, not necessary to be enumerated, one of the leading objects of the adoption of the Federal Constitution was at this moment lost to the nation. Whether it should be finally lost to the nation, or should be recovered, would depend, in all human probability, on the conduct of the Senate on this occasion. To enable the Government to fulfil its engagements to the public creditors, to restore confidence among the citizens of the country in regard to pecuniary transactions, to prevent any thing but gold and silver from being a legal tender, to maintain the obligation of contracts, were, he said, the leading objects which produced the adoption of the constitution. The regulation of the general currency of the country, without which the attainment of these great objects is impracticable, is, said Mr. BIBB, at this moment, wrested from the hands of the Government, by petty corporations and swindling individuals, throughout the community. This, he said, is the abject condition of our affairs; could any honorable Senator reconcile it to his conscience to leave his seat at the present session, without making an effort, a great effort, to reform the national currency—to regain the power over it which we have lost? The country was rich in resources, its people in individual means; and yet both the country and individuals were unequal to meet their engagements honestly and faithfully; and, not only so, but the Government was compelled to legalise that species of swindling by which the important necessary power of sovereignty, the regulation of the currency of the country, was taken from the Government. It

was unnecessary, he said, to recapitulate the causes which had produced this state of things, but he did verily believe, that, unless the present Congress should take some efficient measure to compel the resumption of payment of specie, it was extremely doubtful whether it ever would be done. He called the attention of the Senate to the acts of the State Governments; scarcely a session passed in which bank charters were not granted by them, to the amount of millions; and, as the influence of these State banks increased, so did the difficulty of legislating on this subject. Mr. B. then considered the subject in other points of view. At the present moment, he said, the People in the Eastern States pay the revenue to the United States in treasury notes; but the Secretary of the Treasury was making a great effort to call in that species of paper. When that object was accomplished, what would be the situation of the Eastern States? Whilst other quarters of the country were paying their taxes in paper, those banks must either pay in paper as valuable as specie, or in specie itself; the inevitable consequence must be, that the banks of that part of the country must follow the example of all the other banks. All the banks in the country would then be united against a return to specie payment. So far as he had heard, Mr. B. said that the opinion of a large majority of the Senate was, that some course of measures should be adopted for the remedy of the evil; the only question was as to the mode. He had heard but two modes proposed; the one, to declare by law that, after a certain day, the paper of those banks refusing to pay specie should not be receivable in dues to the Government; the other, to establish a national bank. The first plan, he said, was impracticable; the People cannot pay what they cannot get; besides, that such a measure would cause a combination of the banks, too strong for the Government to overpower. Mr. B. said he would go further; he believed a large majority of the Senate had declared themselves in favor of a national bank; that they had made up their minds that it was the best possible means of restoring the country to the old state of things. Now, he asked, whether, on a question of mere detail, they ought to risk the loss of an object so important as this bill. Mr. B. asserted to the Senate, and he said he would justify the ground, that, although this bill might not be perfect, he should vote against every amendment of every character; justified in so doing by the importance of the passage of the bill. The honorable gentleman from New York had strongly inveighed against such a course. Mr. B. intimated that it was precisely the course the gentleman himself had taken on the question of the direct tax, at a former session. It had been then admitted, that amendments proposed would make the bill more perfect; but their rejection was justified on the ground of the importance of the bill, and the probability that an agreement to the amendments might occasion the rejection of the bill on its return to the other House. That was a correct course, Mr. B. said, and that course he should now pursue. He also referred to a precedent of higher authority—the recommendation of the convention who framed the constitution, to the People, that, although susceptible of amendment to advantage, the constitution should be accepted as it stood, lest, by the collision of opinion on amendments, it should be lost. The constitution had been accordingly so accepted, and subsequently amended, by adding to it new sections. Mr. B. was against all amendments to the bill. In regard to this particular feature of the bill, it could not, in any view, be of sufficient importance to justify endangering the bill. He denied the justice of the intimation that this was not to be a specie bank. Substantially, he said, it possessed all the features of the old Bank of the United States, the plan of which gentlemen had so highly approved; with the addition of several important checks not contained in the plan of that bank, the nature of which Mr. B. explained. He vindicated some of the principal features of this bill, to which, on either hand, objections had been made, particularly that which gave the appointment of five of the directors to the Government—which was due to the interest of the Government in the bank, as well on account of its stock, as of the necessary attention to the security of its deposits. As to its not being a specie bank, if the control of the Government was as powerful as he considered it, it would be the fault of the Government

alone if it were not a specie bank. We must suppose the Government and the People themselves corrupted, before you suppose that it will not be a specie bank. With the aid of all the Eastern banks, being besides the depository of the revenue of the United States, and thus having all the State banks creditors to it, how could the State banks destroy it? Congress might additionally provide that, at some distant day, the notes of banks not paying specie should cease to be received in payment of dues to the Government, &c.; at some distant day, he said, for he was not for destroying or injuring the State banks, &c. Mr. B. concluded his speech by expressing his hope that the Senate would not agree to any amendment to the bill.

Mr. BARBOUR, of Virginia, next took the floor, and opposed the proposed amendment in a speech of considerable length, of which what follows is but an outline. He, too, like the gentleman from Georgia, considered the question of bank or no bank, as the most important that could be presented to the National Legislature at this session. The rejection of this bill, he believed, would expose us to a continuation of all the inconveniences experienced in every quarter of the Union from the present State of the circulating medium, causing a fluctuation and uncertainty in the value of property and products, greatly to be deprecated: and bringing with it a train of evils it would be almost impossible to enumerate. On the other hand, he said, he had such confidence in the efficacy of a National Bank, in correcting the evils of the mass of paper afloat, in enabling the Government and individuals to fulfil their engagements, that he had brought his mind to the conclusion, that the establishment of a National Bank would be an epoch in the affairs of the nation; that, instead of the cloud which darkens the horizon, it will usher in a new day of prosperity, replete with benefits to the nation, &c. With the gentleman from New York (Mr. KING) Mr. B. said he entirely coincided in sentiment, as to the respect due to public opinion, when distinctly expressed and well understood; but why that sentiment was recurred to at the present time, he did not precisely understand: for, sure he was, that, on this occasion, it had been audibly and distinctly expressed, from every part of the United States, as well as from the Executive authority, in favor of this measure; and above all, it had been recently declared, from an unequivocal source—the House of Representatives—who are the mirror in which the sentiments of the People are reflected, and whose decision on such a topic is a pillar of light, the pursuit of which will never involve us in difficulty. Mr. B. agreed also with the gentleman in his views of the independent duty of this House, in reviewing the proceedings of the other branch of the Legislature, so far as regarded the absolute right of the Senate to decide, according to their own impressions of the fitness of things, on measures presented to them by the other House; but if the gentleman meant, that it was a reason for jealousy in regard to any measure that had passed that House, Mr. B. differed from him *toto cælo*. On the contrary, he said, that circumstance would be, with him, a persuasive argument in favor of any measure: for, though he would surrender to them no part of the rights of this body, he should perpetually recur to that body, as an oracle from which true responses may be drawn as to the public will. It may err; when it did, in his opinion, he should not feel himself bound by its views, &c.

Mr. B. then proceeded to the consideration of the great subject before the House. The constitution, he said, had imparted to the Congress, among other great attributes, the power of regulating the coin of the United States. How had Congress acquitted themselves of this duty? Where and of what effect were these regulations? Where was the uniformity of currency? Mr. B. described the variety and fluctuation of value of the paper in circulation, not only in various States, but in contiguous towns, counties, &c. This was a great evil, deprecated on all hands. The power, intended by the constitution to have been lodged in the hands of the General Government, was, by the failure of the Government to make use of it, exercised by every State in the Union, frequently by individuals, &c. Hence arose an excess of paper issues, causing depreciation to an extent which could scarcely be estimated—

an evil which called for a remedy, in a language not to be misunderstood. Where was the antidote, which the Executive, in this, only the organ of the public sentiment, had called on Congress to interpose? The patient, said Mr. B. is sick, from the crown of his head to the sole of his foot; he asks for oil and wine to be poured into his wounds, which would be otherwise fatal. Where is the man who will propose any other antidote than that now before us? Where is the adventurous knight who will suggest another remedy? If there be a Don Quixotte in politics, let him appear. No, Mr. B. said, not even a nostrum had been tendered to substitute this plan. If no other remedy was offered, ought they, he asked, to higgel about details, to split hairs, on the question? Mr. B. then spoke of the necessity of mutual concession among legislators, without which, he said, the idea of legislation was the most vague and illusory that ever entered the human mind. It was necessary, Mr. B. then argued, for the present diseased paper medium, since specie had fled the country, or was scattered in the bowels of the earth, to substitute a medium impressed with the seal of the nation, &c. If an institution were established to issue a paper of that description, we should have, he said, in lieu of a medium, the value of which will not live ten, fifteen, or twenty miles from the spot where we receive it, a paper which will embrace the Union in its grasp. It would also be a great financial instrument, necessary to the fulfilment of the national duties in this respect. On this head the experience of the last war spoke a language which incredulity itself could not doubt, &c. In the dark and gloomy period of the last winter, when this subject was discussed, no doubt had been entertained that this was the only means of remedying an evil from which so much was apprehended. That time, he rejoiced, had passed by; but he hoped the lessons of experience would not be permitted to pass away with the urgency of the occasion, &c.

In regard to the details of this bill, he said, he did not see the necessity of amending them. It had been stated that this would be a paper bank, and in order to prevent that, an increase of the specie payments was suggested. Mr. B. believed such an amendment was unnecessary. Being not necessary, what, he asked, would be its effect? It would be to place the bank wholly in the hands of a few fortunate individuals or banks, who had specie in their possession. The smaller the first payment in specie was made, within the limits of necessity to the object, in his opinion, the wiser would be the plan. The establishment of a bank, or any other system, could not be expected to afford an instant remedy to the existing evil, any more than a dose of medicine would restore to instant health and pristine vigor the man who had been wasted by long sickness. The effect of this amendment, without accelerating the operations of the bank, would be to favor the monopolists of specie, &c.—he who had the caution or forecast to hoard up the dollars and cents. The bulk of the specie to be paid into this bank, Mr. B. had no doubt ought and must be drawn from abroad. In regard to the argument that the sum was too small to enable the bank to commence its operations with safety, &c. Mr. B. contended that money was too sharp sighted, too lynx eyed in its vigilance to be (using a common saying) caught napping. There was no fear, he said, of the banks being ruined, by lending money to men pressed from other quarters; the board of direction of a bank formed a barometer in which the responsibility of every man passing before it was as correctly graduated as the weather is by the instrument so called; they would take care, as they always did, not to part with their dollars to accommodate an unfortunate debtor, &c. In answer to the argument of Mr. KING, who, he said, had discovered that this was to be a paper and not a specie bank, and was to aggravate the evils it was intended to cure, Mr. B. referred to the regulations by which it was governed to show that this apprehension was unfounded. Besides, he said, the bank would not disregard its interest, which required it to continue specie payments. You need not fence in the interest of this institution, said he: you might as well pass a law to compel your Secretary to receive his salary; interest is the strongest security which man can give to man. As the needle acknowledges the principle of polarity, so does the human heart always point to its interest.

That objection against this bill, therefore, seemed to Mr. B. to be a chimaera from which nothing was to be apprehended.

It was no question now, he said, whether banking should exist—that being beyond the control of Congress; but whether it was proper that a portion of it should be placed under the authority of the General Government, instead of its being wholly under the control of the States, who established banks not only in their populous towns, but even in the dreary wilderness. This being the only question, he solemnly appealed to gentlemen whether there could be two opinions on that point. Ought this great attribute of sovereignty to be surrendered by this Government to the authority of the State Legislatures? This question he answered in the negative. The existing evil, he then argued, would be remedied by the establishment of a bank, whose influence was ramified into every part of the United States. The State banks had nothing to fear, if they would conduct themselves properly, from such an institution. If any of them, on the other hand, should violate their trust, and shew a centrifugal quality, it would be in the power of this great orb to restore them to their proper stations. If any of the State banks do not fulfil their engagements, Mr. B. said, if they do not meet the occasion, their paper will sink into disrepute. This bank will be the silent and efficient remedy; it will move on almost imperceptibly, gradual in its approach, but certain in its effects. Mr. B. took this occasion to vindicate the banks in the commonwealth of Virginia from the charge it had been fashionable to make against the State banks, of improvidence in their administration. Those banks resisted to the utmost the attempts to procure loans from them; that which they had, with great reluctance, from a sense of duty refused to the Government, their patriotism at length induced them to grant to the wants of thousands of men surrounding their capital, who, but for their relief, would have greatly suffered, &c. Where banks had wantonly abused their privileges, he cared not what was said of them; but he felt no disposition to put those under the ban of the empire who had acted thus correctly, &c.

In regard to objections he had heard to the influence of the Government over this bank, Mr. B. said *his* objection was, that it had not interest enough in it; but in this respect, as in others, he was willing, to obtain a great object, to concede some part of his views. He recurred to the experience of his own State to shew that no evils had been experienced from the existence of such a control to a much greater extent than proposed in this bill, &c. No banks, he believed, had been better conducted, or stood higher in the public opinion, than those of Virginia. If the bank were a faithful one, it had nothing to apprehend from the appointment, by the Government, of one-fifth of its directors, to which proportion the Government was entitled by the interest it would have with the bank.

Having thus briefly touched on all the objections he had heard to the bank, Mr. B. concluded by recapitulating his arguments, and expressing his hope that the only remedy, as he believed, for a great evil, would be agreed to.

Mr. MASON, of New Hampshire, spoke in support of his motion to amend the bill. He, certainly, had entertained no expectation, he said, when he submitted the motion, that it would have drawn the bill into so general a discussion. Whenever a national bank had been proposed, he said, he had always supported it, with such modifications as he thought correct. He did believe a well regulated institution of this kind would be useful to the Government; and, though the Government had, at a certain period, declined the exercise of its power in this respect, he felt no inclination to prevent them from again occupying the ground of the old United States' Bank. He was, he said, now willing to give his aid in establishing a bank on proper principles; but, he never could assent to this, or any other measure, on the ground taken by the gentlemen from Georgia and Virginia. The bill was, according to the forms of the Senate, read section by section, for the purpose of amendment; and yet gentlemen declared they would not listen to any proposition to amend the bill, but take it as it stood. [Mr. BIBB explained that his remark was con-



fined to unessential amendments.] It might, Mr. M. said, be difficult to define what makes an amendment important: for him, it was sufficient reason for an amendment, that the bill would be better with than without it. He could not, he said, see the force of the objection to sending this bill back to the House of Representatives better than it came from them: gentlemen must certainly conclude that that House was greatly in love with a bad bill. It had always been held irregular to suggest, in one branch of the Legislature, what might have passed in debate in the co-ordinate branch; it was certainly, Mr. M. said, more improper to go into a wide field of conjecture to find out what would happen there. Although there might be good reasons for concession and accommodation to the views of the other House, Mr. M. said they had not yet arrived at that stage of the business when it was necessary; which was not until the House should refuse to accept the amendments of the Senate. It was a dangerous ground to assume, Mr. M. added, that the House of Representatives would vary their ground on this question. Although he had as much respect for them as he ought, he also remarked, he should not take public opinion from the Representatives of the People. The constitution prescribed to the Senate no such practice. The course of taking measures from the popular branch of the Legislature, believing them proper because it has adopted them, precludes all legislation, &c., and is, therefore, inconsistent with the principles of our Government.

Mr. M. agreed that the public suffered much inconvenience from what was termed the state of the public medium; it was not very material whether it was produced by what the gentleman from Georgia had termed swindling, or what the gentleman from Virginia had called the patriotic conduct of the banks. Mr. M. replied to other arguments used by the gentlemen who had opposed his motion. In regard to the operation of interest on moneyed institutions, he said, he believed that principle was felt as much by the State banks as by that which it was now proposed to incorporate. Any bank, guided by other motives, would depart from the objects of the institution. Mr. M. attached no sort of consequence to the idea of the passage of this bill, in order to exercise the power of the Government, to regulate the coin of the country. The laws of the United States, he said, had already regulated it: he knew of no law which authorized any officer of the Government to receive any part of this spurious money, which the gentleman said was in circulation. The laws were already perfect on this subject. If the executive officers had received other moneys in payment than those authorized by law, Mr. M. said they had acted without law, without right. What necessity there might have been for their doing so, he would not now examine. Cases might arise, in which the officers of the Government may take upon themselves the responsibility of neglecting the execution of a law, &c. That an evil existed, he said, all agree, and all suppose that the bank to be incorporated by this bill will, in a greater or less degree, lessen the evil, or entirely correct it. The object of his motion was to give the bank the greatest possible power, to effect these purposes. It had been said, that the bank would at first move slowly. But, Mr. M. said, he had no sanguine anticipation that this amendment, or any other, or the prudence of the directors, would be able wholly to cure the evil. What had been the cause of the evil? The banks themselves. Banks incorporated under the same restrictions as this bill contained, issue now the very rags which had been described. The remedy now proposed, was, Mr. M. thought, something like Sangrado's practice: more bank paper of the same sort—more hot water for the same evil. In regard to the impossibility of this bank's doing any thing but a specie business, Mr. M. undertook to assert, that the charter, in its present shape, gave the bank the power to issue notes, without even promising payment of specie. The clause which authorizes the bank to issue notes, did, in fact, for the want of due restrictions, authorize the bank to issue notes payable when it pleased; none but notes payable on demand were indeed receivable in payment of taxes to the Government; but they might be issued payable two years after date for other purposes, and would probably circulate quite as well as the notes of New York, Philadelphia, and Balti-

more. He should imagine, he said, that, as the bank was now constituted, sensible men having the management of it, would not attempt to do business without taking that course. Mr. M. pointed out other defects, as he viewed them, of the bill. There was no provision for a forfeiture of the charter of the bank, or for annulment on failure of its going promptly into operation. However, it would be idle, he said, to discuss the bill, if the opinions of the gentlemen from Georgia and Virginia were to prevail with the majority of the Senate, that it would be dangerous to amend the bill, lest it should fail thereby. If this was the opinion of the Senate, the sooner they came to that determination the better; it would save them labor, and perhaps character, to decide the question at once. The same argument might be urged, he said, with as much propriety every day, and on every subject, as had been principally urged against the amendment.

Mr. DANA, of Connecticut, said he did not expect to vote for the bank bill in its present form; but, notwithstanding, he did not think it would be proper to adopt this amendment. One-twentieth part of the whole capital appeared to him to be as large a proportion as ought to be called for in specie at the time of subscription. If danger were anticipated from the smallness of the amount of specie, it would perhaps be better to introduce into the bill a provision, that the bank should not issue paper until it had a sufficient quantity of coin to justify it in so doing. Though he should not vote for the bank, he should regret to see its first issues to individuals who were connected with the institution: indeed, he should rather suppose, the great demand for discounts from the bank, would be to enable the merchants to pay bonds, constantly falling due to the Government for customs. These merchants, for their notes, will obtain credits at the bank, to the amount of perhaps seven, eight, or ten millions, in the course of the year. The United States will be the only power that can call for it; and Mr. D. presumed there would be no danger of a run on the bank from the Government, &c.

Mr. TAYLOR, of South Carolina, said, he should have liked to have heard the amendment argued on its own merits, because the force of the argument against, would perhaps be weakened by connecting it with other considerations which had been brought into debate. If he approved of the amendment, he would vote for it, though he would say, that, for a small or inconsiderable alteration, he would not jeopardize a great principle or a great measure, such as he conceived this bill. With respect to the proposed amendment, considering the state of the currency of the country, and the known fact that specie abounds in some parts of the country, whilst in others it is not to be obtained at all; to carry the gentleman's amendment more directly to what would be its absolute result, he ought first to have provided for confining the opening of the books of subscription to that part of country where specie is in a state of circulation. Without designing it, for he would not certainly impute such a design to the gentleman, the adoption of this amendment would be giving a complete monopoly to the Eastern country. Believing it desirable that the benefits of this institution should be extended to every part of the country, he was, therefore, opposed to the amendment. The restoration of specie payments, Mr. T. said, was not the work of a moment. The power to sell two millions of its stock in the first year, of which the bank would no doubt avail itself, and the deposits of the Government, together with the specie paid in on the subscription, would, he said, enable the bank to operate to as great an extent as was advisable. This amendment, besides being unnecessary, would, he believed, produce an undue monopoly to one section of the country, and to the hoarders, where specie was not current. It is calculated to reward those whose conduct has had a tendency to bring about the very evil now proposed to be remedied. The amendment would also throw advantages into the hands of the capitalists of Charleston, &c. which it would deny to those of the middle country; for it so happened, in the course of trade, that specie was reduced in there value, to about from two and a half to five per cent. above the current

paper of that State, not more than in ordinary times used to be given for specie in quantities. For these general reasons, Mr. TAYLOR was opposed to the amendment, &c.

Mr. MASON, of New Hampshire, remarked, that specie was not confined to the Eastern or Southern States; the banks in the middle States still retain as much specie as they ever had. If the bank might sell stock for specie, why might not individuals do the same, in the first instance, and pay it into the bank? United States' stock would, at a certain price, command specie any where, &c.

Mr. SANFORD spoke in support of the proposed amendment, denying the correctness of the doctrine on which opposition was made to any amendment of this bill. It was a subject, he said, which particularly required caution and circumspection in deciding upon it. He considered the amendment before the Senate as presenting this question: With what sum shall the bank commence its operations? This being intended to be a specie bank, Mr. S. said, every proposition tending more certainly to make it more so, was worthy of favorable consideration. The bill, as it stood, contemplated \$1,400,000 in specie, as a sufficient basis for the bank to begin upon. Mr. S. said he could not but think, with Mr. MASON, that this sum was too small. There was nothing in the bill to prevent the bank from issuing thirty-five millions of dollars on this amount of specie paid in, if they thought proper to do so. Those who were called on to pay the second instalment in specie, would, he said, go to the bank with its bills, and drain it at once of every dollar. The bill was, Mr. S. thought, in other respects, deficient in detail, as he showed by reference to its provisions. The bank would get no specie but what it received in the first payment, unless the course of exchange should become more favorable, or the state of things generally should essentially vary. The rational and prudent course, he thought, would be, to require as much specie as possible in the first instance. Without amendments to regulate the paper issues of the bank, &c. this would be a mere paper bank, he said, like those which already exist. The amendment appeared to him extremely proper, and therefore he should vote for it.

Mr. TAYLOR replied to Mr. SANFORD, and quoted the provisions of the bill to show, that the bank dare not issue one dollar more paper than it had a reasonable prospect of being able to honor with gold or silver. The bank had the power to do otherwise, it was true; and so have we power to cut our own throats—but the bank is no more likely than we are, to commit a *felo de se*. As to the second instalment being paid with the specie of the first, Mr. T. said, it was impossible to pay \$2,800,000, (the amount of the second instalment) with \$1,400,000, (the amount of the first) and at the worst, therefore, only one half of the second instalment could be drawn from the vaults of the bank, &c.

The Senate then adjourned, leaving the pending question undecided.

MARCH 26, 1816.

Mr. MASON, of N. H., withdrew the motion he had yesterday made, with a view hereafter to renew it; and moved to amend the bill in the part which authorizes the bank to issue notes payable, by adding thereto the following proviso:

“*Provided*, That all bills or notes so to be issued by said corporation, shall be made payable on demand, other than bills or notes for the payment of a sum not less than — dollars each, and payable to the order of some person or persons, which bills or notes it shall be lawful for said corporation to make payable at any time not exceeding — days from the date thereof.”

This motion gave rise to considerable debate between those who thought

such a restriction necessary, and those of a different opinion. It was at length agreed to, by yeas and nays, 20 to 14.

This decision in favor of one amendment, opened the door to the proposition of a great number of amendments.

The discussion of one or two that were proposed to-day, occupied the Senate until the hour of adjournment.

MARCH 27, 1816.

The consideration of amendments was resumed. An amendment was adopted, among others, to postpone the opening of the books from the 1st day of June to the 1st day of July.

Mr. MASON, of N. H., then moved another amendment, by way of a new section, to declare the act null and void if the bank is not put into operation within one year after its date.

Mr. BIBB moved to amend this amendment so as to make it reserve to Congress the right to annul the charter, at any time within twelve months after the 1st day of February next, if the bank be not put in operation before that day.

These notions gave rise to much desultory debate, as indeed did all the amendments proposed.

Mr. BIBB's motion was agreed to; and Mr. MASON's proposition, so modified, was also agreed to.

Mr. CAMPBELL then moved to amend that part of the bill which directs books to be opened at certain places, so as to assign to each State a certain proportion of the stock to be subscribed, to remain there for a certain time, to allow it to be subscribed in the States, respectively, in proportion to their representation; intending to follow up this amendment by a motion to introduce a provision that the bank should be compelled, on the request of the Legislature of any State, to establish a branch of the bank therein.

In support of this motion, Mr. C. made a speech of some length on the general principles of the bill.

This amendment was, in the end, negatived, by a vote of 20 to 11.

Late in the day the consideration of the bill was further postponed till tomorrow.

MARCH 29, 1816.

Mr. MASON, of N. H. moved to insert, at the end of the 17th section of the bill, the following:

"And if the said corporation shall, at any time, suspend, or refuse payment, in gold or silver, of its notes, bills, obligations, or other debts, to such an amount, and for such length of time, as Congress may deem injurious to the United States, in such case, Congress may repeal this act, and abolish the said corporation, and make such regulations and provisions for the settlement of the affairs, and payment of the debts of said corporation, and for distributing its remaining property among the stockholders, as shall be deemed just and proper."

It was determined in the negative: Yeas, 14, Nays, 17.

MARCH 30, 1816.

Mr. KING moved to strike out that provision in the bill which gives to the President the power of appointing five of the directors.

On this motion a debate ensued, which continued until about three o'clock, and in which Mr. KING and Mr. GORE advocated, and Mr. BIBB, Mr. BARBOUR, Mr. ROBERTS, and Mr. CAMPBELL opposed the motion.

The amendment was finally negatived—ayes 14, noes 21.

A new section was then offered by Mr. GOLDSBOROUGH, in the following words:

"*And be it enacted*, That, if at any time the United States shall cease to hold stock in this bank, the five directors, on the part of the United States, and the power herein given to the President, by and with the advice and consent of the Senate, to appoint directors, shall immediately cease; and that, for every million four hundred thousand dollars of said stock which the United States may part with, there shall be an abridgment of the power of appointing one out of the five directors hereinbefore provided for."

On this amendment a debate took place, in which Mr. GOLDSBOROUGH, Mr. KING, Mr. HARPER, Mr. MACON, and Mr. FROMENTIN supported, and Mr. BIBB, Mr. CAMPBELL, Mr. TAIT, Mr. TAYLOR, and Mr. CHASE, opposed it.

APRIL 1, 1816.

The Senate resumed the consideration, in committee, of the bill. The amendment offered by Mr. GOLDSBOROUGH, on Saturday, still before the committee.

Mr. MASON, of Va., Mr. BIBB, and Mr. TAYLOR, spoke against the amendment; and Mr. GOLDSBOROUGH in its favor. When the question was taken, and the motion negatived: ayes 16, noes 18.

Mr. HARPER moved an amendment, limiting the selection of directors by the President, to such as held stock to the amount of ——— dollars, (10,000 was named by the mover) and that they should cease to be directors when they ceased to hold stock to that amount.

This motion was supported by MESSRS. HARPER, DANA, and TAYLOR; and opposed by MESSRS. ROBERTS, BARBOUR, MACON, CAMPBELL, and FROMENTIN; and negatived: ayes 9, noes 23.

Mr. KING moved an amendment, preventing directors appointed by the Government, from acting as agents or proxies of any stockholders.

Mr. KING spoke in favor of, and Messrs. ROBERTS and CAMPBELL against, this amendment; which was negatived without a division.

On motion of Mr. BIBB, an amendment was adopted, requiring that there should not be more than thirteen, nor less than seven directors, to each branch bank.

Mr. TAYLOR proposed an amendment, making the stock of the United States unalienable. Mr. CAMPBELL spoke against it. Negatived: ayes 10, noes 18.

Mr. BROWN offered an amendment, excluding the United States, as a stockholder, from being represented in the choice of directors, &c. Agreed to.

Mr. WELLS moved the postponement of the bill to the next session, and prefaced his motion with the following speech:

Mr. PRESIDENT: The Senate having gone through the different amendments which have been before them, and it not being probable that there are many more, if any other, intended to be brought forward, the proper period for submitting a proposition, which will fairly bring into notice the general views of this subject, has, perhaps, now arrived. In support, then, of the proposition of postponement to the first Monday in December next, of the further consideration of this bill, which I propose to move you, I beg the indulgence of the Senate, while I endeavor to show: First, that it transcends the constitutional power of Congress to pass a bill, containing the provisions which this does: Secondly, the inexpediency of enacting such a law as this, even if we possess the constitutional power to do it: And, thirdly, that our true policy is to avoid, at this time, legislating upon the subject—to pass no law, at the present session, incorporating a banking company.

That which has heretofore been the occasion of so much heated controversy, was simply a question relating to the existence or non existence of a power in Congress to incorporate a company for establishing a bank. That question is now at rest—nor do I purpose to disturb it. The sole inquiry we now have

to make, is, as to the true character and just extent of this authority, that we may not, in the exercise of it, carry it beyond its proper limits.

The power that is granted, is a power to establish a bank for a particular end, and of course, constitutes only a part of the general power, in relation to the establishment of banks, that previously existed in the States. For this reason it is a power of a minor character to that of the States, and is to be exercised, always, with a steady and distinct view to the end for which it is created. So far as it goes, it is a lawful power, and has a right to pursue its prescribed course. It may keep company with the State authority, but has no right to quarrel, and slay its companion on the road. Every application, then, of this power, by the United States, which has a tendency to embarrass or impair the free exercise of the power reserved to the States, is unwarranted, and, if done by us, with a view to such a purpose, is the affair of arrogance and usurpation.

This is not primary, expressed, original power. In vain, as such, do we seek for it in the constitution. It is only a secondary, an implied, derivative power, if such may be properly termed the mean of executing an expressly delegated power. Here it may fairly be asked, why was this power left to implication? Did it escape notice? Was it overlooked? Was it too unimportant for enumeration? Every view of this subject, and every relation in which it can be placed, to the other authorities, affords an inference not easily resisted, that a grant of this power was not intended to be applied. If the express grant of such a power was moved, the silence of the constitution, as to that power, proves that it must have been rejected. I understand that it was moved in that body, and was rejected. If this was actually the case, (as I am persuaded it was) it certainly requires the utmost effort of ingenuity to prove that this power was left to implication, in order that the subordination of its character might be the more clearly established, and the arrogance of its pretensions the more easily repressed. This is all, if it be not a great deal more than any fair mode of interpreting the constitution, as we have it, will warrant. We cannot, for a moment, suppose that the great men, who formed this frame of Government, were unacquainted with, or unmindful of, the imposing character of this power, or of its history here or abroad. Did they not know that a proposition to incorporate a banking company, by the old Congress, had been, by that body, rejected? And, furthermore, could those grave and learned men have been unaware (if they intended this power to be inferred as a mean of executing another power) of the arduous, perhaps I might be permitted to say, the odious character of the task they devolved upon implication? Did not that enlightened body know that grants of specially enumerated authorities would not warrant the exercise of a power, as a mean for carrying into effect another power, where the mean itself is, in character and importance, entitled to rank with some one of the enumerated authorities? That such is the real character of the mean in question, in relation to some of those authorities, even limited and circumscribed as it may be, I am obliged to admit, there is too much reason for insisting. That I have a doubt, therefore, on my mind, on this point, I am free to confess. It is possible, perhaps it is probable, if the vote I am to give upon this bill, demanded of me, in respect to that difficulty, a decision that further deliberation, aided by the authorities, which, I am told, support the opposite opinion, might remove that doubt.

Sir, I confidently rely upon the cheerfulness with which honorable gentlemen, who have heretofore so strenuously denied the *existence* of the power in question, in this Government, will accompany me in the inquiry respecting the *extent* of this power. It is agreed, on all hands, to be (not an original, substantive) but a derivative, incidental power. What, then, is the specially enumerated power to which it is incident, as one of the "necessary and proper" means for its execution?

Is it incident to the power to "promote the general welfare?" The capacious character of this provision, if it is to be viewed simply as a grant of power, would render the subsequent enumeration of special powers a matter of supererogation. The terms "general welfare," when used in the consti-



tution, can only be considered as having themselves reference to one of the great objects for the promotion of which this Government was established, and for the accomplishment of which the special powers, contained in the constitution, have been delegated.

Is this authority to establish a bank, an incident to the power of Congress "to borrow money on the credit of the United States," by reason of its correlative tendency in procuring a faculty to lend? If this be the source from which it is lawfully derived, we need look no further for the origin of this or of any other authority. If this be its fountain-head, we have here a never-failing spring of power, abundantly sufficient for all the purposes, lawful or unlawful, of this or of any other Government upon earth. I turn away from it, therefore, without further investigation.

Is this power derived from that of coining money, regulating its value, and that of foreign coin? Is the right to establish a national bank, on account of its tendency, in our hands, to operate upon what is called the currency of the country, derived from this, or any other specially delegated authority? There are two provisions in the constitution, which have some bearing upon this point. That to which I have just referred, respecting coin; and that which prohibits to the States the issue of "bills of credit, and the declaring of any thing but gold and silver a lawful tender in the payment of debts." It cannot be necessary to argue that a power to make a bank, distinctly with a view to its putting into circulation *promissory notes*, that shall have the faculty of mixing and keeping company with the currency of the country, and of becoming something like paper money, is not a necessary and proper auxiliary to the power in this Government of making a *metallic medium*; that a power, in short, to make a *metallic* money has not incident to it, as a "necessary and proper" mean for its execution, the power to make a *paper* money. Nor need any time be spent in resisting an inference, drawn from a restraint imposed upon a particular power in the State Governments, which affects to communicate to, and to set up in, this Government, a faculty co-ordinate with another power, which is left in those Governments, free and unshackled. So far then as honorable gentlemen say this measure is intended or calculated, whether with a view to regulation, or improvement, or under any other pretence, to operate upon what is called the national currency, or, in other words, to restrain the States from establishing similar institutions, and impair the free exercise of the franchises of those they have already incorporated, it is warranted by no part of the constitution.

I come now, sir, to that part of the constitution, where alone can be found, if any where, the lawful source of this Government, to incorporate a banking company. We have the power "to lay and collect taxes, duties, imposts, and excises," for certain great national purposes. It is now admitted, by most of the former opponents of this doctrine, that the establishment of a national bank is nothing more than the employment of a "necessary and proper" mean "for carrying into execution" the power to which I have just referred. The correctness of this doctrine, I have before declared it not to be my purpose to call into question. This part of my argument is entirely predicated upon its admission; and is designed solely to be confined to those views of the subject, which will show the true character and just extent of this authority; and enable us to determine whether we are not carrying it, by the provisions of the bill now on our tables, further than is warranted by the constitution. This, then, being the power, to which the authority to establish a bank is incident, as a "necessary and proper" mean for its execution, we cannot have much difficulty in the definition of its limits. Its effect upon this power must be in relation to the collection, the safe keeping, and transmission of the public revenue. The notes which a bank issues may (but, by the by, the affairs of a bank may be mismanaged and they may not) provide the People with an equal medium for the payment of their public dues to this Government. This is, to a certain extent, to operate upon the currency: it is not merely to afford the People, in their relations with the Government, something more portable and convenient to procure, and keep, and pay, than metallic money, but it is

to provide them with a medium of contribution, at a time when the metallic medium shall disappear from circulation. Here provision *in relation to the currency generally*, would seem, at first, to be intended for an event like that of the disappearance of the metallic medium; but we must always remember that our power, in relation to the medium of circulation, refers solely to a metallic medium; and of course excludes the other—*expressio unius est exclusio alterius*. If it be not questioned how far, in this point of view, as connected with the currency, (a subject, as before mentioned, *expressly* legislated upon) there is a power to procure, for the People, these kind of facilities, for the payment of their taxes, surely the power must, in this respect, confine itself directly to this end. What then is the capital necessary for constituting a bank to answer this purpose? This ought to have been shown us. Those who have no warrant to employ this power, but distinctly with a view to the attainment of a particular end, must have known that the purposes for which alone it can be lawfully used, prescribe the limitations to its exercise. The moral obligation imposed upon them not to exceed those limits, requires, likewise, that they should ascertain where they were placed. If there has been an inquiry made upon this head, what principles have guided that inquiry? and which of them have been presented to the Senate? What calculations have been submitted to us, to shew that, in respect to the capital, we are not exceeding the pale of our authority? The hazard of excess must not be incurred, while there are any means, at our command, of ascertaining how it may be avoided. It is not for those of us who think it, at this time, inexpedient to establish a bank, to show where the excess is. It is incumbent upon the friends of this bill, who call upon us for our votes, who desire that we should keep them company, to prove to us that they are going no further than they ought to go. This they have not done. It has not been affirmatively proven to us that a capital to this amount is necessary; and for one, I think it can be demonstrated that a capital of thirty-five millions is larger than is required, for the purposes for which we are to establish a bank. A capital much lower than even twenty millions, would be adequate to the establishment of a bank, in each State in the Union, and the objects of safe keeping, and easy transmission of the public revenue, accomplished. The capital of this bank, with a view to the effect of its notes, in affording an equal medium for the payment by the People, and the receipt by the Government, of the public dues, is not to be inquired into, with a view to any given state of things. The charter is to last for twenty years. If this capital, during that period, should be likely to become too small, the power to raise it by our own, or other subscriptions, may be reserved. If we have a view, in ascertaining the proper extent of this capital, to periods when the preservative of a metallic medium shall be withdrawn from the paper circulation, then this capital, (if the bank is to be what its advocates insist upon it to be their intention to render it, a specie paying bank) is unnecessarily large. Its issues, in such times, must be limited, not by the amount of the public revenue, but, by that of the specie in its vaults. If our attention, however, is principally directed, as to me it seems it ought to be, to the usual and natural state of things, when the presence of the metallic medium will afford to the paper currency a free and uninterrupted circulation, then a much smaller capital than that of thirty-five millions, in such a state of things, would enable the bank, by the successive issues and returns of its paper, to afford to the People and to the Government the desired facilities. The process between the Government and the People is that of payment and disbursement; and the steady and uniform succession of these operations, which can never be disturbed, communicates to a paper medium, even in a higher degree, the well known faculty belonging to a metallic medium, of transacting a large amount of business with a small amount of money. In this view of the subject, can there be a question whether a much smaller capital would not afford every lawful facility that the revenue operations of this Government require? A capital of ten millions successfully accomplished this object, and with the aid of three or four millions of other banking capital, conjointly with the metallic medium, circulated the whole business of the Govern-

ment and the country. Surely, then, a national banking capital of twenty millions, with the banking capital of the States, will be now amply sufficient for the same purposes; however high may be our estimate of the increased activity and expansion of the industry and enterprise of the country. If I am well founded in these remarks, I have sustained and established one constitutional objection to this bill; by showing that the capital of this bank is larger than is necessary for the accomplishment of the objects we are required to keep in view, in the establishment of this institution.

There is another, and a more interesting point of view, which it remains to notice, and which goes to show that this bill does not merely, in respect to capital, exceed our constitutional authority. I refer to that provision which authorizes the appointment of a certain proportion of the directors of this bank by the Government. Every control and authority over this great moneyed institution, so intimately connected as it is with the great interests of society, beyond what is requisite for the promotion of the limited objects we are bound to keep in view, communicates to the Government an influence and patronage which it has no right to possess. It is proper that I should circumscribe, within narrow limits, what I have to say in respect to the just character of that influence, after the able view of it which must have been presented by the honorable member from New York, (Mr. KING) in support of his motion to strike out this part of the bill. The honorable chairman (Mr. BIBB) who reported this bill, in reply to that argument, insisted that there was incident to the power to establish a bank, that of prescribing the regulations which are necessary to guard the country against the mischief it might otherwise do. Sir, I deny not the truth of this position; but still it equally remains to be shown that the regulation in question, which invests the Government with an influence of such magnitude, is "necessary and proper," to prevent a greater mischief than the one which the regulation itself introduces. The honorable member from Virginia (Mr. BARBOUR) contends for the salutary effect of this regulation, and insists that it communicates to the Government an influence too unimportant to justify any serious apprehension. He considers these directors merely as sentinels on the watch tower, and that the smallness of their number can never give to the Government a dangerous ascendancy in the management of this institution. Let us for a moment inquire into the character of these directors. If they are sentinels on the watch tower, if they are to be enlisted into our service, what bounty are we to give them, what pay are they to receive from us? They are to perform for us an important service, they are to apprise us of the earliest approaches of danger. The board of directors will be daily assembled, and these our sentinels must mount guard as often; they are to have a full share of trouble in the superintendence of this institution, and they are to do all this, not for the good of the concern in which they have no participation, but for our advantage solely—that we may know in time to take care of ourselves, when this company is likely to go astray from its duty to the stockholders, the country, or the Government. These are services, I admit, of great value, and to be performed, no doubt, by able and virtuous men; and yet, for all this, you pay nothing—and why so? Are we to calculate upon a degree of patriotism and disinterestedness, to which we make no claim ourselves? The truth is, we do not expect these services to be performed for us, without remuneration; but the anomaly consists in our not paying for them ourselves. These spies are to be in *our* service, and to labor for *us*, on account of the pay they receive from *others*. In imitation of the Napoleon model, these gentlemen are to be maintained by those whom they are set over to guard. Their posts will be places in request at all times—in peace as well as in war. In times of peace, of public repose, when the business of the country is undisturbed, and the Government in no need of loans from the bank, these directorships will be entirely useless, for any lawful purpose, to the United States. During this period, the men who hold these appointments, and their numerous friends, will be but as vultures fattening on the institution. During this period, you obtain a patronage for the administration, through the medium of these directors, and their retainers,

without the performance of any lawful service. In this respect, then, the provision is unconstitutional; and the influence for which you oblige others to pay, is as unjust as it is unconstitutional. But when the season of difficulty arrives; when war shall disturb and break up the regular course of business; when public and private credit shall be shaken; when the good of the country shall imperiously require the affairs of this institution to be conducted with even more than the usual prudence and circumspection; then will be the time that the pernicious agency of this directorship, co-operating with other active influences, will wield this great moneyed corporation, at the will and pleasure of the Government. It is no answer, to tell us of the smallness of the number of these directors. The Hercules is in the system—in the power that the Government possesses of continuing or withholding its deposits. These directors are but the club with which you arm him. The smallness of their number is no security. The principle upon which they are introduced is unsound, is corrupt, is contagious, and its natural tendency will be to spread itself. These five directors, (whom the Government then will take care to keep in their own pay) themselves the absolute creatures of those from whom they have derived their authority, will be sure to find at the board, when the spirit of party in the country runs high, others become as subservient as themselves; and cannot fail, in a season of difficulty and embarrassment, with their united influence, to accomplish, through the fears and the hopes of the rest, whatever shall be demanded of the bank, as the price of the continuance of the Governmental favor. By this process, will loan upon loan be riveted upon the bank, until this great debtor will become its lord and master. Surely these apprehensions cannot justly be called the offspring of distempered imaginations. Honorable gentlemen certainly, who, themselves, have painted in such glowing tints, the terrors of this influence—not of the influence of such a body politic as this, in which it is organized, and directly set up and established, and openly avowed to the world, but of one where it was sedulously guarded against—surely such will not insist that there is no foundation for alarm. Formerly it was said, give this new power this lever, but a fulcrum—a point to rest upon—and, like another Archimides, it will move the political world as it pleases. Afford it but an opportunity to act upon the States, and there will be nothing in their sovereignties, or the people, beyond its purchase. Formerly it was calculated, in its mildest form, to destroy the responsibility between the Government and the people; and leading to extravagance, to corruption, and to wicked and ruinous wars, to overturn the liberties of this nation. If these representations of danger were somewhat surcharged in respect to the former institution, how just are they with respect to the present! To me it seems, that now is the time that we ought most sedulously to guard against a power of this kind in the Government, while the young, the enterprising, the ambitious, and the military character of this country is developing itself. I say the military character of this nation, because it is but too apparent, that the events of the late “glorious war” (as it is not unfrequently triumphantly termed) have had no tendency to increase our fondness for the pursuits of peace. That there was glory gained in that war, I am proud to acknowledge; but, speaking of the war generally, and the situation of the country during its continuance, of its causes and its termination, I may be permitted to say, if there was glory—and I repeat again, I am proud to acknowledge it—it was only “gloom in glory dressed.” Much, sir, I fear, that this happy country, once so fond of peace, when sufficiently practised upon, is to become as deeply enamored of war and valorous enterprise, as La Mancha’s Knight, and with him, is to be made to exclaim, “armor is our dress and battles our repose.” I shall press this objection no farther. We are permitted, by the constitution, to incorporate a banking company to facilitate the collection and disbursement of our revenue. It has been shown, that this power must be exercised with a view to its proper objects, and that every regulation that looks further than the attainment of these objects is unwarranted; and in relation to this directorship, I think it must be apparent that it is entirely foreign to these objects; or, if in a slight degree incidentally connected with

them, that its main bearing is upon other points, and that its general tendency, by the concurring testimony of all parties, is to communicate an influence to the Government of the United States, of an extremely dangerous character. The bill, therefore, in this respect, is unconstitutional.

The remaining constitutional objection to this bill arises from its interference with the concurrent power of the States. It is to operate upon the State banks, "peaceably if it can, forcibly if it must." With this object in view, the bill no doubt has been formed to have due effect. Indeed, with the controlling influence of the Government, it cannot fail to accomplish its object, whenever the necessary impulse for that purpose shall be given. If a faculty is communicated to a power in this Government to regulate a concurrent power in the State Governments, there is an end at once of the co-ordinacy of these powers—one of them instantly becomes only the humble dependent upon the other, and must even cease its existence whenever the will and pleasure of its superior shall be known. How extraordinary has been the course of opinions upon this subject! The friends of a bank formerly required for this Government the exercise only of an equal and concurrent power—even not so much; they are now obliged to argue against honorable gentlemen who refused that power, and who now, in effect, contend for the exercise of a superior and exclusive power. If such, then, is intended to be the effect of this bill, and if its provisions are calculated for the attainment of that end, it is most indubitably unconstitutional. If what is termed implication, is to become the lawful proprietor of what she is only permitted to use for a special purpose, and is to bear off too what she has no pretence for asking to borrow, all our paper regulations are idle. With an encroaching and restless agency of this kind in the constitution, there is no limit to the power of this Government. I shall press no further constitutional objections to this bill; but will now proceed, with the further indulgence of the Senate, to examine the general policy of this measure.

This bill came out of the hands of the administration ostensibly for the purpose of correcting the diseased state of our paper currency, by restraining and curtailing the over issue of banking paper; and yet it came prepared to inflict upon us the same evil, being itself nothing more than simply a paper-making machine; and constituting, in this respect, a scheme of policy about as wise, in point of precaution, as the contrivance of one of Rabelais' heroes, who hid himself in water for fear of rain. The disease, it is said, under which the people labor, is the banking fever of the States; and this is to be cured by giving them the banking fever of the United States. To my mind the real evil consists not so much in a superabundance of paper, as in a scarcity of specie. The paper currency does not exceed what is required to circulate the business of the country; it only wants the accrediting, the quickening, the vivifying principle which it requires a certain proportion of specie to communicate to it. But this bill is to supply that want; it is to be our alchemist, and is to effect, for us, even the transmutation of paper into gold. How this matter is to be conducted, we have not been told. It is admitted, that the great desideratum will not be afforded all at once. The process, we are informed, requires time; but we are assured that, in the end, it will not disappoint our hopes. For one, sir, I am not willing to trust to a scheme of this sort. Not only it is not shown how its professed object is to be accomplished, but the fallacy of its pretensions is susceptible of demonstration. This is to be a specie, or a paper-paying bank. Take either hypothesis—suppose it the former. *Will it increase the quantity of specie in the country? will it restore to circulation that which is in the country? or will it put into circulation any thing that will answer the purpose of specie?* That it will increase the quantity of specie, powerful as may be its alchymy, none will pretend. Will it emancipate from restraint what is already in the country? That the quantity of specie in the United States is diminished, is acknowledged, and it will not be denied that a much larger proportion of specie than formerly was sufficient to maintain the free circulation of bank paper, will be required to revive and establish public confidence in that currency, as

a steady and certain representative of gold and silver. Those banks, therefore, that have now the precious metals locked up in their vaults, not only will, but ought to keep them there, until the necessary addition is made, by the course of trade; more especially ought they to do so at this time, when the course of that trade has thrown the exchange so much against us, that every dollar they paid out would be exported. If this bank is to be a specie bank, will it put into, and keep in circulation, any thing that will answer the purpose of specie? Who are to borrow of this bank, and what will be their inducements to borrow? Those who obtain discounts will receive paper equal in value to gold and silver; and their debts must be paid off when they become due, not in the notes of other banks, but in the notes of this bank, or in gold and silver. If they borrow for the purpose of obtaining a more equal and unvarying medium, than any other bank paper will afford them, of remittance to any part of the United States, or with a view to purchase cheaper any thing they may want to buy, their object is accomplished. But, when the time arrives for them to pay off their debts to the bank, they must purchase up the paper of this bank, or gold and silver, with other banking paper, and with the same or a greater loss. What will they then have gained by the transaction? Pay their debts they must, when they become due; and, cost what it will, they must procure the paper of the same bank, or gold and silver. They have gained, say ten per cent. in their remittance, or their purchase, and they must give it up again to obtain the means of paying these debts; and, moreover, run, without any advantage, the risk of being disappointed in procuring those means. There will be, likewise, accompanying this, another operation. Those who borrow, (if any under such circumstances will borrow) must have a view to purchase, or remittance to some other part of the Union; and in that mode, the paper of this bank will get into the hands of persons who have no debts to pay to the bank. What will they do with this paper? Will it come into their possession so utterly untainted with suspicion, with such all-conspiring confidence, as to make the holders of it prefer it to gold and silver? Certainly not. The recollection of recent events, the infirm condition of the other banking paper, will prompt the holders of it to demand immediately in exchange, that which they know is immutable in its value. And, moreover, there may be a sudden fluctuation, in the rate of foreign exchange, which may communicate to gold and silver a temporary appreciation over the paper currency, without sensibly, (if at all) depressing contemporaneously its value in relation to any thing else it may command. When this takes place, the holder of the gold and silver obtained from this bank in exchange for its paper, will find a profit between the value at which he received the paper, and the gold which he has obtained for it, sufficient to induce him to part with it for the currency of the other banks; and which profit he can, by investment and purchase, render certain before the impulse of appreciation can be communicated to what he finally obtains. While, therefore, the exchange against the country is progressing, this process will accompany it, and effect the removal abroad of our specie. To emancipate specie from the restraints now imposed upon it, is to permit it to pursue its own course; and that course (in the present state of foreign exchanges) leads it out of the United States; and thus the immediate and inevitable effect of our legislation for restoring specie to circulation, is to send what we have remaining of it out of the country. If, in this state of things, then, this bank is to be a specie bank, it can issue paper only to the amount of its specie. It cannot issue paper even to that amount, because there will be no inducement to borrow, upon the terms upon which a specie bank can now alone lend; and even if it could lend out, on these terms, paper to the amount of its specie, it would effect nothing in value, towards the great object of this policy. It would be only amusing itself, like Diogenes, who set himself about rolling his tub, rather than be idle, while all others were employed. But allow me here, sir, to ask, what is to be done, if this bank, in which we as stockholders are to have so deep an interest, should, as it probably pretty soon will, wade out of its depth—should exhaust its specie (as it inevitably must do if it issues paper



to an amount exceeding, even in a very limited degree, its specie capital) and becomes unable to pay its paper? When that happens, as happen it must if there is not a considerable addition to the specie capital of the country, the urgency of the case will make its own law; and it will either be the law of public opinion, of public necessity, and public interest—the same law under which the State banks now operate—or it will be a law of our own enactment, striking off the shackles we are now riveting upon this institution. No, sir, this bill cannot restore the specie in the country to circulation, nor can it dissolve the powerful spell which fear, and suspicion, and even prudence, have placed upon it. Of our capacity to increase its quantity by this bill, we have about as good evidence, as the facetious writer, before referred to, had of his royal descent; he had, he tells us, “a marvellous desire to be a king himself;” we have “a marvellous desire,” I admit, to increase the quantity of specie; and we have no other better way of showing the specie-making tendency of this bill.

I beg leave, sir, to remark upon the distinctly avowed coercive policy in which this bill originated, with a view to considerations that are foreign to the constitutional question. This bank has an immense capital, and when the state of things in this country shall be better settled, when a favorable course of trade shall have brought us the necessary supplies of specie, the operations of this, and other banks, will be conducted as formerly. This, then, will become a paper making bank, as well as the others; but, the excess of all, will be guarded against by the necessity which will be imposed, of maintaining the principle of convertibility. This new bank (with its branches) will have afforded it, by Governmental deposits, and the receipt, by the United States, of the public revenue, in its paper, the means of extending its discounts, and increasing its issues, in proportion to its capital, greatly beyond what the other banks can venture to do; and, particularly, must the operations of the State banks continue very limited and circumscribed, until the first hostile impulse communicated to this institution has ceased to operate, and until due confidence can be inspired, that the same vindictive spirit will not again be aroused and inflamed. In this state of things, the banking capital you now create, will firmly establish itself, and, eventually, take the place of so much of the capital of the State banks. You create a banking capital beyond what is requisite for the attainment of the lawful ends of this Government; no one having disproved, indeed all seeming to admit the existence, already, in the country, of a sufficient banking capital. Why, then, is this injustice done, of supplanting one species of banking capital with another? Can we forget that a large proportion of the State banks is the offspring of our own policy? We refused the re-incorporation of the old Bank of the United States; we declined, altogether, the exercise of the authority to establish these institutions, and, mainly, upon the ground that the power to organize them was, exclusively, vested in the State governments. This opinion was adopted, and zealously, and perseveringly asserted, by the most potent States in the Union, and subscribed to, and openly maintained, by the most enlightened, the most intelligent, and influential supporters of the present order of things. Hence the origin of a great many of the State banks. The subscribers to those banks, relying upon the soundness, or, at least, the permanency of this opinion, purchased their charters of the States; and the public money of those governments has been invested, to a large amount, in those banks. What, then, can warrant, in a renunciation of former sentiments, the extension of the capital of this bank, beyond the proper objects of such a bank? It is equally forbidden by the constitution, and by the plain principle of common justice. Let the conduct of these institutions (generally speaking) be examined, let it be exposed to the severest scrutiny, and there will be nothing found to justify the severity of this measure. Even if it be admitted that the course of these bodies, set free from the restraints which usually oblige them to revolve in their proper orbits, has been somewhat erratic. What then? Has their course been that of public calamity, and private distress? You must judge of them by the good, as well as the evil they have

done. They have been the nerve and spring of your industry; they have been the spirit which has animated your enterprise; and, if they have been a fountain which has sent out bitter waters, they have sent out sweet waters too. What would have been your condition, what would be our condition this moment, without them! Have *they* banished the specie from the country? That was the affair of *our* achievement. This useful friend we lost *ourselves*; and they have, to the best of their ability, supplied its place. Is it for us to bestow upon them unqualified censure; for us, whose measures annihilated the restraints, and withdrew from them the great security of steadiness and uniformity, is it for us to condemn them, in mass; who were the first to seize with avidity, and to profit, to the fullest extent of our influence over them, of the opportunity made by ourselves to lead them astray? Then, our conduct to them was "as soft as the tips of our ears;" but now, that our purpose is served, "our gorge rises" at them, and in the time of their need, we unhesitatingly devote them to destruction.

I have said, sir, that the evil was not in a superabundance of paper, but in a scarcity of specie: for, I think every view taken of the operations of the banks, will show, with but few exceptions, that they have not exceeded their proper limits. The first effect of loosening their restraints, was not to send them a heedless, headlong course. The influence of habit continued, after the necessity, which gave it birth, had ceased. They went on in the same path, and might have been so expected to do, for some time, by their own momentum. These banks were, generally, under the direction of able and honest men; not of such as were incapable of appreciating the difficulty and delicacy of their situation, but of men whose prudence, foreseeing the embarrassments they would have to contend with, immediately replaced the restraints which necessity had imposed and maintained. The particular instances of excess which have been referred to, are those of exception; and, even in those cases, the business of the bank has fallen below what specie times have witnessed, and will warrant, and, still further below what this bank, with its paper circulating capacity, will do in such times. What course, different from that which they have taken, would we have had them to pursue, in the situation in which they were placed? Ought they, in a time of public and private calamity and distress, have called upon their debtors? Ought their paper to have disappeared in the proportion that specie was withdrawn? And, if this ought to have been done, how was the business of the country to have been transacted, in the absence of both specie and paper? If these banks had called in their paper as the specie disappeared, and as the necessary demand for it increased, at a time, too, when public confidence, accompanied by public necessity and public convenience, tendered herself ready to perform, for this circulation, every office of specie; to reanimate it; to breathe into it a new and efficient principle of vitality; if such, under such circumstances, had been the conduct of these banks, we should have been, ourselves, among the loudest to complain. They did, then, sir, what they ought to have done. Like wise and prudent men, instead of resisting an evil they could not avert, they did all that was left for them to do; they applied to it the best and only remedy that remained, one, which, if it has not cured the disease, has, at least, alleviated its affliction.

I do not know that there is much hope of effecting the postponement of this measure; yet, every consideration belonging to it, every view which can be taken of it, seems, to me, to require of us the utmost deliberation and circumspection.

I know that there is a loose and vague notion afloat in the public mind, of one great uniform national currency. I will not dignify this notion by calling it public opinion. I know, sir, that we are looked to, as were, in other times, "the baker and the baker's son;" but, surely, the cool, and intelligent, and enlightened men of our country, who have reflected seriously upon the existing state of things, do not expect relief, in this matter, from our legislation. They know, full well, how much easier it is to legislate a country into difficulties, than it is to legislate it out of them. They understand the nature of

the disease—its cause, and its remedy. They look not to us for health, who have medicined them into sickness. All they ask of us, is, to desist, “to leave them alone.” Time is their physician. They want time to recover from us; he has “healing upon his wings,” we have none upon ours. Those who know not the cause of our disease; who have been blind to the natural tendency to this state of things, of the measures which have been pursued for several years back; who know not the agencies which have withdrawn the specie from our country, and who cannot comprehend the influences which have given such activity and effect to those agencies, may have a notion that we can relieve them: and it cannot be expected that the deep responsibility which is involved by the measures which have led to the present difficulties, should take much pains to dissipate the delusion. If we are to profit by this delusion, which conceals the past from public view, let us not go still further into error. The step we are going to take, we should remember, with the honorable gentleman from New York, (Mr. SANFORD) is not one which we can retrace. In common cases, if we commit an error, subsequent legislation can remedy it. Not so here. An error committed, in the passage of this law, is beyond our power to correct. And, furthermore, let us specially remember the magnitude of the power which we propose to regulate. It is not merely the banking power of this institution, but the banking power of the States. What is to be the bearing of our legislation upon great interests like these, so closely interwoven as they are with the pursuits of the people, it is incumbent upon us well and maturely to consider. The science of banking, connected as it is, in peace and in war, with the circulating medium; with the various operations of Government; with the different great interests of society in general; with the individual industry and enterprise of the citizen; with the value of other capital, and with the moral character of the People; is a science, like all others, of progressive improvement, and is, perhaps, even at this time, but very imperfectly understood by those who have devoted most time to its study. Could, sir, this science now call to her aid, him who wrote upon the subject “as with a sun beam,”—the justly celebrated author of the “Wealth of Nations”—even this, her favorite son, would be obliged to confess that much of his theory, which the world has so long adopted, was but like “the clouds that gather round the setting sun, and seeming only to form a part of the brightness by which they are illumined.” Who, then, among us, is entitled to hold the “Lamp of Truth” to this subject? None of us, it is true, can be blind to the causes of the evil complained of. We know, now, too well, the effect of the bold experiments we have tried upon the People. Tremendous as they were, it required but little skill to make them. But, to build up anew what we have broken down, to repair what we have wasted, is an achievement of another sort. Peace, and the uninterrupted pursuits of industry and enterprise, spread their blessings around us. Restrictive regulations, and war, have snatched many of them from us. The price the country has paid for our experiments is gone. If it has not made us wiser, we have nothing in return. What we have lost must be replaced as it was gained. Legislation is the medicament which has made us sick; but it has no charm to restore us to health. One great interest in our country, from sad experience of our measures, has long since learned to look to the period of assembling the national councils, as a period of national calamity. What Thucydides says of the speech of Alcibiades turning against his own country, and explaining to her enemies her vulnerable positions, “while he speaks she totters,” may justly be remarked of too many of our measures—while we legislate the country totters. The great body of our merchants have, in a special manner, cause to tremble at our legislation; that great body of men, whom the sweeping denunciation of an honorable member on this floor has, this day, placed in the most degraded and the most worthless ranks of society. That honorable member makes exceptions, which serve, however, only to set in stronger view the estimate he forms of the rest. Sir, when honorable members of this House, and from great and potent States in the Union, entertain these sentiments, and express them upon this floor,

it manifests a hostility to commerce, which justifies all the apprehensions of her friends. It is full time for the merchants—the Morrises and the Fitzsimmonses—to take their seats among us, to assert their own character, and maintain their own interests. Were they here, they would find occasions to tell us that it is not the farmer, or the country gentleman, the fleeces of whose flocks grow too slow for our Walpoles, that we have repaired to their “altars,” not to worship there, but to shut up their “bible,” and bear off their “God;” that the seat of commerce is not to be found “in the midst of the secret and solitary hill, nor her voice to be heard in the murmur of the mountain stream.”

Upon a subject, sir, like that now before us, of a complex and intricate character, having the closest relations to the strongest interests in society; with no special illumination ourselves; in the absence of all practical information; uninspired with much of confidence in our own skill, by the success of our former experiments on political economy; is it wise to act at all—but, most especially, upon a subject of this character, is it possible, in the nature of things, for a general legislation, which commits itself to the strong impulse of one given pressure, to pursue the proper course? In circumstances like the present, it is circumspection, it is deliberation which is required, and not action. There are situations of peril in which the soldier halts. There are crises of difficulty and embarrassment, in which the statesman pauses. It is folly, it is rashness, and not wisdom, nor courage, that marches blindfold upon danger. “It is no inconsiderable part of wisdom to understand how much of an evil is to be endured;” and particularly so when there is reason to hope that the evil will remedy itself. The existing laws, which authorize the issue of treasury notes, will remove all sectional difficulties, and afford to the People a safe and equal medium for the payment of their taxes.

I rely upon the indulgence of the Senate to excuse my having so long trespassed upon their time. I do not flatter myself with the expectation that my humble views of this subject will have much weight; they are such as have presented themselves to my mind, and, imperfect as they may be, I have obeyed only the sense of duty, in submitting them to the Senate. It remains, sir, to move you, which I now do, that the further consideration of the bill upon your table should be postponed to the first Monday in December next.

Mr. DANA made a brief reply; after which, the question was taken on the motion, and negatived: ayes 6, noes 29.

On motion of Mr. CAMPBELL, the time for taking the subscriptions was extended from six to twenty days.

On motion of Mr. CAMPBELL, another amendment was adopted, relative to the establishment of branches in the several States.

Mr. DAGGETT gave notice that he should, hereafter, submit an amendment to the Senate; after which,

The bill was reported to the Senate, and the amendments were ordered to be printed.

APRIL 2, 1816.

The amendments made in committee of the whole having been concurred in,

Mr. MASON, of N. H. renewed his motion to add to the 17th section, the following proviso:

“And if the said corporation shall at any time suspend or refuse payment, in gold or silver, of its notes, bills, or obligations, or other debts, to such an amount, and for such length of time, as Congress may deem injurious to the United States, in such case Congress may repeal this act, and abolish the said corporation, and make such regulations and provisions for the settlement of the affairs, and payment of the debts, of said corporation, and for distributing its remaining property among the stockholders, as shall be deemed just and proper.”

This motion was determined in the negative, by the following vote:

YEAS.—Messrs. Barbour, Daggett, Gaillard, Goldsborough, Gore, Horsey, King, Mason, N. H., Mason, Va., Sanford, Talbot, Thompson, Tichenor, Turner.—14.

**NAYS.**—Messrs. Barry, Bibb, Brown, Campbell, Chase, Condit, Dana, Fromentin, Harper, Howell, Hunter, Lacock, Macon, Morrow, Roberts, Ruggles, Tait, Taylor, Varnum, Wells, Williams, Wilson.—22.

On motion of Mr. DAGGETT, to amend the bill, by adding thereto the following new section, viz:

**SEC. 23.** *And be it further enacted,* That it shall, at all times, be lawful for a committee of either House of Congress, appointed for that purpose, to inspect the books, and to examine into the proceedings, of the corporation hereby created, and to report whether the provisions of this charter have been by the same violated or not; and, whenever any committee, as aforesaid, shall find or report, or the President of the United States shall have reason to believe, that the charter has been violated, it may be lawful for Congress to direct, or the President to order, a *sciens facias* to be sued out of the Circuit Court of the District of Pennsylvania, in the name of the United States, (which shall be executed upon the President of the said corporation for the time being, at least fifteen days before the commencement of the term of said court) calling on the said corporation to show cause why the charter hereby granted shall not be declared forfeited; and it shall be lawful for the said court, upon the return of the said *sciens facias*, to examine into the truths of the alleged violation; and if such violation be made appear, then to pronounce and adjudge that the said charter is forfeited and annulled: *Provided, however,* Every issue of fact which may be joined between the United States and the corporation aforesaid, shall be tried by jury. And it shall be lawful for the court aforesaid, to require the production of such of the books of the said corporation as it may deem necessary for the ascertainment of the controverted facts; and the final judgment of the court aforesaid shall be examinable in the Supreme Court of the United States, by writ of error, and may be there reversed or affirmed, according to the usages of law.

The question on agreeing to said amendment was determined in the affirmative, by the following vote:

**YEAS.**—Messrs. Barry, Brown, Chase, Daggett, Dana, Fromentin, Gaillard, Goldsborough, Gore, Harper, Horsey, Howell, Hunter, King, Macon, Mason, N. H., Mason, Va., Sanford, Talbot, Tait, Taylor, Thompson, Tichenor, Turner, Wells, Williams, Wilson.—27.

**NAYS.**—Messrs. Barbour, Bibb, Campbell, Condit, Lacock, Morrow, Roberts, Varnum.—8.

On motion of Mr. HARPER, to strike out the scale of votes at elections, &c. there were 7 yeas, 23 nays. So the motion was lost.

The bill having been further amended, the question on ordering the amendments to be engrossed, and the bill to be read a third time, was decided in the affirmative, as follows:

**YEAS.**—Messrs. Barbour, Barry, Bibb, Brown, Campbell, Chase, Condit, Daggett, Fromentin, Harper, Horsey, Howell, Hunter, Lacock, Mason, Va., Morrow, Roberts, Talbot, Tait, Taylor, Turner, Varnum, Williams.—23.

**NAYS.**—Messrs. Dana, Gaillard, Goldsborough, Macon, Mason, N. H., Sanford, Thompson, Tichenor, Wells, Wilson.—10.

APRIL 3, 1816.

The bill was read a third time. On the question, "Shall the bill pass?" The following was the vote:

**YEAS.**—Messrs. Barbour, Barry, Brown, Campbell, Chase, Condit, Daggett, Fromentin, Harper, Horsey, Howell, Hunter, Lacock, Mason, Va., Morrow, Roberts, Talbot, Tait, Taylor, Turner, Varnum, Williams.—22.

**NAYS.**—Messrs. Dana, Gaillard, Goldsborough, Gore, King, Macon, Mason, N. H., Ruggles, Sanford, Tichenor, Wells, Wilson.—12.

[Messrs. Bibb and Thompson, the only absentees, are understood to have been detained from the Senate by ill health.]—*Eds. of Nat. Int.*

So the bill was passed, and the concurrence of the House of Representatives ordered to be requested in the amendments thereto.

## HOUSE OF REPRESENTATIVES.

APRIL 4, 1816.

The House took up for consideration the amendments of the Senate to the bill to incorporate the subscribers to the Bank of the United States. After the amendments had been read—

Mr. CALHOUN observed that he had examined the amendments; that they were not important; and hoped the question would be put on them generally.

Mr. RANDOLPH objected to so sudden a decision on the amendments, at so early an hour, too, when the House was thin, and before they had been printed. He moved that the consideration of the amendments be postponed until to-morrow.

This motion, after some further conversation between Mr. CALHOUN and Mr. RANDOLPH, was agreed to: ayes 60, noes 55.

APRIL 5, 1816.

Mr. CALHOUN moved that the House proceed to consider the amendments of the Senate to the bill.

Mr. MILNOR, because of the thinness of the House and the importance of the subject, and further, because he understood that the committee on the national currency were on the point of reporting a very important bill, which might materially affect the decision on the bank question, &c., moved that the consideration thereof be postponed to Monday next.

Mr. CALHOUN hoped the motion would not prevail. The reasons for it he did not think sufficient. The House was as full as usual; and the bill alluded to as on the eve of being reported by the committee, presupposed the existence of a national bank, and the committee had determined not to report it pending the passage of the bank bill.

After some further conversation between Messrs. CALHOUN and MILNOR, in which the latter gentleman insisted on the propriety of first being in possession of the report referred to, the motion to postpone the subject to Monday was negatived: ayes 43, noes 66.

After the amendments of the Senate were read—

Mr. RANDOLPH moved, for the purpose of destroying the bill, that the whole subject be indefinitely postponed; and supported his motion by adverting to the small number of members present, and the impropriety of passing, by a screwed up, strained, and costive majority, so important a measure, at the end of a session, when the members were worn down and exhausted by a daily and long attention to business; a measure which, in a time of war, and of great public emergency, could not be forced through the House; a measure so deeply involving the future welfare, and which was to give a color and character to the future destiny of this country; a measure which, if it and another (the tariff) should pass into laws, the present session would be looked back to as the most disastrous since the commencement of the republic; and which, much as he deprecated war, he would prefer war itself to either of them. Mr. R. then proceeded to argue against the bill as unconstitutional, inexpedient, and dangerous.

Mr. CALHOUN said it certainly could not be expected of him to enter into so untimely and unnecessary a discussion of the general question. The bill had been before the House three weeks, when it was maturely considered; it was sent to the Senate; and now comes back with a few unimportant amendments, on which the House had to pass. It was unfair to say that the bill was urged through the House improperly; and the gentleman was mistaken, also, in stating that a bank bill could not be passed at the last session; it was noto-



rious that a bill to establish a national bank did pass at the last session, and was rejected by the President of the United States.

Mr. GROSVENOR did not know what the gentleman meant by a hard screwed majority. He would venture to say that the House had advanced on this subject with as much deliberation and calmness as they ever did on any public matter whatever; the bill was not pressed through improperly. The pressure talked of by the gentleman, was, in fact, directly the other way. With two hundred State institutions bearing down on the members of this House, it required something more than common firmness—it required boldness to urge the bill. This influence would every day become stronger, and if the subject was deferred to the next session, its passage would be impossible. He had never, since he came into Congress, known a bill passed with more ample discussion; the gentleman from Virginia had himself taken a part—an able part in it. It was not smuggled through the House; a fair majority had passed it; and he was convinced, from information he had received, that if the People themselves could be consulted, there would be ten to one in favor of it. Mr. G. answered some of Mr. RANDOLPH'S objections to the principles of the bill, declaring his difference from that gentleman on the constitutional question, and his belief of its necessity to the safety of the country. The constitutional question had been long since put to sleep by the repeated decisions of all the proper authorities, after mature reflection, and ought never again to be revived.

Mr. RANDOLPH replied to Mr. GROSVENOR, and enforced his constitutional objections to the bill, in which he was borne out by the decision of Congress in refusing to renew the charter of the old bank, which decision was grounded on the want of constitutional power. He adverted, also, in support of his opinion, to the instructions from the Legislatures of Virginia and Kentucky to their Senators to vote against the old bank; which instructions were given on the ground of that institution being unconstitutional. Mr. R. declared himself the holder of no stock whatever, except live stock, and had determined never to own any; but, if this bill passed, he would not only be a stockholder to the utmost of his power, but would advise every man, over whom he had any influence, to do the same, because it was the creation of a great privileged order of the most hateful kind to his feelings, and because he would rather be the master than the slave. If he must have a master, let him be one with epaulettes—something that he could fear and respect, something that he could look up to—but not a master with a quill behind his ear.

Mr. WEBSTER said this was a subject on which a great change of opinion had taken place on both sides of the House, and animadverted on what he called a compromise of principle on a great moneyed institution, and the desertion, not only of principles, but of friends, which had characterised the proceedings on this bill. He then spoke some time against the bill, which he pointedly condemned, on account of the participation of the Government in its direction and management. If, said he, instead of the little scraps of amendments, which were very well as far as they went, but very trifling, and only served to cover the vice and deformity of the scheme, the Senate had returned the bill healthy, in all the beauty of the original institution, it would have passed through the House swifter than the current of the Potomac.

Mr. HULBERT replied to Mr. WEBSTER, in defence of the bill, and of the course he had pursued in relation to it. He disavowed any compromise of opinion, either in the principle or the details of the bill. He had sought the best lights to guide him in deciding on this bill. He had listened to the gentleman from New Hampshire, as one who would, if any could, point out its defects, and convince him of its danger; but the only objection he heard from that gentleman was the Government direction. That objection, Mr. H. said, was not with him a strong one; and he was free to say, that, if he had the

power of legislating at his will, he would hesitate before he gave any class of men the control of an institution of thirty-five millions of dollars, without reserving to the Government a strong check on them. Mr. H. protested, with warmth, against the proscription which had been denounced against those who did not, on this subject, go with the majority of that party in the House opposed to the Administration. He disclaimed any such influence over his public conduct; he came here to act according to his own sincere convictions, and should despise himself, if he could submit to act as this or that side of the House pointed its finger. Mr. H. concluded by declaring his support of the bank bill to be disinterested; he expected to hold not a cent's worth of its stock, as he was not able to do so, but the bank, he believed, would be a great benefit to the country.

Mr. WRIGHT said he was one of those who had aided in putting down the old bank, and was sure that, a thousand years after he was buried, his vote on that occasion would be a monumental proof of his worth, and his regard for the best interests of his country. He opposed it on the ground of inexpediency as well as unconstitutionality; but the supreme judicial tribunal had decided on its constitutionality, by often recognising it as a party, and it was now too late to insist on the objection. Mr. W. argued some time in favor of the bill; and, advertng to Mr. RANDOLPH's epithet that the bank was a scheme of public robbery, and his declared intention to hold as much of its stock as he could, Mr. W. said his friend from Virginia ought to recollect that the receiver was always considered as bad as the thief, &c.

Mr. HARDIN next delivered, at length, his views of the question, objecting to the plan of a bank, as embraced in this bill, on constitutional grounds, as well as from a belief of its inexpediency. He was a member of the Kentucky Legislature at the time, and was one of those who had instructed its Senators to vote against the old bank because of its unconstitutionality; and his opinions remained unchanged, though he perceived some of those who had acted with him in the case alluded to, had changed their opinions, and were now supporters of the bank, &c.

Mr. SHARP spoke in reply to the remarks of Mr. HARDIN, respecting the instructions from the Kentucky Legislature, and justified his opinions on the subject of the bank.

Mr. SOUTHARD made a few remarks, principally to show that it was not on the ground of unconstitutionality that Congress had refused to renew the charter of the old bank, and that it had been recognised by the courts, &c.

Mr. GROSVENOR replied to the observations of Mr. WEBSTER, in a decided manner. He denied the right of that gentleman to lecture other members of the House for the course which their duty prescribed to them. As to the changes of principle, of which the gentleman had spoken, Mr. G. said he did not mean to inquire whether the gentlemen on the other side of the House had acted consistently, but this he knew, that last year the gentleman had been proud to shake hands with them in relation to a bank, &c. The gentleman had spoken of another change of principle, alluding to gentlemen from this side of the House who voted for the present bill. In reply to this remark, Mr. G. said, in the first place, he had something of that old puritanical principle in him, which objected to being drilled in to vote in this or that manner, on whatever any gentleman chose to call a question of principle. Why did the gentleman call the power of appointment of five directors, given to the Government, a question of principle? The question is, whether one-fifth of the direction gives the Government a control over the bank? I say no, said Mr. G.; the gentleman says yes, and, saying so, this must be a question of principle. That, Mr. G. said, appeared to be the course of the gentleman's argument, the force of which he denied. He showed, that, in the State banks in New York, (not undertaking to say how it might be in New Hampshire) such features had

been incorporated, even whilst Gen. Hamilton was in the full vigor of his life and influence, and it was done by his party too, &c. The gentleman has said this control would be a lever in the hands of the Government. It was a straw, Mr. G. said, instead of a lever, and could not move an eagle, much less five and thirty millions of dollars. When, even on this side of the House, did this feature become a question of principle? Mr. G. went on to show that he had objected to the feature in question, and endeavored to procure it to be expunged; but he never considered it, nor had it been debated, but as a question of detail. All legislation, he proceeded to argue, was founded in the idea of mutual compromise as to modifications of details; and this clause, now so much objected to, could produce no possible injury to the People or to the Government. When and where did this clause grow into a principle? He could tell, he said, the way it travelled, and where it became a principle—not in the open face of day—he would not, however, here relate its history. It had not been a principle with him, and never should be. Mr. G. went on to say that he had never heard a wish expressed from any side of the House, that the Government should have an absolute control over the operations of the bank, &c. When the discussion on this bill had been first opened, Mr. G. said, he had heard an able and eloquent speech of the gentleman from New Hampshire on the subject; and that very speech, in which the evils of the present system were fully depicted, had convinced him of the expediency of the establishment of this bank, as better calculated than any thing else to remedy the evil. The gentleman had concluded that address with saying, that, if Congress rose without providing a proper remedy, they would deserve the execration of the nation. Mr. G. said he believed it, and believing, as he had fully delivered his opinion the other day, that there was no remedy but the bill on the table, he should certainly vote for it. Mr. G. made other remarks to show the correctness of this conclusion, and ended by saying that, in the course he was obliged to take, nothing grieved him so much as the necessity of differing, on an important question, from men whom he had been in the habit of respecting as oracles, and with whom it was generally his pride and pleasure to act, &c.

Mr. WEBSTER, in replying to Mr. GROSVENOR, disclaimed any intention to dictate, &c. In regard to the feature of the bill, which was the subject of discussion, Mr. W. said he considered it a matter of principle; but attributed that opinion to the gentleman from New York no further than he had assumed the charge of a departure from principle to apply to himself. What is the matter of principle in this case? That control and influence over a great banking institution should not be possessed by the Government. The degree of that influence was not material, the principle remaining the same, be the influence more or less extensive. That principle was violated by this bill, which, he went on to say, could not be fairly compared with similar features in small banks in the State Governments. But, he added, every bank so constructed in the United States had failed to answer the purposes for which it was instituted, and was, at this moment, in the daily, habitual violation of its engagements. Could it be doubted, Mr. W. said, that, with this capital and this power over it, the Government could bring any man into terms, and make the banks act as they pleased? Gentlemen had done him honor in quoting his opinions in support of part of the bill; but he asked if it was fair to quote a part of his opinions as authority, and abuse him for the rest? Mr. W. expressed the pleasure he had enjoyed in travelling with his friends here. If, in journeying with a friend, on a road pleasant and smooth, through verdant fields, they should arrive at a part rough and disagreeable; if they should encounter gloom, and darkness should overtake them; if then his friend chose to abandon him, and seek a road more agreeable, let him not, said he, complain if I continue on the old one. To complain of him, Mr. W. said, the gentleman might as well complain of the fifty-nine others with whom he acted. The gentleman reminded him of the anecdote of the eleven obstinate jurors, and related a case in which one juror informed the judge that there would be no difficulty in making up a verdict if it were not for the other eleven, who

were the most obstinate fellows he ever met with, and that he himself was the only candid and liberal man of the whole twelve. Mr. W. said he had shaken hands with the gentlemen last session on this subject; if they had changed their opinions, they had not made the *world the wiser* for them. Mr. W. said, though young, he found that he possessed antiquated notions; and that, to be useful, he ought to have been with generations that had gone by.

Mr. HUBERT said, until the gentleman could show himself divested of the frailties of human nature, he ought not to complain that part only of his opinions were quoted. Mr. H. reminded the gentleman of an authority with which he, doubtless, was well acquainted—the learned Coke—having finished his great and elaborate commentary on law, a work which would be the admiration of all ages, concludes it by advising his reader not to believe that all which he finds in that book to be law, for there was much of it which was not law. Mr. H. said, if he had had any doubts on this bill, his friend from New York, (Mr. GROSVENOR) had made a speech which perfectly satisfied him of the excellence of the bank. The gentleman from New Hampshire, (Mr. WEBSTER) had at first made the amount of capital an all-important, a fatal error; soon afterwards he came into the House and declared that the *Government* of the bank was a *sine qua non*, and for that would compromise his other objections. [Mr. WEBSTER here denied that he had said so.] I do not, said Mr. H. pretend to repeat the gentleman's words, but I appeal to this honorable House if the gentleman did not say that the government of the bank was a *sine qua non* with him, and if that was given up he would support the bill. I do not censure that declaration, said Mr. H. The great charter, under which we sit here, is the work of compromise—the South suffered itself to be taxed by the North, for its slave population—the spirit of compromise and concession pervades the whole instrument. What the gentleman meant by green fields, smooth roads, separation, &c. Mr. H. said he could not tell; but if he meant to attribute to him any improper influence, he disdained the insinuation; while he lived, he would act on solid and independent principles. He came here first in a time of war, and, being a young member, expected to find the party, to which he was proud to belong, as the saying was, sticking together; but he was surprised to find that gentleman often voting on this side and the other. Mr. H. said he would not part with his friends unless they thrust him off; but he would prefer parting with friends to parting with his conscience.

Mr. M'KEE spoke in support of the bill, and asked the gentleman from New Hampshire, notwithstanding he would to-morrow oppose the suspension of the writ of habeas corpus, or any other unconstitutional measure, yet, if a case might not arise, in which its suspension would be proper, and he consent to it? Mr. M'K. argued that there now existed a similar necessity for this bank. The constitution had made it the duty of Congress to regulate the national currency and remedy evils therein; and the proper inquiry now was, whether this bank was a proper measure to carry the constitutional power into effect in this emergency; for this inquiry there was the most rational ground. No treasury regulation would remedy the evil; the banks would laugh at any such regulation. Mr. M'K. said he had voted for the old bank; that he had survived the storm in which his vote had involved him; experience had justified his conduct; and he hoped still to survive, should another storm succeed his present course.

Mr. SHEFFEY said he was not scrupulous as to the power of the Government to establish this bank; but he did not admit that what was unconstitutional to-day would not be so to-morrow; that instrument was fixed and eternal, and could not be got over. The suspension of the writ of habeas corpus was dependent on a fact, which, if it occurred, the suspension would be proper; but if not, it was unauthorized. Mr. S. said he had voted for renewing the old bank because he thought it was necessary; and if he could be

convinced that this bank would realize the expectation of its friends, he would give up his objections. But, without any disparagement to its friends, and notwithstanding the great talents of the gentleman, (Mr. CALHOUN) who led the business, Mr. S. said the question had not been properly met and discussed. When they came to show how the promised remedy was to be produced, they dealt in generals; they did not demonstrate their assertions; it was here they failed and would fail. Mr. S. then argued at some length to show that the bank would not answer the purpose of correcting the evils in the currency, and that the expectation was visionary and delusive.

The motion to postpone indefinitely was finally decided in the negative, as follows:

Those who voted in the affirmative, are,

Messrs. Baker,	Messrs. Hammond,	Messrs. Pitkin,
Barbour,	Hanson,	Randolph,
Bassett,	Hardin,	Reed.
Bennett,	Heister,	Roane,
Birdsall,	Herbert,	Root,
Breckenridge,	Hopkinson,	Ross,
Burnside,	Johnson, of Va.	Ruggles,
Cady,	Johnson, of Ky.	Sergeant,
Caldwell,	Kent,	Savage,
Cilley,	Langdon,	Sheffey,
Clayton,	Law,	Smith, of Pa.
Clopton,	Lewis,	Stearns,
Cooper,	Lovett,	Strong
Crawford,	Lyle,	Stuart,
Culpeper,	Lyon,	Sturges,
Darlington,	Marsh,	Taggart,
Davenport,	Mayrant,	Vose,
Desha,	M'Lean, of Ky.	Wallace,
Glasgow,	Milnore,	Ward, of Mass,
Goldsborough,	Newton,	Webster,
Goodwyn,	Noyes,	Whiteside,
Hahn,	Pickering,	Wilcox.—67
Hale,		

Those who voted in the negative, are,

Messrs. Adgate,	Messrs. Edwards,	Messrs. M'Kee,
Alexander,	Forney,	Middleton,
Archer,	Forsyth,	Moore,
Atherton,	Gaston,	Moseley,
Baer,	Gholson,	Murfrey,
Bateman,	Gold,	Nelson, of Mass.
Betts,	Griffin,	Nelson, of Va.
Boss,	Grosvenor,	Ormsby,
Bradbury,	Hawes,	Parris,
Brooks,	Henderson,	Pickens,
Brown,	Huger,	Piper,
Bryan,	Hulbert,	Pleasants,
Calhoun,	Hungerford,	Powell,
Cannon,	Ingham,	Reynolds,
Champion,	Irwin, of Pa.	Robertson,
Chappell,	Jackson,	Schenck,
Chipman,	Jewett,	Sharp,
Clark, of N. C.	Kerr, of Va.	Smith, of Md.
Clendenin,	King, of N. C.	Smith, of Vir.
Comstock,	Love,	Southard,
Condict,	Lowndes,	Tate,
Conner,	Lumpkin,	Taul,
Creighton,	Maclay,	Taylor, S. C.
Crocheron,	Mason,	Telfair,
Cuthbert,	M'Coy,	Thomas,

Messrs. Throop,  
Townsend,  
Tucker,  
Ward, of N. Y.  
Ward, of N. J.  
Wendover,

Messrs. Wheaton,  
Wilde,  
Wilkin,  
Willoughby,  
Thos. Wilson,

Messrs. Wm. Wilson,  
Woodward,  
Wright,  
Yancey,  
Yates—91.

The amendments of the Senate were then, after some ineffectual attempts to amend them, severally concurred in.

The bill was approved by the President, JAMES MADISON, on the 10th of April, 1816, and constitutes the present charter of the Bank of the United States.



## CHAPTER VI.

### PROCEEDINGS AFTER THE BANK WENT INTO OPERATION.

15TH CONGRESS, }  
2d Session. } HOUSE OF REPRESENTATIVES.

#### *Mr. Spencer's Resolution and Report.*

NOVEMBER 25, 1818.

MR. SPENCER, of N. Y., offered the following resolution:

“*Resolved*, That a committee be appointed to inspect the books and examine into the proceedings of the Bank of the United States, and to report whether the provisions of its charter have been violated or not; and, particularly, to report whether the instalments of the capital stock of the said bank have been paid in gold and silver coin, or in the funded debt of the United States; or whether they were, in any instance, and to what amount, paid by the proceeds of the notes of stockholders, discounted for that purpose; and also, to report the names of those persons who now own, or who have owned, any part of the capital stock of the said bank, and the amount of discounts, if any, to such persons, respectively, and when made; and also to report whether the said bank, or any of its offices of discount and deposite, have refused to pay the notes of the bank in specie, on demand, and have refused to receive in payment of debts due to them or either of them, the notes of the bank, and whether the bank or any of its offices of discount, or any of their officers or agents, have sold drafts upon other offices, or upon the bank, at an advance, and have received a premium for such drafts; also, the amount of the notes issued, payable at Philadelphia, and at each office of discount, respectively, and the amount of capital assigned to each office, together with the amount of the public deposites made at the bank and at each office, and an account of the transfers thereof; and the total amount of bills and notes discounted by the bank and its several offices since its organization. That the said committee have leave to meet in the city of Philadelphia, and to remain there as long as may be necessary; that they shall have power to send for persons and papers, and to employ the requisite clerks; the expense of which shall be audited and allowed by the Committee of Accounts, and paid out of the contingent fund of this House.”

On the 30th of November, the resolution was agreed to by the House, and a committee appointed, consisting of Mr. Spencer, Mr. Lowndes, Mr. McLane, Mr. Bryan, and Mr. Tyler. Mr. Bryan was, at his request, afterwards excused, and Mr. Burwell substituted in his place. The result of the investigations of this committee appears in the following report, made to the House by Mr. SPENCER, on the 16th January, 1819:

The committee appointed to inspect the books, and to examine into the proceedings of the Bank of the United States, with directions to report thereon, and to report whether the provisions of its charter have been violated or not, respectfully report:

That, under the leave granted by this House, the committee repaired to Philadelphia, and there personally inspected the books of the bank; and as a further means of examining its proceedings, they interrogated, on oath, the president, the cashier, all the directors of the bank, whose attendance could be obtained, and several of its clerks and officers. Examinations also have been

made at the offices at Baltimore, at Richmond, and at the City of Washington, in order to obtain specific information upon certain subjects on which the books of the parent bank were necessarily deficient. From these inquiries, conducted with great labor, and, the committee trust, with great care, they have collected a mass of information which they now submit to the House, and which will be referred to in the course of this report. This information consists of tables, statements, and extracts, made by the committee from the books of the bank, or by them compared with those books and verified; and of the testimony of witnesses, and of letters from the president of the institution.

The committee are aware that, from these sources of information, various important inferences may be drawn, and upon them the most interesting opinions may be predicated. It has been their intention, however, to go no farther than was required by the resolution of the House, to avoid speculative opinions upon general subjects, and to confine themselves to what they deemed practical objects of inquiry, which they settled among themselves, previous to entering upon the investigation.

These objects seemed to divide themselves into two classes; those which related to the general management of the bank and the conduct of its officers; and those which were connected with the question of a violation of its charter.

As to the general management of the concerns of the institution, among the points of inquiry which appeared to be most immediately interesting, were those which related to the refusal of the bank and its offices to pay its notes in specie, at any other place than that where they were made payable, and to the practice of selling drafts on each other.

It appears that the directors of the bank, on its first institution, and up to the 28th of August, 1818, strenuously endeavored to redeem its notes at all its offices, indiscriminately, north of the city of Charleston. On the 7th day of January, 1817, it commenced operations by discounting notes on pledged stock, and to stockholders only, and by the issue of its bills. The officer then at the head of the Treasury Department, had repeatedly urged the commencement of operations, with the laudable view, as it appears, of hastening the redemption by the State banks, of their notes in specie. *Vide* letters from the Secretary of the Treasury to the president of the Bank of the United States, of the 15th August and 29th November, 1816, marked 1, 2. Efforts on the part of the treasury to induce the local banks to that measure, appear to have been abortive, until the Bank of the United States made certain propositions, which induced negotiations between it and the State institutions, which finally resulted in a compact contained in the resolutions of the board of directors, of the 31st January, 1817, herewith submitted, and marked 3. And in order to exhibit how far the bank complied with the compact, a statement of the loans made, and of notes issued, up to the 20th February, 1817, is submitted, marked 4.

It can be necessary only to refer to the state of the paper currency of the country at this period. The notes of the State banks were variously depreciated; some as much as twenty per cent., while others were at a premium. The excessive issue of paper by the local banks, had caused an unnatural and artificial depreciation of such paper, which required only time, and moderate, but steady reductions, to restore, not to an uniform *par*, but to its true value. Under these circumstances, the Bank of the United States had, on the last of February, 1817, (*vide* statement marked 5) \$8,818,000 due to it from the State banks at Philadelphia, New York, and Baltimore. With such a credit, constantly accumulating by the transfer of the treasury funds, and by the payment of its second instalment in the notes of the State banks, it was in the power of the Bank of the United States to have coerced the local institutions into a moderate and reasonable reduction of their circulating notes. An attempt to do so was made by the compact, 3, and, although the Bank of the United States appears to have been anxious to effect the object, it did not persevere in this design. By its subsequent acts, it im providently afforded a temptation, to the Western banks particularly, to extend their circulation of notes, by insisting on its branches paying out their own notes in preference to

those of the State banks, and on their delivering drafts on the eastern cities, whenever it could be done, to prevent the remittance of their own notes. The branch notes and the drafts issued in consequence of these instructions, were swept away by the facility of remittance thus unwarily given, as well as by the ordinary balance of trade. A vacuum in the circulation was thus produced, which could be supplied only by the local notes, which were readily received by the offices of the Bank of the United States, and were retained by them as a fund upon which interest was charged to the State banks. The letter of the president, marked 6, exhibits the course pursued by the bank in this respect.

The Bank of the United States received from the treasury the notes of the local institutions, in many cases, as special deposits, to be paid out in similar bills. From April, 1817, to this time, the amount so received, appears from statement 7, to be \$2,752,750, of which 87,341 continues on hand, leaving \$2,665,409 as the amount voluntarily assumed by the Bank of the United States. The committee have not found any evidence of the bank having attempted to oppress the State banks, either by wanton demands of specie, or by the rejection of their notes. Much complaint has, indeed, existed, but in the instances which have come to the knowledge of the committee, the State banks have been in the wrong, and some of them at the westward have refused the most equitable propositions of the bank, and have met its demands for its just dues, with complaints and reproaches. It was not intended to trouble the House with any of the various letters which have passed on that subject, but as the president of the bank transmitted a letter from the office at Charleston, exhibiting the conduct of the local banks at that place, it is presented to the House, marked 8.

The committee are of opinion that, instead of conducting with the alleged rigor towards the State banks, the Bank of the United States is liable to the more serious charge of having increased the amount of notes in circulation, by its acceptance of them in those places where it was known they would not be redeemed in specie, and by making them, in the manner beforementioned, the only circulating medium in that part of the country. Its forbearance to the State banks is vindicated on the ground of its being the only means to induce their resumption of specie payments. This effect, if really owing to that cause, has been proved to have been but temporary, and experience has shown that, at the same time, or soon after the refusal of the Bank of the United States to receive the notes of its offices, many of the State banks began to suspend and evade their specie payments.

So long as the notes of each office were payable at all the others, and the office issuing them was not exclusively liable for their redemption, the discounts at those places, against which there was a balance of trade, became larger in proportion to their indemnity against demands. As the notes of the offices were rapidly carried off, the payment of these discounts was necessarily made in the notes of the local institutions. And thus it was one inevitable effect of the old system, to increase the debts of the State banks to the offices of the Bank of the United States, at these places. The demands of the bank were suffered to accumulate improperly, instead of being gradually reduced, as specie was required at other offices, and in small quantities, that would not have been felt. Their reduction was not insisted upon sufficiently early; and, when the bank began to call for specie, its demands were so considerable as not only to expose the local banks, but the citizens in their vicinity, generally, to very severe pressure.

By substituting the credit of individuals for the payment of the second instalment, which will be presently stated, instead of coin or the notes of State banks, the Bank of the United States, in a great measure, deprived itself of the early and prompt check which the possession of those notes would have afforded, to the more extensive increase of local paper. In July, 1817, the debts due from the State banks are reduced to \$3,972,000, while the notes of the Bank of the United States, in circulation, amounted to \$4,754,000, by which it might have been subjected to embarrassments arising from the calls

of the local institutions. The committee think it evident, from this result, that the bank did not exercise, with sufficient energy, the power which it possessed and might have retained, but rather afforded inducements to the State banks to extend the amount of their circulating notes, and thus increased one of the evils it was intended to correct.

In answer to an inquiry, addressed by the committee, on this subject, to the president of the bank, they were furnished with his views, and a letter from the office at Boston, marked 9, and were referred to a report of the committee of directors, on the 28th August, 1818, marked 10. These documents exhibit the reasons of the bank for adopting the resolution of that date, by which the notes of the offices were refused acceptance. In the letter of the Boston office, much stress is placed upon the large accumulation of paper, and of drafts at Boston, issued by the southern and western offices, and this became an important object of inquiry. The books of the parent bank do not furnish information respecting the drafts made by and upon the offices, excepting those which were made on it. And the committee have not ascertained their amount except at the offices in Baltimore and this city. From the local situation of Baltimore, the statements obtained at that office, marked 11, 12, may be considered as furnishing sufficient proof of the correctness of the opinion expressed by the Boston office. To the office at Boston, its debt fluctuated between 34,000 and 215,000 dollars, until May last, since which it has been indebted to Baltimore from 500 to 57,000 dollars. Its debt to the office at New York has varied from 100,000 to 1,947,000 dollars, and, until October last, it has generally owed that office more than 1,500,000 dollars. At that time the New York office was brought in debt to Baltimore 97,278 dollars; its debt in November last was 10,948 dollars. The explanation of these extraordinary reductions of the Baltimore debts is given from the circumstances of treasury drafts on the *North* being delivered directly to the Baltimore office, or sent to it through the office at this city; and, by a check on New York for more than a million, given by the parent bank in payment of foreign bills of exchange, hereinafter mentioned. The Baltimore debt to the parent bank has varied from 1,500,000 to 9,000,000 of dollars, and has generally exceeded 6,000,000. Notwithstanding these heavy debts to New York, Boston, and Philadelphia, the drafts of the Baltimore office on those places continued uninterrupted and excessive in amount. That office was originally supplied with notes to the amount of 872,000 dollars, and had returned to it from Philadelphia 1,697,000 dollars in its notes, and yet it is stated by the teller, that it never had a sufficient quantity of notes to meet its demands; that they did not remain twenty-four hours in the office, but were constantly remitted to the *North*, with the drafts which it issued. And there can be no doubt, on a comparison of the statements referred to, connected with these facts, that the drafts from Baltimore, given for the proceeds of notes discounted, were unwarrantably large, and much more than the balance of trade required. In a letter of the president, dated June 27, 1817, to that office, he observes, "the directors, considering (among other things mentioned) the low state of the specie and individual deposits at your office, and the magnitude of your discounts, and those at this bank, as well for Baltimore as this place, and the very inadequate and disproportioned amount of discounts to which the office at New York has been restricted, in consequence of the daily and excessive drafts from your office and this bank, which has become the subject of just animadversion," direct that the then amount of discounts should not be exceeded. The same language is held in other letters, 12, 14. But it terminated in unavailing remonstrances; the Baltimore office continued its drafts and its discounts, and drained the specie from the Northern offices. And such was the want of firmness, or of foresight, in the parent board, that, after finding its repeated remonstrances disregarded, it never removed one of the offending directors, and took no effectual step to control them, until the adoption of the general resolutions of August 28, 1818, forbidding the offices to draw on each other.

The effect of these excessive drafts on the northern offices was, to compel the constant remittance of specie there; to cripple them in all their operations;

to limit their discounts to a trifling amount; to cause the revenue paid there, and which would itself have been a capital for business, to be drawn southward; thus compelling them to deny to the debtors of the Government any indulgence or accommodation in their payments; to bring those offices into debt with the State banks; to produce a general depression of credit, and a severe pressure for money. Those places were, in fact, made tributary to Baltimore, and all their means and energies were required to supply its extravagant issues.

A sudden reduction of the Baltimore debt to the northern offices, appears to have taken place in March and April last, and, within a few months past, those offices have been brought in debt to it. This is accounted for by the cashier of that office, by saying, that it arose principally from treasury drafts, and by the sales of foreign bills of exchange. Drafts were given by the treasury, in some instances, and to considerable amounts, directly to Baltimore, on the northern offices, and, in other instances, such drafts went through the office in this city. It is not to be presumed that those drafts were given by the treasury with a knowledge of all the circumstances, or with a view to draw the revenue collected at the north to Baltimore, merely to aid that office in paying its debts. Yet such was the effect; and, although it enabled Baltimore to continue its large discounts, it impoverished the northern offices, and the cities where they were established were made to feel the pressure. The Baltimore debt to the parent bank will be found to have regularly increased with the reduction of its debts to the other offices, until it remitted 1,007,000 dollars in bills of exchange on London, which remittance is connected, by the testimony of J. W. McCulloch, Esq. with the negotiation explained in the letter of the President, 15. The loan which resulted from that negotiation was on a pledge of stock, that had been pledged at Baltimore. The bank assumed it, and received the bills of exchange, and paid for them by giving a check on the New York office for the amount, at the time the Baltimore office was indebted to the parent bank more than six millions of dollars.

It might have been supposed, that the pressure of the Baltimore office upon those more north, was owing to its being pressed by the southern and western offices. The fact will, however, appear from the table 11, that, until September last, it was indebted to the office at Lexington; that the debts of Cincinnati, Chillicothe, and Louisville to it, were small in amount, and that the only office which has constantly owed it, is New Orleans, and that not to a large amount until lately.

From these facts it would seem to result, that the embarrassments of the Bank of the United States, in receiving the notes of all its offices, did not arise so much from the fair and ordinary balance of trade which might have been calculated and provided for, as from the excessive discounts granted at some of the offices, particularly Baltimore and Philadelphia, and the drafts consequent upon those discounts which were made upon the other offices. From the correspondence of the bank with its offices, it is obvious that this was the opinion of the directors and the officers; it is distinctly assigned as one of the grounds for refusing the notes of the offices, in the report of the committee, 10; and it is more strongly urged in the letter of the Boston office, submitted and adopted by the president, 9, and is eloquently enforced in several of his letters.

This committee is not prepared to say that an uniformly equal currency could have been maintained by the bank, under the most auspicious circumstances; they are inclined to the opinion, that such an attempt would be hopeless. But they consider its abandonment at the time, as having been produced by the causes before stated. The efforts of the bank to meet the payment of its notes at all its offices, north of Charleston, were certainly great, and particularly at New York and Boston, as will appear from the resolutions marked 16, and the account of specie remitted, 17. The relinquishment of the attempt was involuntary and reluctant.

From the testimony of the cashier and tellers of the bank, of the teller of the Bank of North America, and of the cashier and teller of the office at Bal-

more, it will appear very satisfactorily, that the conduct of the bank and that office, in adopting the new system of refusing the notes of the branches, was perfectly fair and equitable. That the bank and the Baltimore office, promptly paid and received all the notes of the other offices which they had paid out previous to the change of system, whenever application was made for the purpose; and that, in no instance, have they refused to do so. Injury probably was suffered by those who had received the depreciated notes in the usual course of business, but the committee cannot perceive how the bank could have changed its system in any manner less injurious to itself, and less inconvenient to the public, than that which was adopted.

From this change of system, which placed the notes of the offices on the same footing with those of the local banks in their vicinities, resulted a greater difference in the exchange between the different parts of the Union. The offices at New Orleans, Savannah, and Charleston, had never been included in the plan of equalizing the currency. They had always been left to their own discretion in receiving or refusing the notes of the other offices. In May, 1817, the offices at Charleston and Savannah were authorized to draw on those at the North, at a premium. In April, 1817, those at Lexington and Cincinnati were authorized to purchase bills on the Eastern and Northern cities. In December, 1817, the Southern offices were authorized to draw, at a premium, on those at the North. In October and November, 1817, the Western offices were authorized to draw, at a premium, on Philadelphia and the offices south of it. And it appears the offices at Lexington and Cincinnati were, before February, 1818, in the practice of drawing on the Eastern cities. These facts show, that the bank and most of its offices sold drafts upon each other, long before the adoption of the resolution of 28th August, 1818, refusing the notes of the offices, and establish that, while the bank was attempting to equalize the currency by the payment of its notes at all its offices north of Charleston, it was, at the same time, selling drafts between those offices at a premium. A system of domestic exchange was adopted by the bank on the 18th July, 1817, marked 18. It contains some provisions which appear exceptionable, but as the plan never was acted upon, it is not deemed necessary to notice them.

It has been impracticable for the committee to ascertain the amount or the rates of drafts sold by, and upon, the offices. On examination of the books of the parent bank, it appears that drafts were sold by it on Charleston, New Orleans, and Savannah, within a few days of each other, at very different rates; on one day, at one per cent., and on another day, at five per cent., on the same office. It would be in vain to account for these fluctuations.

However dangerous to the community may be the power of selling drafts in the hands of an institution whose resources may be adequate to the control of domestic exchange, according to its interests or its caprices, yet the committee cannot entertain a doubt that the bank possesses the power. Excepting the fluctuations before noticed, the rate of premium has not hitherto been extortionate in any instance which has come to the knowledge of the committee. The proceedings of the bank and its officers, and the reasons and views entertained by them, are exhibited in the report, 18, in the letter of the president, 19, and in extracts from his correspondence, 20.

Various opinions are entertained on the expediency of the bank's selling its drafts. While many suppose that it would consult its own dignity and interest, in refraining from the practice, and would receive an equivalent for the loss of premium, in the confidence and support of the commercial community, by delivering its drafts gratuitously, when it was convenient to draw at all; others contend that the system of gratuitous drafts would open an avenue to favoritism, and, at all events, would expose the bank to the charge in a greater degree than if it sold its drafts. Without expressing any opinion on these subjects, upon which the commercial community is much divided, and to which the attention of the committee has not been particularly directed, they content themselves with observing that, if drafts are sold, they



ought to be at fixed, known, and permanent prices, not exceeding the expense of transportation of specie or the fair *agio* of business. The want of these fixed prices, in the bank and its officers, appears, to your committee, censurable.

Connected with the subject of exchange, is that of dealing in the notes of the State banks. In a letter of the president to the Charleston office, which received the sanction of the board of directors, marked 21, an opinion in favor of the legality and propriety of such purchases, is expressed. No evidence, however, has been obtained, that they have actually been made. The practice, in the opinion of the committee, would be highly improper and dangerous, and contrary to the spirit, if not the words, of the ninth fundamental article.

Among the resolutions of the directors, are two on the subject of discounts on a pledge of stock, marked 22, 23, passed the 18th and 27th December, 1816. These resolutions obviously contemplate only discounts to stockholders, and one avowed object was to facilitate the payment of the specie part of the second instalment, which was ten dollars on a share, and to be paid by the 23d January, 1817. The loans were to be confined to the proportion of the coin part of the second instalment, on the shares which had been subscribed at the places where offices were then in operation, New York, Boston, and Baltimore. The total amount of these loans, to pay the specie part of the second instalment on the 20th of February, 1817, at Philadelphia, was one hundred and ninety-nine thousand nine hundred and twenty-one dollars and thirty-seven cents, and at Baltimore, at that date, was one hundred and thirty-eight thousand three hundred and twenty dollars.

The committee have not obtained information of the amounts at New York and Boston, but they are informed by the officers of the bank, that the discounts at those places were to a very trifling amount, if any. The committee can see no reason to justify these premature efforts to aid the payment of the second instalment before it fell due, and before the experiment was made to ascertain how much could be paid in specie. Those efforts do not appear to have been very successful, for eight hundred and thirty-nine thousand eighty-five dollars, only, were paid during the month of January, 1817, while one million seventy-eight thousand three hundred and nineteen dollars were paid after that period, the greatest proportion in May and June, as will appear from an abstract prepared by the committee, and now submitted, marked 24. The amount paid by checks also appears, from that abstract, the most, if not the whole of which, were to draw the proceeds of notes discounted for the purpose. And it appears, in many instances, particularly in one related in Mr. M'Euens' testimony, hereinafter referred to, and in another referred to in the President's letter of May 27th, 1817, marked 25, that the directors did not confine themselves to the amount prescribed in the resolution of the 27th December, that is, to the proportion of the coin part of the second instalment, but discounted to the full par value of the stock which was paid for by the proceeds of the same discounts, and the discount, the payment of the second instalment, the payment of the price to the owner, the transfer, and the pledge of the stock, were, as it is termed, simultaneous acts. All the discounts on stock, after the 20th February, 1817, were made at the par value of the shares, which enabled the discounter not only to pay the whole of his instalments, including the specie part and the funded debt part, but also to draw out of the bank the amount which might have been paid in on his shares. It is alleged, in justification of these discounts, that specie bore a very high premium, and that the bank could not have commenced business, unless that the mode of obtaining the specie payment had been adopted. With respect to the price of specie, it appears to have been, at Philadelphia, six per cent. on the 6th January, 1817, and about the same price in Baltimore, and that it had been much higher. Admitting, however, that the price would have been much enhanced in consequence of its being understood that the coin payment on the second instalment would be rigidly exacted, yet the committee cannot perceive the justice of enabling some of the stockholders to evade that payment, and the consequent loss of the premium on specie,

while the majority had been compelled to incur the same loss, in order strictly to comply with the law and their engagements; particularly unjust was it to those who resided at such a distance from the bank that they could not avail themselves of the privilege granted. And the injustice appears the greater when it is known, that the expense of the specie afterwards imported by the bank, in order to supply the deficiency produced by the evasion it had authorized, was assessed equally upon those stockholders who had neglected to pay, upon those who had already, at a considerable loss, furnished their quota of coin, and upon the Government. Seven millions was the whole sum required to be paid in coin; the specie part of the first instalment, amounting to one million four hundred thousand dollars, was paid; of the two millions eight hundred thousand dollars which was to have been paid at the second instalment, it is impossible to say what amount was actually paid in coin. The statement before referred to, marked 24, will show the payment in coin at Philadelphia, and abstract, marked 26, will exhibit the nominal payments on all the instalments, of which thirteen millions eight hundred and seventy-two thousand six hundred and ten dollars was paid by the stockholders in funded debt, (exclusive of the seven millions subscribed by the Government) instead of twenty-one millions which were required by the law; and fourteen millions one hundred thousand one hundred and sixty-seven dollars was paid, as stated in the abstract, in coin. But, in that abstract, a check on the bank, or on other banks supposed to pay specie, is deemed a payment in coin. And, as the payments on the second instalment continued to be made and received for six months and more after it was due, and as, during that time, large discounts on stock were constantly made, it is obvious that the abstract cannot be relied on as exhibiting the actual amount paid in specie; nor, on the other hand, could the whole amount of the discounts on stock be considered as having been applied to the payment of the second instalment. By statement marked B, referred to in the cashier's answer, and by this committee marked 27, it appears that the discounts, on the 30th July, 1817, on pledged stock, amounted to eight millions forty-six thousand nine hundred and thirty-two dollars; of this amount, a part was applied to the payment of the third instalment, and a part was drawn out of the bank by the discounters. A large portion of it, is believed, however, to have been used to pay the second instalment.

Of the \$2,800,000 which was to have been paid at the third instalment, it is believed that a very trifling amount was paid in coin, and as little of the funded debt; but that nearly the whole of both were paid by the proceeds of notes discounted on the pledge of stock.

The total amount of specie imported from Europe by the bank, since its institution to this time, appears, by statement marked 28, to be \$7,311,750 53; the expense of which, including interest, premium, and \$20,000 paid to the agent for going to London, amounts to \$525,297 38. The contract made for a part of that specie, and the authority to Mr. Sergeant, the agent, are submitted, marked 29, 30. To the reason urged by the officers of the bank, that such was the scarcity of specie that it could not have been obtained, and that, without facilitating the payments, by making discounts, the bank could not have gone into operation, the committee observe that they are at a loss to perceive how the simple act of discounting could make the specie more plenty; that, if it was not actually in the bank at the time of making these discounts, the checks of the discounters could not be considered as equivalent to specie.

The amount of specie in the Bank of the United States, in February, 1817, was \$1,724,109; \$324,000 more than the coin part of the first instalment, and which may fairly be presumed to have been received for the second instalment. If, then, the checks of stockholders, founded upon discounts, were equivalent to specie, they were by them authorized to draw out of the bank the very coin which had been paid in by other stockholders, in order to pay it into the bank again, for their own benefit, and to complete the payment of the specie part of the second instalment—an operation of more potency in creating specie, than was ever ascribed to the fabled finger of Midas. The general state-

ment, in February, 1817, shows that the total amount of bills discounted, was \$2,930,067, making an excess of \$1,205,958 of discounts over the specie in the bank; from which it would result, that the checks for the proceeds of those discounts were not in all cases equivalent to specie.

As to the difficulty of the bank going into operation without those discounts being made to facilitate the payment of the second instalment, it is not perceived how that measure removed the difficulty: for it is obvious that it did not add a single cent to the specie in the vaults of the institution. What other difficulty than the want of specie, the bank had to encounter, is not known, as all other obstructions seem to have yielded almost without an effort. The effect of those discounts was very obviously to enable those who had made large purchases to retain their stock without paying for it, and to derive a benefit from its probable advancement in price. Had the bank rigidly required the payment of the instalments, the large stockholders must have sold that portion of their shares which their real means did not enable them to hold. Or, if the bank had not exacted the instalments, and had not afforded the means of substituting credit for payment, the stock would not have advanced materially in price, and the large holders of it would have had no inducement to retain it. In either event, a more equal diffusion of the shares would have been the consequence, and it would have reached the hands of solid capitalists, who would have held only what they could pay for. It is believed that the loss of the dividends, and the liability to pay interest on the instalments due, would have been sufficient to compel even the stockjobber to sell. Although, if those discounts had not been made, the immediate profits of the bank would not have been so large, yet it would not have had an unwieldy capital to manage; it could have proceeded gradually, growing with the growth, and strengthening with the strength of the nation, as it emerged from the evils of the flood of paper issued by the local institutions. The bank could have felt its way, and increased its means with the increasing demands of the country. Such a cautious proceeding would have enabled it to render invaluable service in checking the issue of State banks, and bringing them to the alternative of avowed bankruptcy, or to the permanent resumption of specie payments. The evil of the country was the immense amount of bank notes and credits; the Bank of the United States increased it by its credits to stockholders. That course did indeed enable the directors to declare a large dividend; but that the apparent prosperity was temporary and fallacious, is demonstrated by the recent dividend of two and a half per cent.

It might have been supposed, as it has been urged, that the discounting on stock was the only means, in the power of the bank, to enforce the payment of the second instalment. It is believed that the engagement on the part of the stockholders could have been enforced without difficulty by the courts of law. Decisions to that effect have been made in the courts of the States of Pennsylvania, Massachusetts, and New York; and when the stockholder's note was taken without an endorser, or any other collateral security, but the pledge of the stock, it is not perceived how his legal liability was increased. In the sale of the stock pledged, there was indeed a prospect of indemnity, which depended, however, wholly on the price of shares in the market. The same circumstances that prevented the actual payment of the instalment would have interposed, it is presumed, to obstruct the liquidation of the note given in lieu of it; and in the emergency which would have compelled the bank to reduce its discounts, it would most require a good price for the stock; and the very necessity of the times which would force an unusual quantity of it into the market, would probably defeat the object of security. In fact, a large part of the amount thus discounted, was not paid at the maturity of the note, vide statement 27, but was renewed. Of the still larger proportion which appears from that statement to have been paid, it is wholly impossible to determine what part was converted into notes on personal security, or what part assumed the new shape which was given to notes discounted on pledged stock, after the 20th February, 1817. It ought to be remarked, that many persons, after finding the disposition of the board, obtained discounts, who

were perfectly prepared to pay, and would have paid their instalments, if the inducements to credit had not been offered them.

Had the bank resorted to its remedy, through the courts, to obtain the payment of the second instalment, it would probably have obtained something from the stockholder; it could have lost nothing, and at all events, it would have saved the dividends upon the delinquent stock. But, by taking the note of the owner, it admitted that the instalment was paid, and abandoned the means of coercion given by the charter, in withholding the dividends, and obtained nothing; it did not increase the responsibility of the stockholders, while it exposed the bank to the certain loss of the dividends, and to the chance of loss, if the stock should be forced into the market in large quantities.

The committee are of opinion that the resolutions, and the practice of discounting before mentioned, were incorrect. That they were particularly objectionable, from their partial operation in affording facilities to some stockholders, which could not be enjoyed by those residing at a distance; even at Richmond, the stockholders made their payments, for the second dividend, in funded debt, and in coin which probably was purchased at a premium. The committee find it difficult to reconcile these resolutions with the views proposed in their adoption, and are satisfied that they were connected intimately with the measures calculated to affect the price of stock, and particularly with discounts of a similar character, soon after made.

One of the acts, obviously intended to give the bank stock a high price in the European market, was the establishment of an agency there, to pay the dividends. On the 28th November, 1816, a resolution was passed, by the casting vote of the president, and against the report of a committee, who had been appointed to consider the subject, authorizing John Sergeant, Esq. to make arrangements in Europe for the payment of the bank dividends at the par of exchange, and at the risk and expense of the bank. Such an arrangement was made, by which it was stipulated to make the payment six months after the dividends were declared. The papers on this subject are marked 39, 40, 41. How far it was objectionable thus to afford inducements to foreigners to become interested in our stock, and, semi-annually, withdraw from the country the amount of the dividends, the committee do not undertake to decide, as they consider it one of those general and abstract subjects, to which the resolution of the House does not direct their attention. But, thus to compel American stockholders, and the Government, to contribute to the possible loss of paying the dividends to those abroad, appears to be unjust. The nearly equal division of the directors, on this important subject, and the able reasons assigned in the report of the committee against the measure, ought at least to have prevented the precipitate adoption of the resolution; and when the committee find among the eleven who voted in the affirmative, the names of some directors who have been constantly and largely engaged in the purchase and sale of stock, and that, of the ten who voted in the negative, not one has been ascertained to have dealt in those transactions, they are almost irresistibly impelled to the conclusion, that the measure was adopted more with a view to enhance the price of shares, than for the permanent benefit of the institution.

The practice of discounting on stock, to the full amount paid upon the shares, appears to have commenced early at the parent bank, under the fourth by-law, which is similar to the fifteenth regulation for the government of the offices, both of which were adopted at the commencement of the institution. They authorize discounts without an endorser, on the stock of the bank, on the funded debt of the United States, or such other property as shall be approved, when pledged to an amount sufficient to secure the payment of the note. By a statement referred to in the cashier's examination, 27, it appears that the total amount of discounts on pledged stock, up to the 30th July, 1817, was \$8,046,932 64, of which there had been paid, at that time, \$2,815,665 04. These loans, it is presumed, were made chiefly at Philadelphia, as the Baltimore loans on stock had not commenced to a large extent at that time. On the 25th of July, 1817, a resolution, marked 31, was adopted, authorizing the

offices to discount notes secured by a pledge of bank stock or funded debt, with a recital that it might be desirable to many persons to obtain *temporary* loans on such pledges, and a form of the pledge was directed to be transmitted; it is marked 32. These notes had no endorser, and the discount was, in fact, made upon the credit of the stock: for, by a resolution of the 30th of September, 1817, marked 33, the President and cashier were authorized, in all cases, to renew those notes when they fell due between discount days; and by the resolution of November 6th, 1818, marked 34, the President and cashier were authorized, in all cases when required by the party, to substitute the note and hypothecation of the person to whom stock might be transferred, and on which loans at par had been made.

By the resolution of 26th August, 1817, marked 35, discounts to stockholders were authorized at one hundred and twenty-five dollars per share, upon presenting collateral security for the twenty-five dollars. The provision requiring an endorser or collateral security for the excess above the par value, was, in many instances, and to very considerable amounts, effectually evaded, by some of the largest borrowers becoming endorsers for each other. The alleged reasons for the resolution are, that bank shares had been discounted upon, at one hundred and twenty dollars, by the local institutions in New York; and that it was necessary, in order to employ the capital which had been increased beyond the ordinary means of using it advantageously, by the redemption of eleven millions of the public debt. The practice of other banks would not, in the opinion of your committee, afford any justification of the measure; and when that practice was to be urged as a reason, the directors ought at least to have been correctly informed of the fact. The committee addressed inquiries to the several banks in the city of New York, and from their answers it appears, that, in two or three instances only, discounts have been made on the bank shares; that those notes never were renewed, and that, in no instance, has any bank there discounted on the shares of the Bank of the United States above their par value; and, although pains have been taken to ascertain the fact, no evidence has been discovered of any other bank having made discounts on stock above its par value.

The redemption of the eleven millions of public debt was effected by the application of that amount of deposits to the credit of the Government, then in the vaults of the bank. Much unfounded and unnecessary complaint appears to have been made by the officers of the bank against this very prudent measure. That it disappointed the expectations of those who calculated on receiving interest from the Government, while they discounted on its money, is very probable and very natural; and it is not surprising that some expedient should have been resorted to, in order to supply another equivalent source of profit. But there were other resources besides the stock of the bank. The Government stock was better security, and although it was uniformly above par, the directors seem never to have thought of discounting upon it above its par value. They began by rating it at ninety for every hundred dollars, while they were discounting on their own shares at par. By a resolution, passed 20th May, 1817, marked 37, the Government stock was rated at par, and, soon after, bank shares were discounted upon at \$125 for every \$100, with an endorser for the excess.

The committee are surprised to find so little good business paper done at the bank and its offices, where it was to have been reasonably expected that the merchants would have preferred transacting their business. The directors, themselves, avow, that they uniformly gave a preference to stock notes over business paper; their reasons are contained in their examinations. But when the complaint is, that the bank had more capital than it could employ, it is singular that any business paper should have been rejected. In July, 1817, that kind of paper, to the amount of \$940,000, and in August, to the amount of about \$493,500, was rejected at Philadelphia; and at Baltimore, in July, about \$407,000, and in August, about \$183,000 were rejected. These sums are not precisely accurate, but are sufficiently so for general views. Whether this paper was such as ought to have been rejected, the committee have no

means of determining. The amounts rejected are probably not more than might be expected from a bank doing business on such an extensive scale, at any other time than when it was anxious to employ its capital. Not an instance has occurred of a note, secured by the pledge of stock, being rejected.

On the 9th January, 1817, the board resolved, (paper marked 36) from and after the 20th February then next, and to the 1st of July, to discount notes to those who should have revenue bonds to pay during that period. The amount done under that resolution was small, and it does not appear that such notes have at any time been discounted extensively.

The principal business of the bank certainly has been to discount on notes secured by a pledge of stock, under the various resolutions before recited. Their effect was to abandon all personal security, and to rely entirely upon the stock pledged—a system which your committee think need only to be stated to ensure unqualified reprehension. Besides the objection which arises from these loans being in their nature perpetual after all personal security was abandoned, it appears to have been an act of self-immolation, thus to place beyond the reach of the institution, in the event of an emergency to which it and all others are liable, so large a portion of its loans. On the 20th October last, a statement was made, exhibiting the amounts discounted on notes secured by a pledge of the bank stock, and then remaining unpaid at the following places: at Philadelphia, \$4,680,800, of which \$173,450 was above the par value; at Baltimore, \$2,402,435, of which it cannot be ascertained what proportion was above the par value, but it is believed to have exceeded \$500,000; at Charleston, \$897,429, of which \$2,000 was above par; at Washington, \$298,570, of which but a small amount was above par; at Richmond, \$209,840, and none above par. There are no accounts from the other offices, the directors having required statements only from those whose discounts on stock exceeded \$100,000. A statement has been furnished by the bank, of the amount discounted at the above places, and remaining unpaid at this time, marked 42, which differs somewhat, but not materially, from the statements in October last. By that statement, the total amount of discounts at the bank, and at those offices, on pledged stock, is \$8,022,954; and by the general statement, on the 1st December last, the total amount of such discounts at the bank and all its offices, is \$8,934,712; the difference between which sums is the amount discounted at all the other offices not above enumerated. The committee have compiled a statement, 43, which exhibits, among other things, the total amount of discounts at the bank and all its offices, at different periods, on personal security and on pledged stock; from which it will appear that the largest amount discounted on bank stock was in January and February, 1818, when it was \$11,244,514.

From this recital it will be apparent how large a portion of the capital of the bank was thus placed beyond its control. Although there have been some fluctuations in the amounts of those discounts, at different periods, yet the greatest part of them, indeed the whole, with but few exceptions, have been constantly renewed, from time to time, as the notes fell due, in many cases at four and six months. Indeed, every subsequent act of the bank has been wholly at war with the profession of these loans being temporary, held out in the recital of the resolution of 25th July, 1817, marked 31. And in order to ensure the greatest amount of such loans, and, at the same time, afford facilities to the prompt purchase and sale of stock, the directors, on the 8th of August, 1817, passed a general resolution, authorizing the President and cashier to discount all stock notes that should be offered between discount days, to a certain amount, and by various resolutions, adopted at different meetings, until 7th September, appropriated two millions of dollars to their disposal for that purpose. The papers referred to, are marked 44; and on the 30th September, 1817, the resolution already referred to, marked 33, passed, authorizing those officers, in all cases, to renew the stock notes as they fell due, between discount days.

Another, and probably much more censurable effect of these various resolutions and proceedings, was to keep the price of the stock constantly ad-



vancing, until it reached a point where it exploded and fell. From various sources of information, the committee have compiled a table of the prices of stocks at the different periods when these resolutions were adopted, marked 45, from which their effect in enhancing the price of shares is very clearly exhibited. It will appear from that table, that the price of shares at Philadelphia, on the 20th August, 1817, was, according to the public reports, \$147 50; according to the testimony of Mr. M'Euen, a broker, it was \$144; at the same place on the 30th of the same month, the price was \$156 50. The resolution authorizing discounts on stock at \$125, was passed on the 26th of the same month, vide 35. These facts would, in the opinion of your committee, be sufficient to condemn a system which thus enabled a stockjobber to sport with the property of others. Stockjobbing, to an immense extent, and wages on the price of shares, were its inevitable consequences. It gave equal facilities to the bankrupt, who had not credit enough to obtain an endorser, and to the capitalist. Stock could be, and was, purchased without the advance of a cent by the purchaser, who had only to apply to the directors, or to the president and cashier, between discount days, for a loan on the shares about to be bought, and, by what is termed a simultaneous operation, he obtained his discount, and with it paid for his stock. A rise in the market would enable him to sell his shares, pocket the difference, and commence operations anew. And the committee are compelled to state, that, in fact, the largest loans on pledged stock were made to brokers, and to individuals who appear to have been constantly in the market. Loans on stock, at a rate below its par value, may unquestionably be useful to the merchant, who would avoid the obligation imposed by requesting an endorser, and would be highly beneficial to the bank when restrained within moderate limits and not made permanent. But the loans actually made, were, most of them, unreasonable and excessive in their amount; they were not made to the merchant and trader, but to a few persons, consisting of directors, brokers, and speculators; and have been renewed and continued almost invariably, at the option of the borrower. And when, in July last, the board directed a curtailment of its discounts, it fell, in almost all cases, on the business paper, while the immense amounts loaned on stock pledges were but little affected, excepting at the offices at Richmond and Washington, where the curtailment appears to have fallen equally on all the notes. But the discounts at those places on stock were very small, particularly when compared with Baltimore, where the loans were such and so long continued as to receive the animadversions of the parent board.

An unwillingness to injure the private credit of those engaged in the above-mentioned transactions, where no public good is perceived to be probable from the disclosure, induces the committee to withhold the mention of their names. But, in respect to the directors, the committee consider their conduct intimately connected with the general management of the concerns of the bank. And under a sense of the duty devolved upon them, they state, that many of the directors, as well those appointed by the Government, as those elected by the stockholders, appear to have been the most forward and the most active in trafficking in stock. The mere purchasing shares, with an intention to retain them, would not be improper, even in a director, if made without any view to intended future proceedings of the board of which he was a member. But the practice of purchasing at one time, when the stock was low, and selling at another, after its price had been enhanced by the measures adopted by the directors, is certainly unfair and censurable. It is the perversion of a public and honorable trust, to the purposes of self-aggrandizement, and places the directors in a situation where their own interests afford a strong temptation to the abuse of that trust. Still more reprehensible is the conduct of those directors who made contracts for the purchase of stock, deliverable and payable at a future period, at a low rate, and, during the intermediate time, by their own official acts, raised the price of the stock to its highest point. The committee do not deem it necessary to repeat the details which will be found in the examinations of the directors and officers herewith

submitted, marked 52, 53. By comparing these examinations with the prices of stock hereinbefore referred to, the House will be enabled to perceive which of the directors have participated in this business. With respect to the public directors, considering them public officers, responsible to the Government, and subject to the constitutional power of this House, the committee deem it their duty to state, that the President, William Jones, Esq. and George Williams, Esq. appear, from their own declarations, and from the testimony of a number of witnesses, to have been deeply concerned in these speculations. Mr. Jones appears to have purchased one thousand five hundred and fifty-five shares, at a high rate, and to have sold a large part of them at a loss. He states that, in the summer of 1817, he purchased a contract of one thousand shares, at one hundred and thirty-two dollars per share, deliverable 2d January, 1818, and soon after, another contract for one thousand shares, deliverable in November following, at one hundred and thirty-five dollars per share, both of which, he says, were sold at one hundred and fifty dollars per share; from which two contracts, it would appear, he realized \$33,000. There is much ambiguity resting on these transactions, arising from the incompatible statements of Mr. Jones, Mr. George Williams, Mr. Dennis A. Smith, and Mr. James W. M'ulloch. The three latter gentlemen appear to speak of the same contracts and purchases, but give accounts of them somewhat variant from that of Mr. Jones. Particularly Mr. Dennis A. Smith and James W. M'ulloch, speak of one of those contracts, or of some other, as having been presented to Mr. Jones, gratuitously, after the stock had risen, and it was obvious that a profit would be realized, of which Mr. Jones makes no mention. Mr. Jones states that he sold both those contracts to D. A. Smith; Mr. Smith says he was one of the persons who made one of the contracts a present to Mr. Jones; that the stock never was transferred, and that the profit, amounting to \$15,000, was paid to Mr. Jones, in money. Although the precise time is not specified by Mr. Jones, yet it is obvious, from the rate at which the contracts were purchased, that it must have been sometime anterior to the 26th August, 1817: for, at no time after that period, during the year 1817, was stock so low as \$135. That the resolution of that date, authorizing discounts on stock, at twenty-five per cent. above its par value, had an immediate effect on its price, will have been seen from a former part of this report.

The committee do not hesitate to say, that, although his motives may have been strictly correct, and his vote given without any reference to his private interest, yet, his situation forbade his acting on a question, whose result was so important to him; or rather, that he ought never to have placed himself in that situation. The high trust reposed in the president of a national bank, by the Government, and by the representatives of the stockholders, required that he should abstain from all concerns in which the price of stock was material. Mr. Jones appears to consider those transactions as lawful private concerns; the committee deem them intimately connected with the public management of the institution; of their lawfulness and propriety it is for the House to judge.

Mr. George Williams, another public director, appears to have been deeply concerned in the purchase of stock, and in the making and purchase of contracts, for the delivery of stock, to a large amount. Every witness that has been examined, speaks of Mr. Williams' transactions in that respect. Mr. Williams himself declined stating the amount and prices at which he purchased, and the committee did not think proper to insist upon his answers, as they had already obtained satisfactory information respecting his conduct, and examined him chiefly to give him the opportunity of making such explanations as he thought proper, of which he was advised at the time. With respect to the other public directors, Messrs. Pierce Butler, and John Connelly, it satisfactorily appears that they were not in the least concerned in the stock-jobbing transactions. And, with respect to Walter Bowne, although his residence in New York did not give the committee the same means of information, yet no evidence has been discovered to implicate him.

Jonathan Smith, Esq. the cashier of the bank, has had considerable dealings in the purchase and sale of stock, and in making and purchasing contracts for its delivery at future periods. The remark is applicable to J. W. M'Culloch, Esq. the cashier of the office at Baltimore, to a much greater extent. Although those gentlemen might have no direct agency in the measures which were to affect the price of stock, yet the influence of their stations ought to be great, and it is to be lamented that they should have placed themselves in a situation where the exercise of that influence might be ascribed to improper causes. With respect to the other directors, their examinations will enable the House to determine how far they have mingled in these transactions.

Besides the objection which has already been urged to the resolution of the 8th August, 1817, authorizing the president and cashier to discount notes, as being connected with a series of proceedings, evidently calculated to enhance the price of stock, by affording facilities to the making prompt purchases, it is still more objectionable as being a delegation of power, which, in the opinion of your committee, the directors had no right to grant. And when connected with the power also given them of indefinite and unlimited renewal of stock notes, it was placing the great bulk of the capital entirely within their control. The same practice appears to have been almost universal at the office in Baltimore, where the president and cashier, as appears by their examinations, have, under the authority of the board of directors at that place, always discounted notes without an endorser, secured by a pledge of stock. As they were not restricted by the board, they appear accordingly to have exercised the power to a very considerable extent. Still more reprehensible, in the opinion of your committee, is the practice at that office, of allowing the president and cashier to purchase or discount drafts and bills, payable from sight to sixty days, because, in such discounts, the personal security is the most important circumstance. It has been done to a very large amount, although no loss appears yet to have accrued. At Richmond, an equally improper delegation of power to the cashier appears to have been granted, in authorizing him to discount notes on pledged stock, at sixty days, and afterwards, a similar authority to discount at four months. After an experiment of three weeks, the directors of that office had the wisdom to abandon it, vide papers 16. At the office in this city, the power has been discreetly limited, and as discreetly exercised.

Two by-laws of the bank seem to your committee to deserve notice, one of them, that no discounts shall be made without the consent of three fourths of the directors present, and another, that no director shall, without special authority, be permitted to inspect the cash account of any person with the bank. These by-laws appear to render nugatory the provisions of the charter, authorizing the appointment, by the Government, of one-fifth of the whole number of directors, and are different from the provisions, in that respect, by the former Bank of the United States, although most of the local banks in Philadelphia have similar regulations. Should a state of things exist, in which the stockholders should deem their interest hostile to that of the nation, such provisions as these stated, would render the Government directors mere spectators of the proceedings of the board.

The committee endeavored to obtain a statement of the shares upon which the instalments had not been paid, and of the persons owning them. The officers of the bank satisfied them that, from the irregular manner in which the accounts of the payments had been made, it was impossible to obtain an accurate statement. But the fact is admitted, that the dividends have been paid to some delinquent stockholders, who are few, and to whom but a small amount of stock belongs. The dividends have been uniformly paid to those stockholders whose notes were discounted to the full par value of the stock, with the proceeds of which they paid their instalments, including the funded debt part as well as the specie part. The injustice of this proceeding, towards those who had really paid their instalments, according to their engagements, and who received no more benefit from these payments than those stockholders who substituted their stock in the place of specie and funded

debt, is most obvious. The stock that had really never been paid for, but which remained pledged for the very credit given it, was entitled to draw, and did draw, as much dividend, as that which had been fairly and punctually paid.

The root and source of all these instances of misconduct was the illegal and reprehensible division of the stock. By the first fundamental article of the charter, no person, co-partnership, or body politic, shall be entitled to more than thirty votes; and yet, in violation of this provision, it will appear, from the testimony of Thomas Leiper, George Williams, Dennis A. Smith, and James W. M'Culloch, that it was a common and general practice, well known to the judges of the election and to the directors, to divide shares into small parcels, varying from one to twenty shares to a name, held in the names of persons who had no interest in them, and to vote upon the shares thus held, as attorneys for the pretended proprietors. By some of the witnesses it is avowed, that the object was to influence the election. Mr. Leiper, one of the judges of the first election, states that he did so himself. The effect was, that Baltimore, which had about one-seventh of the shares owned by individuals, gave more than one-fourth of all the votes that could be given. In that place there were 1172 shares taken in 1172 names, by George Williams, as attorney, the whole of which, it appears from his examination, he owned. At Philadelphia nearly one third of the shares was owned, and the votes given at that place were about two-ninths of the whole authorized. For a more particular knowledge of these divisions of shares, the committee refer to the statement herewith submitted, marked 47. They are not aware that any remarks which could be made by them, could present the subject in a stronger light than the above statement of facts. The same persons who thus held the power of appointing directors, are found to have the greatest loans on stock. It is alleged that they have now consolidated the shares; but when occasion shall require their division, former practice will facilitate the operation. In the opinion of the committee, it is the greatest evil in the whole system, and is the origin of all others. So long as the large stockholders can control the choice of directors, so long can they hold and acquire immense amounts of stock, by the proceeds of notes discounted on the shares; and so long as they can obtain such discounts, they can control the election of directors. The system places the property of the other stockholders, and of the Government, the credit of the bank and of individuals, and, in a measure, that of the nation, at the mercy of a few large stockholders, who, without having really contributed to the wealth or the value of the institution, have the control of its concerns. It requires a corrective, and the committee are of opinion that it is in the power of Congress to pass a supplementary law, not contrary to, but in support of, the provisions of the charter, and to give it the true and real effect originally contemplated. And they have instructed their chairman to ask for leave to report a bill prepared for that purpose.

The committee deem it their duty, also, to submit to the House a resolution, marked 48, authorizing a discount of a note for \$20,000 at sixty days, and directing that the discount should be paid in a post note drawn payable at sixty days after date. It is stated by the cashier, in his examination, that that post note was made payable in Philadelphia. They find also a resolution of the 30th January, 1817, marked 49, expressly authorizing the office at Baltimore to grant discounts to the amount of \$100,000, to be paid in post notes, at sixty days' date. There is no doubt entertained that this was done at Baltimore, from its subsequently asking permission to do more, although, from the manner in which the books of that office are kept, it would be difficult to ascertain the fact. The only circumstance which throws any doubt on these transactions being deemed usurious, is, that, instead of exacting more than lawful interest, the bank has charged and received interest on money that it never loaned. Not being drafts on other offices, they cannot be considered as exchange operations. As the parties have a remedy in the courts of justice, for any injury they may have sustained, the committee do not deem it necessary to recommend any provision on the subject.

Under the resolutions authorizing discounts on pledged stock, a form of pledge was adopted, marked 23 A, and under the resolution of July 25th, 1817, another form was adopted, marked 32, both of which were used by those obtaining loans. Although the latter form is in the shape of a mortgage or hypothecation, yet the equitable interest in the stock was in the bank. It might be questioned whether a stockholder could vote upon his shares, which had been actually transferred in that form. It does not appear that any objections have been made to such votes, but that they have been received without scruple.

It will be found difficult to reconcile with the ninth fundamental article of the charter, a resolution of the 24th June, 1817, by which the board resolved to purchase two millions of public debt, as the agent of the commissioners of the sinking fund, and to deliver it to them at par. That resolution, and a letter of the president of the bank, announcing its purchase, with a statement of its cost, are submitted, marked 50, a, b, c. From these it will appear, that the bank had sold two millions of its debt in England, with which to purchase specie. The Secretary of the Treasury claimed the right to redeem it, under the provisions of the charter; and after some negotiations, a compromise was effected by the bank undertaking to purchase two other millions, in lieu of that sold, and to deliver it at par. The idea of its purchasing as the *agent* of the commissioners, is exploded, when it is discovered that the stock cost it, \$2,054,264 26, which it was bound to deliver at par, by which a loss was produced of \$54,254 26. It would be a novel idea, that a mere agent was to do the business of his principal solely at the expense of the agent. And it is obvious, from the whole transaction, that the purchase was really on account and for the benefit of the bank, to enable it to maintain its faith with the purchasers of the debt sold in England. The apology for the bank is, that it was done under the sanction of a high officer of the Government; and although the committee feel bound to say that it was a violation of the article before quoted, yet, under all the circumstances, considering that it was done in good faith, they do not, themselves, think it such a violation as requires the interposition of Congress.

On the subject of the facilities furnished by the bank to the Government, in the transmission and collection of the public revenue, and its fulfilment of its engagements, in discharging the duties of commissioners of loans, and agent for military pensions, the accompanying letter of the Secretary of the Treasury, marked 51, shows that its conduct has been satisfactory.

There appear to have been some contentions between the parent board and some of its officers, but the committee have not deemed them sufficiently connected with any practical objects of inquiry to justify their going into the merits of those controversies, which would be a work of much time and labor, and would not repay the trouble; and it would be unjust to make any statement respecting them, without making it in detail.

In order to give to this House full information of the state of the bank since its institution, a statement, exhibiting its condition at different periods, marked 43, and various tables and statements compiled by the committee, or by them verified, are submitted; among them will be found statements of notes issued payable at each office, and of notes returned to the offices, respectively; reports of the committee of directors, previous to each dividend; a complete list of the stockholders of the bank; No. 1 exhibiting the names of those who were such at the first dividend, with their places of residence, and the number of shares held by them, respectively, at that time, and at each subsequent dividend. No. 2 exhibiting the names of those who became stockholders after the first dividend; and No. 3 exhibiting those who became stockholders after the second dividend, together with a list of those who hold shares as attorneys for others. Other letters and miscellaneous documents, not specially referred to in the preceding part of this report, but elucidating the facts stated, will also be found.

Statements, obtained from the offices at Richmond and this city, are also submitted, which will show that the affairs of those offices have generally

been conducted with prudence and ability, and that every effort was made by them to execute the directions of the parent board, in a manner the least inconvenient to their customers.

In considering the question, whether the charter of the bank has been violated or not, the committee have thought that the expressions used, mean, whether, in any instance, the provisions of the charter have not been complied with. There may be many violations of a charter, which would not be considered, by a court of law, as producing a forfeiture. The principle on that subject the committee believe to be this: those acts of usurpation of powers not granted, of *mis user* and of *non user* of those granted, which defeat the very objects of the institution, as expressed in the charter itself, would produce a forfeiture; and that all other instances of abuse of the powers granted, or of usurpation of powers, must be punished or restrained, either by the ordinary process of *mandamus* and *quo warranto*, or by other means than a dissolution of the corporation. The committee think they are required by the resolution to report all instances of a violation of the provisions of the charter, which have come to their knowledge; but they do not consider themselves called upon to state which of them would, in their opinion, produce a forfeiture, or any other legal consequences. And one inducement to this construction of the resolution arises from the consideration, that, if they were to confine themselves only to those violations which would produce a forfeiture, and they should give a mistaken or incorrect opinion, that the charter had not been violated so as to induce a forfeiture, the House might, under a strict construction of the act, be precluded from expressing any other opinion, and from directing the proceedings contemplated by it; whereas, by reporting all instances of violation that have occurred, without reference to their technical character, the House is left free to pursue any course it may judge proper. In speaking, therefore, of violations of the provisions of the charter, the committee wish to be understood as not expressing any opinion, whether such violations would enure a forfeiture or not. They present the facts, and the House will determine whether, under those facts, it be or be not expedient to direct the issuing a *scire facias*, to ascertain whether the violations are such as to cause a dissolution of the corporation.

The committee, then, are of the opinion, that the provisions of the charter of the Bank of the United States have been violated, in the following instances:

1. In purchasing two millions of public debt, in order to substitute them for two other millions of similar debt, which it had contracted to sell, or had sold, in England, and which the Secretary of the Treasury claimed the right of redeeming. The facts on this subject, and the views of the transaction entertained by the committee, have been already given.

2. In not requiring the fulfilment of the engagement made by the stockholders, on subscribing, to pay the second and third instalments on the stock in coin and funded debt. The facts on this point are fully before the House, and they establish, beyond all doubt, 1st. That the directors of the bank agreed to receive, and did receive, what they deemed an equivalent for coin, in checks upon, and the notes of the bank, and other banks supposed to pay specie. This substitution of any equivalent whatever, for the specific things required by the charter, was, in itself, a departure from its provisions; but, 2d. The notes and checks thus received were not, in all cases, equivalent to coin, because there was not specie to meet them in the bank. 3d. That notes of individuals were discounted, and taken in lieu of the coin part of the second instalment, by virtue of a resolution for that purpose, passed before that instalment became due. 4th. That the notes of individuals were taken, in many instances, and to large amounts, in lieu of the whole of the second and third instalments, which notes are yet unpaid.

3. In paying dividends to stockholders who had not completed their instalments; the provisions of the charter, in that respect, were violated.

4. By the judges of the first and second elections allowing many persons to give more than thirty votes each, under the pretence of their being attorneys for others, in whose names shares then stood; when those judges, the di-



rectors and officers of the bank, perfectly well knew that these shares really belonged to the persons offering to vote upon them as attorneys. The facts, in relation to this violation, are in the possession of the House, and establish it beyond the reach of doubt.

The committee are of opinion, that no other instance of a violation of the charter has been established.

In closing this report of a most laborious investigation, the committee observe, that, whatever difference of opinion can exist among them, as to the results and inferences to be drawn from the facts stated, they unanimously concur in giving to the preceding statements of facts, and abstracts of documents, their sanction. They have not recommended the adoption of any immediate measures to correct the many evils and mischiefs they have depicted, excepting that of the bill before mentioned, because, by the provisions of the charter, the Secretary of the Treasury has full power to apply a prompt and adequate remedy, whenever the situation of the bank shall require it. And if, after the stockholders have become acquainted with the mismanagement of the institution, they shall adopt no means to prevent its continuance, or the directors themselves shall persist in a course of conduct requiring correction, the committee cannot entertain a doubt that the salutary power lodged in the Treasury Department will be exerted, as occasion may require, and with reference to the best interests of the United States.

It is due to the officers of the bank at Philadelphia to state, that every facility in their power was rendered in explaining the books, and assisting the researches of the committee.

[This report was accompanied by a volume of documents, vouchers, and tabular statements, comprising near five hundred pages, which may be found among the reports of committees made in the House of Representatives, at the second session of the fifteenth Congress, being volume marked two of the Reports of Committees.]

#### Mr. TRIMBLE'S RESOLUTION.

JANUARY 19, 1819.

Mr. TRIMBLE, of Kentucky, submitted the following resolution:

*Resolved*, That the Attorney General of the United States, in conjunction with the district attorney of Pennsylvania, shall immediately cause a *scire facias* to be issued, according to the twenty-third section of the "Act to incorporate the subscribers to the Bank of the United States," calling on the corporation, created by said act, to show *cause* wherefore the charter, thereby granted, should not be declared forfeited; and that it shall be the duty of the said officers to cause such proceedings to be had in the premises, as shall be necessary to obtain a final judgment thereon, for the expenses of which Congress will hereafter provide."

#### Mr. SPENCER'S RESOLUTION FOR A SCIRE FACIAS, &c.

FEBRUARY 1, 1819.

Mr. SPENCER, of New York, submitted the following resolution:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury shall cause all the public deposits in the Bank of the United States and its several offices of discount and deposite to be withdrawn, on the first day of July next; that, after the said day, the bills or notes of the said corporation shall no longer be receivable in any payments to the United States; and the Attorney General of the United States shall, on that day, or as soon thereafter as may be, cause a *scire facias* to be sued out, in conformity to the pro-

visions of the "Act to incorporate the subscribers to the Bank of the United States," calling upon the said corporation to show cause why its charter should not be declared forfeited; unless the said corporation shall, by a legal act, to be delivered to, and approved by, the Attorney General, and to be by him transmitted to Congress, at the next session thereof, declare its assent to the following propositions, on or before the said first day of July next, viz:

1st. That Congress may by law provide such means as may be necessary to enforce the first fundamental article of the said charter, respecting the right of voting for directors, and, particularly, to provide that transfers of stock shall always be made to the real owners thereof, or to some person or persons in trust for the owners, who shall always be named in such transfer; that stock shall always be deemed to belong to the person or persons in whose name it may stand, or for whose use it may be declared in the certificate to be held, and that no evidence whatever shall be received in any court to contradict or explain the certificates of ownership.

2d. That Congress may provide for the reduction of the capital stock of the bank, in a just and equal proportion, by the stockholders thereof, when convened in a general meeting.

3d. That the power of removing any director for misconduct, may be vested in the President of the United States.

4th. That the Bank may purchase not exceeding five millions of dollars of the funded debt of the United States, and may hold the same, without being subject to redemption, unless consented to by it, until the time or times specified in the certificates thereof.

5th. That no by-law of the corporation shall exclude the directors, appointed by the Government, from a full knowledge of all the concerns of the bank, and of the accounts of every person dealing with it, and that the assent of, at least, one public director shall be necessary, to allow any discount, and to render valid every act of the board of directors.

6th. That the provision, in the second fundamental article, prohibiting any director from holding his office more than three years, out of four, in succession, may be modified or repealed by Congress.

7th. No discount shall, in any case, be made by the bank at Philadelphia, or by any office, without the consent of, at least, four directors of the bank, or of the office, as the case may be.

8th. Congress may authorize the bank to deal and trade in other things than those enumerated in the ninth fundamental article, so far as to receive pledges of its own stock, and of the funded debt of the United States, in security for loans, and to sell such pledges on a forfeiture thereof.

9th. That persons holding stock, upon which any instalment shall have been paid by the proceeds of notes discounted, shall be compelled gradually, and as soon as circumstances will admit, to pay the full amount of such instalment in coin, or in coin and funded debt, according to the provisions of the charter, and no dividend of profits shall be allowed to such stock, until the said payment is completed.

10th. That the Secretary of the Treasury shall be permitted, at any time, either in person, or by an agent, to be appointed by him, to inspect all the books, papers, correspondence, minutes, and proceedings, of the board of directors of the bank, and of all its offices, and of all their officers.

11th. That Congress may extend the time for the payment of the whole, or any part of the sum of 1,500,000 dollars, required to be paid by the 20th section of the charter.

12th. That a *scire facias* may be issued out of any circuit court in the United States, in the cases stated in the charter; and, whenever it shall be issued out of any court other than the circuit court of Pennsylvania, sworn copies of the books and papers of the bank shall be received as evidence instead of the originals.

The foregoing provisions, or any of them, may, at any time, be enacted into a law or laws by Congress, and shall, thereupon, become a part of the charter of the bank.

## MR. JOHNSON'S RESOLUTION FOR A REPEAL OF THE CHARTER

FEBRUARY 9, 1819.

Mr. JOHNSON, of Virginia, submitted the following resolution:

"Resolved, That the Committee on the Judiciary be instructed to report a bill to repeal the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' approved April 10, 1816."

The several preceding resolutions were referred to the Committee of the whole House on the state of the Union; but, on motion of Mr. SPENCER, the committee were discharged from the consideration of that presented by him, and it was laid on the table. The resolutions of Mr. TRIMBLE and Mr. JOHNSON were considered and debated in committee, at great length, on the 24th of February; and they having reported to the House their disagreement to them, the House, on the 25th, affirmed the decisions of the committee, and thereby rejected the resolutions. The vote on the resolution offered by Mr. JOHNSON was as follows: for the resolution, 30; against it, 121. For Mr. TRIMBLE's resolution, 39; against it, 116.

The debate upon Mr. JOHNSON's resolution is of an interesting character, but far too voluminous to admit of insertion in these pages, which already exceed greatly the bounds originally designed for them. It may, however, be seen in the files of the National Intelligencer, of the following dates:

For the speech of	Mr. Johnson, of Va.	see	<i>Intelligencer</i> ,	of 23d March, 1819.
Do. do.	Mr. Pindall, of Va.	"	"	of 25th " "
Do. do.	Mr. Lowndes, S. C.	"	"	of 27th " "
Do. do.	Mr. Tyler, of Va.	"	"	of 6th April, " "
Do. do.	Mr. M <sup>l</sup> Lane, of Del.	"	"	of 8th " "
Do. do.	Mr. Sergeant, of Pa.	"	"	of 10th " "
Do. do.	Mr. Pindall,	"	"	of 13th " "
Do. do.	Mr. Walker, of Ky.	"	"	of 15th " "

In the annual message of the President of the United States, at the opening of the twenty-first Congress, the following observations occur respecting the Bank of the United States:

"The charter of the Bank of the United States expires in 1836, and its stockholders will, most probably, apply for a renewal of their privileges. In order to avoid the evils resulting from precipitancy, in a measure involving such important principles, and such deep pecuniary interests, I feel that I cannot, in justice to the parties interested, too soon present it to the deliberate consideration of the Legislature and the People. Both the constitutionality and the expediency of the law creating this bank, are well questioned, by a large portion of our fellow-citizens; and it must be admitted by all, that it has failed in the great end of establishing a uniform and sound currency.

"Under these circumstances, if such an institution is deemed essential to the fiscal operations of the Government, I submit to the wisdom of the Legislature whether a national one, founded upon the credit of the Government, and its revenues, might not be devised, which would avoid all constitutional difficulties, and, at the same time, secure all the advantages to the Government and country that were expected to result from the present bank."

In the House of Representatives, 10th December, 1829:

"Resolved, That so much of said message as relates to the revenue, the public debt, and the Bank of the United States, be referred to the Committee of Ways and Means."

This committee consisted of Mr. McDuffie, Mr. Verplanck, Mr. Dwight, Mr. Smyth, Mr. Ingersoll, Mr. Gilmore, and Mr. Overton.

On the 13th of April, succeeding, the following report was made:

Mr. M'DUFFIE, from the Committee of Ways and Means, to which the subject had been referred, made the following report:

The Committee of Ways and Means, to whom was referred so much of the Message of the President as relates to the Bank of the United States, beg leave to report:

That they have bestowed upon the subject all the attention demanded by its intrinsic importance, and now respectfully submit the result of their deliberations to the consideration of the House. There are few subjects, having reference to the policy of an established Government, so vitally connected with the health of the body politic, or in which the pecuniary interests of society are so extensively and deeply involved. No one of the attributes of sovereignty carries with it a more solemn responsibility, or calls in requisition a higher degree of wisdom, than the power of regulating the common currency, and thus fixing the general standard of value for a great commercial community, composed of confederated States.

Such being, in the opinion of the committee, the high and delicate trust exclusively committed to Congress by the federal constitution, they have proceeded to discharge the duty assigned to them, with a corresponding sense of its magnitude and difficulty.

The most simple and obvious analysis of the subject, as it is presented by the message of the President, exhibits the following questions for the decision of the National Legislature:

1. Has Congress the constitutional power to incorporate a bank, such as that of the United States?

2. Is it expedient to establish and maintain such an institution?

3. Is it expedient to establish "a national bank, founded upon the credit of the Government and its revenues?"

1. If the concurrence of all the departments of the Government, at different periods of our history, under every administration, and during the ascendancy of both the great political parties, into which the country was divided, soon after the adoption of the present constitution, shall be regarded as having the authority ascribed to such sanctions by the common consent of all well regulated communities, the constitutional power of Congress to incorporate a bank, may be assumed as a postulate no longer open to controversy. In little more than two years after the Government went into operation, and, at a period when most of the distinguished members of the federal convention were either in the executive or legislative councils, the act, incorporating the first bank of the United States, passed both branches of Congress by large majorities, and received the deliberate sanction of President Washington, who had then recently presided over the deliberations of the convention. The constitutional power of Congress to pass the act of incorporation was thoroughly investigated, both in the Executive cabinet and in Congress, under circumstances, in all respects propitious to a dispassionate decision. There was, at that time, no organization of political parties, and the question was, therefore, decided by those who, from their knowledge and experience, were peculiarly qualified to decide correctly, and who were entirely free from the influence of that party excitement and prejudice which would justly impair, in the estimation of posterity, the authority of a legislative interpretation of the constitutional charter. No persons can be more competent to give a just construction to the constitution, than those who had a principal agency in framing it; and no administration can claim a more perfect exemption from all those influences which, sometimes, pervert the judgments, even of the most wise and patriotic, than that of the Father of his Country, during the first term of his service.

Such were the circumstances under which all the branches of the National Legislature solemnly determined that the power of creating a national bank was vested in Congress by the constitution. The bank, thus created, continued its operations for twenty years—the period for which its charter was granted—during which time public and private credit were raised from a prostrate to a very elevated condition, and the finances of the nation were placed upon the most solid foundation.

When the charter expired, in 1811, Congress refused to renew it, principally owing, as the committee believe, to the then existing state of political parties. Soon after the bank was chartered, the two great parties that have since divided the country, began to assume an organized existence. Mr. Jefferson and Mr. Madison, the former in the Executive cabinet, and the latter in Congress, had been opposed to the establishment of the bank, on constitutional grounds, and being placed at the head of the party most unfavorable to the extension of the powers of the Government, by implication the bank question came to be regarded as, in some degree, the test of political principle.

When Mr. Jefferson came into power, upon the strong tide of a great political revolution, the odium of the alien and sedition laws was, in part, communicated to the Bank of the United States; and, although he gave his official sanction to an act, creating a new branch of that institution, at New Orleans, and to another to punish the counterfeiting of its bills, yet, when the question of renewing the charter came before Congress, it was discussed as a party question. And, though some of the most distinguished republicans, including Mr. Gallatin, then Secretary of the Treasury, and Mr. Crawford, then a member of the Senate, were decidedly in favor of the renewal, sustaining the measure by able arguments, the votes in both branches of Congress were distinctly marked as party votes. At no time, since the commencement of the Government, has there existed a more violent party excitement, than that which marked the period under review. It was the period of the embargo, non-intercourse, and other commercial restrictions; when the indiscriminating opposition of the leaders of the federal party to the measures adopted by the administration, to vindicate our rights against British aggression, had caused the great majority of the American People to view these leaders as the apologists of a nation, already regarded in the light of a public enemy. When, to these circumstances, we add, that the stock of the bank was principally held by British subjects, and Americans of the unpopular party, the House will readily perceive how great were the national and party prejudices which must have been arrayed against the proposition to renew its charter. It was stated by Mr. Clay, in a speech delivered in the Senate, that seven-tenths of the stock belonged to British subjects, and that certain English noblemen, and a late lord chancellor, were among the very largest of the stockholders. With all these difficulties to encounter, the proposition for renewing the charter was lost only by the casting vote of the President of the Senate, and by a majority of a single vote in the House of Representatives.

In less than three years after the expiration of the charter—the war with Great Britain having taken place in the mean time—the circulating medium became so disordered, the public finances so deranged, and the public credit so impaired, that the enlightened patriot, Mr. Dallas, who then presided over the Treasury Department, with the sanction of Mr. Madison, and, as it is believed, every member of the cabinet, recommended to Congress the establishment of a national bank, as the only measure by which the public credit could be revived, and the fiscal resources of the Government redeemed from a ruinous, and otherwise incurable embarrassment: and, such had been the impressive lesson taught by a very brief, but fatal experience, that the very institution, which had been so recently denounced, and rejected by the republican party, being now recommended by a republican administration, was carried through both branches of Congress, as a republican measure, by an overwhelming majority of the republican party. It is true that Mr. Madison did not approve and sign the bill which passed the two Houses, because it was

not such a bill as had been recommended by the Secretary of the Treasury, and because the bank it proposed to create was not calculated, in the opinion of the President, to relieve the necessities of the country. But he premised his objections to the measure, by "waiving the question of the constitutional authority of the Legislature to establish an incorporated bank, as being precluded, in his opinion, by repeated recognitions, under varied circumstances, of the validity of such an institution, in acts of the Legislative, Executive, and Judicial branches of the Government, accompanied by indications, in different modes, of a concurrence of the general will of the nation." Another bill was immediately introduced, and would, in all probability, have become a law, had not the news of peace, by doing away the pressure of the emergency, induced Congress to suspend further proceedings on the subject until the ensuing session. At the commencement of that session, Mr. Madison invited the attention of Congress to the subject, and Mr. Dallas again urged the necessity of establishing a bank, to restore the currency, and facilitate the collection and disbursement of the public revenue; and so deep and solemn was the conviction, upon the minds of the public functionaries, that such an institution was the only practicable means of restoring the circulating medium to a state of soundness, that, notwithstanding the decided opposition of all the State banks and their debtors, and, indeed, the whole debtor class of the community, the act incorporating the present Bank of the United States was passed by considerable majorities in both branches of Congress, and approved by Mr. Madison.

This brief history of the former and present bank forcibly suggests a few practical reflections. It is to be remarked, in the first place, that, since the adoption of the constitution, a bank has existed, under the authority of the Federal Government, for thirty three out of forty years; during which time, public and private credit have been maintained at an elevation fully equal to what has existed in any nation in the world: whereas, in the two short intervals, during which no national bank existed, public and private credit were greatly impaired, and, in the latter instance, the fiscal operations of the Government were almost entirely arrested. In the second place, it is worthy of special notice, that, in both the instances in which Congress has created a bank, it has been done under circumstances calculated to give the highest authority to the decision. The first instance, as has been already remarked, was in the primitive days of the republic, when the patriots of the Revolution, and the sages of the Federal Convention, were the leading members both of the Executive and Legislative councils; and when General Washington, who, at the head of her armies, had conducted his country to independence, and, as the head of the convention, had presided over those deliberations which resulted in the establishment of the present constitution, was the acknowledged President of a People, undistracted by party divisions. The second instance was under circumstances of a very different but equally decisive character. We find the very party, which had so recently defeated the proposition to renew the charter of the old bank, severely schooled both by adversity and experience, magnanimously sacrificing the pride of consistency, and the prejudices of party, at the shrine of patriotism. It may be said, without disparagement, that an assembly of higher talent and purer patriotism has never existed, since the days of the Revolution, than the Congress by which the present bank was incorporated. If ever a political party existed, of which it might be truly said, that "all the ends they aimed at were their country's," it was the republican party of that day. They had just conducted the country through the perils of a war, waged in defence of her rights and honor, and, elevating their views far above the narrow and miserable ends of party strife, sought only to advance the permanent happiness of the People. It was to this great end, that they established the present bank.

In this review, it will be no less instructive than curious, to notice some of the changes made in the opinions of prominent men, yielding to the authority of experience. Mr. Madison, who was the leading opponent of the bank created in 1791, recommended and sanctioned the bank created in 1816; and



Mr. Clay, who strenuously opposed the renewal of the charter in 1811, as strenuously supported the proposition to grant the charter in 1816.

That may be said of the bank charter, which can be said of few contested questions of constitutional power. Both the great political parties that have so long divided the country, have solemnly pronounced it to be constitutional, and there are but very few of the prominent men of either party, who do not stand committed in its favor. When, to this imposing array of authorities, the committee add the solemn and unanimous decision of the Supreme Court, in a case which fully and distinctly submitted the constitutional question to their cognizance, may they not ask, in the language of Mr. Dallas, "can it be deemed a violation of the right of private opinion to consider the constitutionality of a national bank as a question forever settled and at rest?"

And here the committee beg to be distinctly understood, as utterly disclaiming the idea of ascribing to the decision of any or of all the departments of the Government, upon a great constitutional question, the binding authority which belongs to judicial precedents, in cases of mere private right, depending upon the construction of the ordinary acts of the Legislature. No length of prescription, or concurrence of authority, can consecrate the usurpation of powers subversive of public liberty, and destructive of public happiness. But, where the power exercised is clearly conducive to the public welfare, and its constitutionality is merely doubtful, it would seem to be one of the most obvious dictates of practical wisdom, to regard the decision of those who had the best means of ascertaining the intention of the constitution, and who were actuated by the most undoubted purity and disinterestedness of motive, as of sufficient authority, at least, to overrule theoretical objections and silence individual scruples.

The committee will now submit a few remarks, with the design of showing, that, viewing the constitutionality of the bank as an original question, the arguments in its favor are, at least, as strong as those against it.

The earliest, and the principal objection urged against the constitutionality of a national bank, was, that Congress had not the power to create corporations. That Congress has a distinct and substantive power to create corporations, without reference to the objects entrusted to its jurisdiction, is a proposition which never has been maintained, within the knowledge of the committee; but, that any one of the powers, expressly conferred upon Congress, is subject to the limitation that it shall not be carried into effect by the agency of a corporation, is a proposition which cannot be maintained, in the opinion of the committee.

If Congress, under the authority to pass *all laws* necessary and proper for carrying into effect the powers vested in all or any of the departments of the Government, may rightfully pass a law inflicting the punishment of death, *without any other authority*, it is difficult to conceive why it may not pass a law, under the same authority, for the more humble purpose of creating a corporation. The power of creating a corporation is one of the lowest attributes, or, more properly speaking, incidents, of sovereign power. The chartering of a bank, for example, does not authorize the corporation to do any thing which the individuals composing it might not do without the charter. It is the right of every individual of the Union to give credit to whom he chooses, and to obtain credit where he can get it. It is not the policy of any commercial country to restrict the free circulation of credit, whether in the form of promissory notes, bills of exchange, or bank notes. The charter of the Bank of the United States, therefore, merely enables the corporation to do, in an artificial capacity, and with more convenience, what it would be lawful for the individual corporators to do without incorporation. Mr. Girard established a bank in Philadelphia, without a charter, which was in very high credit within the sphere of its circulation; and it cannot be doubted that he might have formed a banking co-partnership with the principal capitalists in the other commercial cities of the Union, of which the bills would have had a general credit in every part of the country, particularly if the Federal Government had provided that these bills should be received in discharge of its dues.

The only material particular in which the charter of the Bank of the United States confers a privilege upon the corporation, apparently inconsistent with the State laws, is, the exemption of the individual property of the corporators from responsibility for the debts of the corporation. But, if the community deal with the bank, knowing that the capital subscribed is alone liable for its debts, no one can complain either of imposition or injury; and, in point of fact, no one ever has complained on that score, or ever will. The real complaint against the bank, is not that it has not a sufficient basis for its credit, but that its credit is too extensive. The objection lies, therefore, not against the artificial character communicated to the stockholders by the charter, but against the pecuniary operations of the bank itself. Now, these operations consist in the use of its own capital—a faculty not surely derived from the Government, but, in the exercise of which, the Government imposes many useful restrictions for the benefit of itself and of the community.

The committee have presented this brief analysis of a bank corporation, with the view of showing that there is nothing, in the nature of the thing, which renders it unfit to be an instrument in the hands of a Government, admitted to be sovereign in its appropriate sphere, for carrying into effect powers expressly delegated.

It now remains for the committee to show that the Bank of the United States is a "necessary and proper," or, in other words, a natural and appropriate means of executing the powers vested in the Federal Government. In the discussion of 1791, and also in that before the Supreme Court, the powers of raising, collecting, and disbursing the public revenue, of borrowing money on the credit of the United States, and paying the public debt, were those which were supposed most clearly to carry with them the incidental right of incorporating a bank, to facilitate these operations. There can be no doubt that these fiscal operations are greatly facilitated by a bank, and, it is confidently believed, that no person has presided twelve months over the treasury, from its first organization to the present time, without coming to the conclusion that such an institution is exceedingly useful to the public finances in time of peace, but indispensable in time of war. But, as this view of the question has been fully unfolded in former discussions, familiar to the House, the committee will proceed to examine the relation which the Bank of the United States bears to another of the powers of the Federal Government, but slightly adverted to in former discussions of the subject.

The power to "coin money and fix the value thereof," is expressly and exclusively vested in Congress. This grant was evidently intended to invest Congress with the power of regulating the circulating medium. "Coin" was regarded, at the period of framing the constitution, as synonymous with "currency;" as it was then generally believed that bank notes could only be maintained in circulation by being the true representative of the precious metals. The word "coin," therefore, must be regarded as a particular term, standing as the representative of a general idea. No principle of sound construction will justify a rigid adherence to the letter, in opposition to the plain intention of the clause. If, for example, the gold bars of Ricardo should be substituted for our present coins, by the general consent of the commercial world, could it be maintained that Congress would not have the power to *make* such money, and fix its value, because it is not "coined?" This would be sacrificing sense to sound, and substance to mere form. This clause of the constitution is analogous to that which gives Congress the power "to establish post roads." Giving to the word "establish" its restricted interpretation, as being equivalent to "fix," or "prescribe," can it be doubted that Congress has the power to establish a canal or a river, as a post route, as well as a road? Roads were the ordinary channels of conveyance, and the term was, therefore, used as synonymous with "routes," whatever might be the channel of transportation; and, in like manner, "coin," being the ordinary and most known form of a circulating medium, that term was used as synonymous with currency.

An argument in favor of the view just taken, may be fairly deduced from the fact, that the States are expressly prohibited from "coining money, or emitting bills of credit," and from "making any thing but gold and silver a lawful tender in payment of debts." This strongly confirms the idea, that the subject of regulating the circulating medium, whether consisting of coin or paper, was, at the same time that it was taken from the control of the States, vested in the only depository in which it could be placed, consistently with the obvious design of having a common measure of value throughout the Union.

But, even if it should be conceded, that the grant of power to "coin money and fix the value thereof," does not, in its terms, give Congress the power of regulating any other than the "coined" currency of the Union, may not the power of regulating any substituted currency, and especially one which is the professed representative of coin, be fairly claimed as an incidental power—as an essential means of carrying into effect the plain intention of the constitution, in clothing Congress with the principal power? This power was granted in the same clause with that to regulate weights and measures, and for similar reasons. The one was designed to ensure a uniform measure of value, as the other was designed to ensure a uniform measure of quantity. The former is decidedly the more important, and belongs essentially to the General Government, according to every just conception of our system. A currency of uniform value is essential to what every one will admit to be of cardinal importance—the equal action of our revenue system upon the different parts of the Union. The state of things which existed when the bank was incorporated, furnished a most pregnant commentary on this clause of the constitution. The currency of the country consisted of the paper of local banks, variously depreciated. At one of the principal sea ports the local currency was twenty per cent. below par. Now it was in vain for Congress to regulate the value of coin, when the actual currency, professing to be its equivalent, bore no fixed relation to it. This great and essential power of fixing the standard of value, was, in point of fact, taken from Congress, and exercised by some hundreds of irresponsible banking corporations, with the strongest human motives to abuse it, because their enormous profits resulted from the abuse. The power of laying and collecting imposts and excises is expressly subject to the condition, that they "shall be uniform throughout the United States;" and it is also provided, that "no preference shall be given, by any regulation of commerce or revenue, to the ports of one State over those of another." Now, when it is known that the circulating medium of Baltimore was twenty per cent. below the value of the circulating medium of Boston, is it not apparent that an impost duty, though nominally uniform, would, in effect, make a discrimination in favor of Baltimore, proportioned to the depreciation of the local currency? Congress, therefore, not only had the power, but, as it seems to the committee, were under the most solemn constitutional obligations to restore the disordered currency; and the Bank of the United States was not only an appropriate means for the accomplishment of that end, but, in the opinion of the committee, the only safe and effectual means that could have been used. This view of the subject is in full accordance with the opinion of Mr. Madison, as expressed in his message of December, 1816: "But," says he, "for the interest of the community at large, as well as for the purposes of the treasury, it is essential that the nation should possess a currency of equal value, credit, and use, wherever it may circulate. The constitution has entrusted Congress, exclusively, with the power of creating and regulating a currency of that description, and the measures which were taken, during the last session, in execution of the power, give every promise of success. The Bank of the United States, under auspices the most favorable, cannot fail to be an important auxiliary."

Such are the authorities, and such the arguments, which have brought the committee to the conclusion, that the power to incorporate a bank is incidental to the powers of collecting and disbursing the public revenue; of borrowing money on the credit of the United States; of paying the public debt; and,

above all, of fixing and regulating the standard of value, and thereby ensuring, at least so far as the medium of payment is concerned, the uniformity and equality of taxation.

II. The next question proposed for consideration, is the expediency of establishing an incorporated bank, with a view to promote the great ends already indicated. In discussing the constitutionality of such a measure, some of the considerations which render it expedient have been slightly unfolded. But these require a more full and complete development, while others remain to be presented.

It must be assumed as the basis of all sound reasoning on this subject, that the existence of a paper currency, issued by banks deriving their charters from the State Governments, cannot be prohibited by Congress. Indeed, bank credit and bank paper are so extensively interwoven with the commercial operations of society, that, even if Congress had the constitutional power, it would be utterly impossible to produce so entire a change in the monetary system of the country, as to abolish the agency of banks of discount, without involving the community in all the distressing embarrassments usually attendant on great political revolutions, subverting the titles to private property. The sudden withdrawal of some hundred millions of bank credit, would be equivalent, in its effects, to the arbitrary and despotical transfer of the property of one portion of the community to another, to the extent, probably, of half that amount. Whatever, therefore, may be the advantages of a purely metallic currency, and whatever the objections to a circulating medium, partly composed of bank paper, the committee consider that they are precluded, by the existing state of things, from instituting a comparison between them, with a view to any practical result.

If they were not thus precluded, and it were submitted to them as an original question, whether the acknowledged and manifold facilities of bank credit and bank paper are not more than counterbalanced by the distressing vicissitudes in trade incident to their use, they are by no means prepared to say, that they would not give a decided preference to the more costly and cumbersome medium.

But the question really presented for their determination, is not between a metallic and a paper currency, but between a paper currency of uniform value, and subject to the control of the only power competent to its regulation, and a paper currency of varying and fluctuating value, and subject to no common or adequate control whatever. On this question, it would seem that there could scarcely exist a difference of opinion; and that this is substantially the question involved in considering the expediency of a national bank, will satisfactorily appear by a comparison of the state of the currency previous to the establishment of the present bank, and its condition for the last ten years.

Soon after the expiration of the charter of the first Bank of the United States, an immense number of local banks sprung up under the pecuniary exigencies produced by the withdrawal of so large an amount of bank credit, as necessarily resulted from the winding up of its concerns—an amount falling very little short of fifteen millions of dollars. These banks being entirely free from the salutary control which the Bank of the United States had recently exercised over the local institutions, commenced that system of imprudent trading and excessive issues, which speedily involved the country in all the embarrassments of a disordered currency. The extraordinary stimulus of a heavy war expenditure, derived principally from loans, and a corresponding multiplication of local banks, chartered by the double score in some of the States, hastened the catastrophe which must have occurred, at no distant period, without these extraordinary causes. The last year of the war presented the singular and melancholy spectacle of a nation abounding in resources, a people abounding in self-devoting patriotism, and a Government reduced to the very brink of avowed bankruptcy, solely for the want of a national institution, which, at the same time that it would have facilitated the Government loans and other treasury operations, would have furnished a circulating me

dium of general credit in every part of the Union. In this view of the subject, the committee are fully sustained by the opinion of Mr. Dallas, then Secretary of the Treasury, and by the concurring and almost unanimous opinion of all parties in Congress: for, whatever diversity of opinion prevailed, as to the proper basis and organization of a bank, almost every one agreed that a national bank, of some sort, was indispensably necessary to rescue the country from the greatest of financial calamities.

The committee will now present a brief exposition of the state of currency at the close of the war; of the injury which resulted from it, as well to the Government as to the community; and their reasons for believing that it could not have been restored to a sound condition, and cannot now be preserved in that condition, without the agency of such an institution as the Bank of the United States.

The price current appended to this report will exhibit a scale of depreciation in the local currency, ranging, through various degrees, to twenty, and even to twenty-five per cent. Among the principal Eastern cities, Washington and Baltimore were the points at which the depreciation was greatest. The paper of the banks in these places was from twenty to twenty-two per cent. below par. At Philadelphia the depreciation was considerably less, though, even there, it was from seventeen to eighteen per cent. In New York and Charleston, it was from seven to ten per cent. But, in the interior of the country, where banks were established, the depreciation was even greater than at Washington and Baltimore. In the western part of Pennsylvania, and particularly at Pittsburgh, it was twenty-five per cent. These statements, however, of the relative depreciation of bank paper at various places, as compared with specie, give a very inadequate idea of the enormous evil inflicted upon the community by the excessive issues of bank paper. No proposition is better established than that the value of money, whether it consists of specie or paper, is depreciated in exact proportion to the increase of its quantity, in any given state of the demand for it. If, for example, the banks, in 1816, doubled the quantity of the circulating medium by their excessive issues, they produced a general degradation of the entire mass of the currency, including gold and silver, proportioned to the redundancy of the issues, and wholly independent of the relative depreciation of bank paper at different places, as compared with specie. The nominal money price of every article was, of course, one hundred per cent. higher than it would have been, but for the duplication of the quantity of the circulating medium. Money is nothing more nor less than the measure by which the relative value of all articles of merchandise is ascertained. If, when the circulating medium is fifty millions, an article should cost one dollar, it would certainly cost two, if, without any increase of the uses of a circulating medium, its quantity should be increased to one hundred millions. This rise in the price of commodities, or depreciation in the value of money, as compared with them, would not be owing to the want of credit in the bank bills, of which the currency happened to be composed. It would exist, though these bills were of undoubted credit, and convertible into specie at the pleasure of the holder, and would result simply from the redundancy of their quantity. It is important to a just understanding of the subject, that the relative depreciation of bank paper at different places, as compared with specie, should not be confounded with this general depreciation of the entire mass of the circulating medium, including specie. Though closely allied, both in their causes and effects, they deserve to be separately considered.

The evils resulting from the relative depreciation of bank paper at different places, are more easily traced to their causes, more palpable in their nature, and, consequently, more generally understood by the community. Though much less ruinous than the evils resulting from the general depreciation of the whole currency, they are yet of sufficient magnitude to demand a full exposition.

A very serious evil, already hinted at, which grew out of the relative depreciation of bank paper, at the different points of importation, was its inevi-

table tendency to draw all the importations of foreign merchandise to the cities where the depreciation was greatest, and divert them from those where the currency was comparatively sound. If the Bank of the United States had not been established, and the Government had been left without any alternative but to receive the depreciated local currency, it is difficult to imagine the extent to which the evasion of the revenue laws would have been carried. Every State would have had an interest to encourage the excessive issues of its banks, and increase the degradation of its currency, with a view to attract foreign commerce. Even in the condition which the currency had reached in 1816, Boston, and New York, and Charleston, would have found it advantageous to derive the supplies of foreign merchandise through Baltimore; and commerce would, undoubtedly, have taken that direction, had not the currency been corrected. To avoid this injurious diversion of foreign imports, Massachusetts, and New York, and South Carolina, would have been driven, by all motives of self defence and self interest, to degrade their respective currencies at least to a par with the currency of Baltimore; and thus a rivalry in the career of depreciation would have sprung up, to which no limit can be assigned. As the tendency of this state of things would have been to cause the largest portion of the revenue to be collected at a few places, and in the most depreciated of the local currency, it would have followed that a very small part of that revenue would have been disbursed at the points where it was collected. The Government would, consequently, have been compelled to sustain a heavy loss upon the transfer of its funds to the points of expenditure. The annual loss which would have resulted from these causes alone, cannot be estimated at a less sum than two millions of dollars.

But the principal loss which resulted from the relative depreciation of bank paper at different places, and its want of general credit, was that sustained by the community in the great operations of commercial exchange. The extent of these operations annually, may be safely estimated at sixty millions of dollars. Upon this sum, the loss sustained by the merchants, and planters, and farmers, and manufacturers, was not probably less than an average of ten per cent., being the excess of the rate of exchange between its natural rate in a sound state of the currency, and beyond the rate to which it has been actually reduced by the operations of the Bank of the United States. It will be thus perceived, that an annual tax of six millions of dollars was levied from the industrious and productive classes, by the large moneyed capitalists in our commercial cities, who were engaged in the business of brokerage. A variously depreciated currency, and a fluctuating state of the exchanges, open a wide and abundant harvest to the money brokers; and it is not, therefore, surprising, that they should be opposed to an institution, which, at the same time that it has relieved the community from the enormous tax just stated, has deprived them of the enormous profits which they derived from speculating in the business of exchange. In addition to the losses sustained by the community, in the great operations of exchange, extensive losses were suffered throughout the interior of the country in all the smaller operations of trade, as well as by the failure of the numerous paper banks, puffed into a factitious credit by fraudulent artifices, and having no substantial basis of capital to ensure the redemption of their bills,

But no adequate conception can be formed of the evils of a depreciated currency, without looking beyond the relative depreciation, at different places, to the general depreciation of the entire mass. It appears from the report of Mr. Crawford, the Secretary of the Treasury, in 1820, that, during the general suspension of specie payments, by the local banks, in the years 1815 and 1816, the circulating medium of the United States had reached the aggregate amount of one hundred and ten millions of dollars, and that, in the year 1819, it had been reduced to forty-five millions of dollars, being a reduction of fifty-nine per cent. in the short period of four years. The committee are inclined to the opinion, that the severe and distressing operation of restoring a vicious currency to a sound state, by the calling in of bank paper, and the curtailment of bank discounts, had carried the reduction of the currency, in 1819,



to a point somewhat lower than was consistent with the just requirements of the community for a circulating medium, and that the bank discounts have been gradually enlarged since that time, so as to satisfy those requirements. It will be assumed, therefore, that the circulating medium of the United States has been fifty-five millions of dollars for the last ten years, taking the average.

Even upon this assumption it will follow, that the national currency has been one hundred per cent. more valuable for the last ten years, than it was in 1816. In other words, two dollars would purchase no more of any commodity, in 1816, than one dollar has been capable of purchasing at any time since 1819. It is obvious, therefore, that the depreciation of the paper of particular banks, at any particular time, as compared with specie, furnishes no criterion by which to ascertain the general depreciation of the whole currency, including specie, as compared with the value of that currency at a different period. A specie dollar, in 1816, would purchase no more than half as much as a paper dollar will purchase at present.

Having endeavored to explain, thus briefly, the general depreciation resulting from a redundant currency, the committee will now proceed to point out some of the injurious consequences which have resulted from those great changes in the standard of value, which have been unavoidably produced by the correction of the redundancy.

An individual who borrowed a sum of money in 1816, and paid it in 1820, evidently returned to the lender double the value received from him; and one who paid a debt in 1820, which he had contracted in 1816, as evidently paid double the value he had stipulated to pay, though nominally the same amount in money. It is in this way that fluctuations in the quantity and value of the currency interfere, in the most unjust and injurious manner, between debtor and creditor.

And when banks have the power of suspending specie payments, and of arbitrarily contracting and expanding their issues, without any general control, they exercise a more dangerous and despotic power over the property of the community, than was ever exercised by the most absolute Government. In such a state of things, every man in the community holds his property at the mercy of money making corporations, which have a decided interest to abuse their power.

By a course of liberal discounts and excessive issues for a few years, followed by a sudden calling in of their debts and contraction of their issues, they would have the power of transferring the property of their debtors to themselves, almost without limit. Debts contracted when their discounts were liberal, and the currency, of course, depreciated, would be collected when their discounts were almost suspended, and the currency, of course, unnaturally appreciated; and in this way the property of the community might pass, under the hammer, from its rightful owners to the banks, for less than one-half its intrinsic value. If the committee have not greatly mistaken the matter, there is more of history than of speculation in what they have here presented to the consideration of the House.

It is impossible to form any thing like an accurate estimate of the injuries and losses sustained by the community, in various ways, by the disorders and fluctuations of the currency, in the period which intervened between the expiration of the old bank charter, and the establishment of the present bank. But some tolerable notion may be formed of the losses sustained by the Government, in its fiscal operations, during the war.

The committee have given this part of the subject an attentive and careful examination, and they cannot estimate the pecuniary losses of the Government, sustained exclusively for the want of a sound currency, and an efficient system of finance, at a sum less than forty-six millions of dollars. If they shall make this apparent, the House will have something like a standard for estimating the individual losses of the community.

The Government borrowed, during the short period of the war, eighty millions of dollars, at an average discount of fifteen per cent., giving certificates of stock, amounting to eighty millions of dollars, in exchange for sixty-eight

millions of dollars, in such bank paper as could be obtained. In this statement treasury notes are considered as stock, at twenty per cent. discount. Upon the very face of the transaction, therefore, there was a loss of twelve millions of dollars, which would, in all probability, have been saved, if the treasury had been aided by such an institution as the Bank of the United States. But the sum of sixty-eight millions of dollars, received by the Government, was in a depreciated currency, not more than half as valuable as that in which the stock given in exchange for it, has been and will be redeemed. Here, then, is another loss of thirty-four millions, resulting, incontestibly and exclusively, from the depreciation of the currency, and making, with the sum lost by the discount, forty-six millions of dollars. While, then, the Government sustained this great pecuniary loss in less than three years of war, amounting, annually, to more than the current expenses of the Government in time of peace, it is worth while to inquire who were the persons who profited to this enormous amount by the derangement of the currency? It will be found that the whole benefit of this speculation upon the necessities of the Government was realized by stockjobbers and money brokers, the very same class of persons who profited so largely by the business of commercial exchanges, in consequence of the disorders of the currency, and who have the same interest in the recurrence of those disorders as lawyers have in litigation, or physicians in the diseases of the human frame. Having presented these general views of the evils which existed previous to the establishment of the Bank of the United States, it remains for the committee to inquire how far this institution has effected a remedy of those evils.

The first great question which arises under this branch of the inquiry is, whether or no the bank has corrected the disorders of the circulating medium, by providing a paper currency, convertible into specie at the pleasure of the holder, and of equal value with specie at all points of the Union?

The Chief Magistrate, in that part of his first message which relates to the Bank of the United States, expresses the opinion that "it has failed in the great end of establishing a uniform and sound currency." After giving to this opinion all the consideration to which it is so justly entitled, from the eminent station and high character of the citizen by whom it is entertained, the committee are constrained to express their respectful but decided dissent from it. It is true that the bank does not, in all cases, redeem the bills, issued by any one of its branches, indiscriminately at all the other branches; and it is in reference to this fact, as the committee presume, that the President expresses the opinion that the institution has failed to establish "a uniform and sound currency."

It is confidently believed, that no one of the persons who were principally instrumental in establishing the bank, ever entertained an idea that it would attempt to redeem its bills at any of its offices, other than those by which they should be respectively issued. The charter certainly contains no such requirement, and it would have been highly inexpedient if it had, to say nothing of its obvious injustice. The inevitable effect of such a requirement would have been to compel the bank to perform the whole of the commercial exchanges of the country, without any compensation. It would not be more unjust to require a rail road company to transport all the productions of the country without compensation. No institution could stand such an operation; and it was the injudicious attempt of the first direction of the bank to do it, that principally contributed to the embarrassments of 1819. A committee was appointed by the House of Representatives, in that year, to investigate the management of the bank; and in the report of that committee, as well as in the discussions to which it gave rise in the House, this attempt of the direction to redeem the bills of the institution, indiscriminately, at all its branches, was indicated as one of the causes of the existing embarrassment. No one who participated in the debate pretended to allege that the bank was bound to redeem its bills indiscriminately, or that it was expedient that it should do so. The most that any one did, was to apologise for the unwise attempt.

But it yet remains for the committee to show that this indiscriminate redeemability of the bills of all the branches of the bank is not necessary to "the establishment of a uniform and sound currency."

Human wisdom has never effected, in any other country, a nearer approach to uniformity of the currency, than that which is made by the use of the precious metals. If, therefore, it can be shown that the bills of the United States' Bank are of equal value with silver at all points of the Union, it would seem that the proposition is clearly made out, that the bank has accomplished "the great end of establishing a uniform and sound currency." It is not denied that the bills of the mother bank, and of all its branches, are invariably and promptly redeemed in specie, whenever presented at the offices by which they have been respectively issued, and at which, upon their face, they purport to be payable. Nor is it denied that the bills of the bank, and of all the branches, are equal to specie in their respective spheres of circulation. Bills, for example, issued by the mother bank, are admitted to be equal to silver in Pennsylvania, and all those parts of the adjacent States of which Philadelphia is the market. But it is contended that these bills, not being redeemable at Charleston and New Orleans, are not of equal value with silver to the merchant who wishes to purchase cotton with them, in those cities. Now, if the Philadelphia merchant had silver, instead of bank bills, he certainly could not effect his purchases with it in Charleston or New Orleans, without having the silver conveyed to those places; and it is equally certain that he could not have it conveyed there, without paying for its transportation and insurance.

These expenses constitute the natural rate of exchange between those cities, and indicate the exact sum which the merchant would give as a premium for a bill of exchange, to avoid the trouble and delay of transporting his specie. It is obvious, therefore, that, even for these distant operations of commerce, silver would be no more valuable than the bills of the bank: for these would purchase a bill of exchange on either of the cities mentioned, precisely as well as silver. If the operation should be reversed, and the planter of Louisiana or South Carolina should desire to place his funds in Philadelphia with a view to purchase merchandise, he would find the bills of the branch bank, in either of those States, entirely equivalent to silver in effecting his object. Even, therefore, if the bank had not reduced the rate of the exchanges, it might be safely asserted that its bills would be of equal value with silver at every point in the Union, and for every purpose, whether local or general.

But it is impossible to exhibit any thing like a just view of the beneficial operations of the bank, without adverting to the great reduction it has effected, and the steadiness it has superinduced, in the rate of the commercial exchanges of the country. Though this branch of the business of the bank has been the subject of more complaint, perhaps, than any other, the committee have no hesitation in saying, it has been productive of the most signal benefits to the community, and deserves the highest commendation. It has been already stated that it has saved the community from the immense losses resulting from a high and fluctuating state of the exchanges. It now remains to show its effect in equalizing the currency. In this respect, it has been productive of results more salutary than were anticipated by the most sanguine advocates of the policy of establishing the bank. *It has actually furnished a circulating medium more uniform than specie.* This proposition is susceptible of the clearest demonstration. If the whole circulating medium were specie, a planter of Louisiana, who should desire to purchase merchandise in Philadelphia, would be obliged to pay one per cent. either for a bill of exchange on this latter place, or for the transportation and insurance of his specie. His specie at New Orleans, where he had no present use for it, would be worth one per cent. less to him than it would be in Philadelphia, where he had a demand for it. But, by the aid of the Bank of the United States, one-half of the expense of transporting specie is now saved to him. The bank, for one-half of one per cent., will give him a draft upon the mother bank at Philadelphia, with which he can draw either the bills of that bank, or specie, at his pleasure. In like manner, the bank and its branches will give drafts from any point of the Union to any other where offices exist, at a per centage

greatly less than it would cost to transport specie, and, in many instances, at par. If the merchant or planter, however, does not choose to purchase a draft from the bank, but prefers transmitting the bills of the office where he resides to any distant point, for commercial purposes, although these bills are not strictly redeemable at the point to which they are transmitted, yet, as they are receivable in payment of all dues to the Government, persons will be generally found willing to take them at par; and if they should not, the bank will receive them frequently at par, and always at a discount much less than would pay the expense of transporting specie. The fact that the bills of the bank and its branches are indiscriminately receivable at the custom houses and land offices, in payment of duties, and for the public lands, has an effect in giving uniformity to the value of these bills, which merits a more full and distinct explanation.

For all the purposes of the revenue, it gives to the national currency that perfect uniformity, that ideal perfection, to which a currency of gold and silver, in so extensive a country, could have no pretensions. A bill issued at Missouri is of equal value with specie at Boston, in payment of duties; and the same is true of all other places, however distant, where the bank issues bills, and the Government collects its revenue. When it is, moreover, considered, that the bank performs, with the most scrupulous punctuality, the stipulation to transfer the funds of the Government to any point where they may be wanted, free of expense, it must be apparent that the committee are correct, to the very letter, in stating that the bank has furnished, both to the Government and to the People, *a currency of absolutely uniform value in all places, for all the purposes of paying the public contributions, and disbursing the public revenue.* And when it is recollected that the Government annually collects and disburses more than twenty-three millions of dollars, those who are at all familiar with the subject will at once perceive that bills, which are of absolutely uniform value for this vast operation, must be very nearly so for all the purposes of general commerce.

Upon the whole, then, it may be confidently asserted, that no country in the world has a circulating medium of greater uniformity than the United States, and that no country, of any thing like the same geographical extent, has a currency at all comparable to that of the United States, on the score of uniformity. The committee have seen the statement of an intelligent traveller, who has visited almost every part of Europe, exhibiting the great variations of the currency in different parts of the same empire or kingdom. In Russia, the bills of the Bank of St. Petersburg have a very limited circulation. At Riga, and throughout Courland, Livonia, and all the southern parts of the empire, the currency is exclusively of silver coins. In Denmark, the notes of the Bank of Copenhagen are current only in Zealand, the other islands, and Jutland, but will not pass at all in Sleswic and Holstein, which constitute the best portion of the kingdom. Since the Congress of Vienna, Germany is divided into thirty-nine separate States, each having a distinct currency, though represented in the Diet at Frankfort. Out of the territory in which these several currencies are issued, they are mere articles of merchandise; which circumstance has given rise in every town to a numerous and distinct class of tradesmen, called money changers. How far these separate and unconnected currencies have a tendency to embarrass commerce, may be inferred from the fact, that a traveller going from St. Petersburg to Calais will lose, upon the unavoidable changes of money, an average of six per cent. In France, the bills of the bank are of such large denominations as to be adapted only to the greater operations of commerce, and are principally confined to the bankers and extensive traders in Paris. The general currency is silver; and, to avoid the trouble of carrying this to distant parts of the kingdom, gold pieces, or bills of exchange, which are preferable, are purchased at a premium of from one and a half to four per cent. After this brief review of the currencies of Europe, the committee will barely state, as a conclusive vindication of our currency from the imputation of unsoundness, that there is no point in the Union at which a bill of the United States' Bank, issued at the

opposite extremity of the country, is at a discount of more than one-fourth of one per cent.

In confirmation of the views here presented, as to the comparative uniformity of the currency furnished by the bank, and, also, as to the obligation of the bank to redeem its bills, indiscriminately, at all the offices, the committee will present a few brief extracts from the speech of a statesman, whose opinions have every title to authority on these important subjects. Mr. Lowndes, in discussing the question, how far the bank had performed the great duty for which it was created, used the following decided language in 1819, when the currency had not reached the point of uniformity it has now attained by half of one per cent.

"The great object of the Government in chartering the bank, was to provide a currency which should have that degree of stability and uniformity in its value, which is required by the interests both of our commerce and revenue. A currency, equally valuable at every place and every time, cannot be provided by human wisdom. The nearest approach to this object has been generally supposed to be afforded by the employment of gold and silver as the measures of value. The fourteenth Congress did not aim at ideal perfection; they wished to combine, with the conveniencies of bank circulation, an uniformity of value equal to that which was possessed by the precious metals; and the means which they employed to secure this uniformity were simple and effectual, by enjoining, under a heavy penalty, the payment of all its notes in coin, upon demand. In the report, indeed, the notes of the National Bank are said to be now 'on the same footing with those of local banks.' Of the footing on which local banks stood, he should speak hereafter; but the price current upon his table informed him, that the greatest discount on branch notes of the United States was three-fourths of one per cent. This was a value much more uniform than that which coin could be expected to have in so extensive a country. He had been lately looking into a book on political economy, which had been published here, with high, and, in respect to its clearness and precision, with just commendations—the work of Mr. Tracy. He inferred from one of his chapters, that the difference of exchange between Marseilles and Paris was often from two to three per cent. If, with all the facilities afforded by the internal improvements in which France is so rich, with a currency consisting almost exclusively of gold and silver, the variation in the value of money is three times greater *in her territory than on our continent*, can it be said that, in this respect, the bank has not fulfilled the objects of its institution? Before its establishment, the value of bank notes, even in the commercial States, had varied twenty per cent. from each other; and, as none of them bore a fixed proportion to the precious metals, or to any natural standard, it was impossible to assign any limit to their depreciation. You have required that the currency furnished by the National Bank should be every where convertible into silver, and it is so. You have expected that it should be as uniform as coin, and it is more so. He would not detain the committee by reading a paper, which he had prepared with that intention, containing the rate of exchange, since the establishment of the bank, with England, France, and Holland; for he found himself occupying much more of their time than he had expected. But he believed that any member, who should turn his attention to the subject, would remark its steadiness during that period. He thought himself justified in drawing from this fact a conclusion highly favorable to the bank."

In reference to the great depreciation of the paper of the local banks, previous to the establishment of that of the United States, he said:

"Did the interests or duty of the Government of the United States permit that this currency should be received by it? Some dissatisfaction was expressed because the branch notes of the United States' Bank were at a discount of three-fourths of one per cent. He read from a price current the state of the market for bank notes, by which it appeared that notes, which were insisted to be in very good credit, varied from a discount of two and a half to one of seven, fifteen, twenty-five, and even thirty per cent. Was our revenue to be

received in these notes? How were they to be employed? They might be expended in the district in which they were issued. But was the expenditure of every district to be exactly limited to its revenue? What became of the Union if it were so? He spoke of the thing, and not the name. Our Union might dissolve in imbecility, as well as be destroyed by violence. Did not union imply, that the resources of one State, its money, as well as its men, might be employed for the defence of another?

"But, if the Government were willing to bear the loss of a depreciated and unequal currency, it must neglect the plainest principle of the constitution in doing so—equality of taxation. The committee must well remember, that, before the establishment of the National Bank, such was the unequal value of currency in the different States, that the merchants paid duties, varying fifteen per cent. from each other, on the same articles."

On the question, whether the bank was bound to redeem, indiscriminately, the bills of all its branches, he said:

"He should not argue that the bank was not bound to pay its notes, indiscriminately, at all its offices. He believed that nobody now contended that it was." \* \* \* "It was no unfair account of the practical operation of the system of which he was speaking, to say, that it gave to the branches where the exchange was unfavorable, the entire disposition of the specie of those branches where the exchange was favorable. Upwards of six millions of specie have been sent to the branch of New York, besides the amount which has been paid by the subscribers of the bank there; but, in issuing notes which the bank of New York has been obliged to redeem, every branch throughout the country has drawn upon a fund, with whose condition, at the time, it could not be acquainted." \* \* \* "Such a system might be expected to produce inconvenient changes in the distribution of bank capital, an extreme facility of obtaining loans at one time, and unexpected contractions of discount at another." \* \* \* "Whenever the state of exchange is unfavorable; whenever the just principles of banking require a reduction of discounts; then, under this system of indiscriminate payment of its notes, the bank has nothing to fear from a draught of specie, and is encouraged to lend to every applicant. Wherever the exchange is favorable, and on the sound principles of banking, an enlarged accommodation might be given to the community; there the flow of notes from every State, whose exchange is unfavorable, contracts or suspends all the operations of the bank. Thus, wherever discounts should be enlarged, the tendency of this system is to reduce them, and to enlarge them wherever they should be reduced."

Independently of the gross injustice of requiring the bank to perform all the exchanges of this extensive confederacy, without any compensation, these enlightened views show most conclusively its inexpediency and injustice, as it regards the different sections of the Union. It would inevitably render those parts of the Union, where the bank issues were prudent and moderate, tributary to those where the issues were injudicious and excessive. In this way, the very inequality in the currency, which the bank was designed to correct, would be perpetuated, by the vain attempt to make it perform impossibilities. The power of annihilating space, of transporting money, or any other article, to the most distant points, without the loss of time, or the application of labor, belongs to no human institution.

But the salutary agency of the Bank of the United States, in furnishing a sound and uniform currency, is not confined to that portion of the currency which consists of its own bills. One of the most important purposes which the bank was designed to accomplish, and which, it is confidently believed, no other human agency could have effected, under our federative system of Government, was the enforcement of specie payments on the part of numerous local banks, deriving their charters from the several States, and whose paper, irredeemable in specie, and illimitable in its quantity, constituted the almost entire currency of the country. Amidst a combination of the greatest difficulties, the bank has almost completely succeeded in the performance of this arduous, delicate, and painful duty. With exceptions, too inconsiderable



bie to merit notice, all the State banks in the Union have resumed specie payments. Their bills, in the respective spheres of their circulation, are of equal value with gold and silver; while, for all the operations of commerce beyond that sphere, the bills or the checks of the Bank of the United States are even more valuable than specie. And even in the very few instances in which the paper of State banks is depreciated, those banks are winding up their concerns; and it may be safely said, that no citizen of the Union is under the necessity of taking depreciated paper, because a sound currency cannot be obtained. North Carolina is believed to be the only State where paper of the local banks is irredeemable in specie, and, consequently, depreciated. Even there, the depreciation is only one or two per cent., and, what is more important, the paper of the Bank of the United States can be obtained by all those who desire it, and have an equivalent to give for it.

The committee are aware that the opinion is entertained by some, that the local banks would, at some time or other, either voluntarily, or by the coercion of the State Legislatures, have resumed specie payments. In the very nature of things this would seem an impossibility. It must be remembered, that no banks ever made such large dividends as were realized by the local institutions, during the suspension of specie payments. A rich and abundant harvest of profit was opened to them, which the resumption of specie payments must inevitably blast. While permitted to give their own notes, bearing no interest, and not redeemable in specie, in exchange for better notes, bearing interest, it is obvious that the more paper they issued, the higher would be their profits. The most powerful motive that can operate upon moneyed corporations, would have existed, to prevent the State banks from putting an end to the very state of things from which their excessive profits proceeded. Their very nature must have been changed, therefore, before they could have been induced to co-operate, voluntarily, in the restoration of the currency. It is quite as improbable that the State Legislatures would have compelled the banks to do their duty. It has already been stated, that the tendency of a depreciated currency to attract importations to the points of greatest depreciation, and to lighten the relative burthens of federal taxation, would naturally produce, among the States, a rivalry in the business of excessive bank issues. But there remains to be stated, a cause of more general operation, which would have prevented the interposition of the State Legislatures to correct those issues.

The banks were, directly and indirectly, the creditors of the whole community, and the resumption of specie payments necessarily involved a general curtailment of discounts, and withdrawal of credit, which would produce a general and distressing pressure upon the entire class of debtors. These constituted the largest portion of the population of all the States where specie payments were suspended, and bank issues excessive. Those, therefore, who controlled public opinion in the States, where the depreciation of the local paper was greatest, were interested in the perpetuation of the evil. Deep and deleterious, therefore, as the disease evidently was, in many of the States, their Legislatures could not have been expected to apply a remedy, so painful as the compulsion of specie payments would have been, without the aid of the Bank of the United States. And here it is worthy of special remark, that, while that bank has compelled the local banks to resume specie payments, it has most materially contributed, by its direct aid and liberal arrangements, to enable them to do so, and that with the least possible embarrassment to themselves and distress to the community. If the State Legislatures had been ever so anxious to compel the banks to resume specie payments, and the banks ever so willing to make the effort, the committee are decidedly of the opinion that they could not have done it, unaided by the Bank of the United States, without producing a degree of distress incomparably greater than has been actually experienced. They will conclude their remarks on this branch of the subject by the obvious reflection, that, if Congress, at the close of the war, had left it to the States to restore the disordered currency, this important function of sovereignty would have been left with those from

whom the constitution had expressly taken it, and by whom it could not be beneficially or effectually exercised. But another idea, of considerable plausibility, is not without its advocates. It is said that this Government, by making the resumption and continuance of specie payments the condition upon which State banks should receive the Government deposits, might have restored the currency to a state of uniformity. Without stopping to give their reasons for believing that specie payments could not have been restored in this way, and that, even if they could, a uniform currency of general credit, throughout the Union, would not have been provided, the committee will proceed to give their reasons for thinking that such a connexion between the Federal Government and the State banks would be exceedingly dangerous to the purity of both. While there is a national bank, bound by its charter to perform certain stipulated duties, and entitled to receive the Government deposits as a compensation, fixed by the law creating the charter, and only to be forfeited by the failure to perform those duties, there is nothing in the connexion at all inconsistent with the independence of the bank, and the purity of the Government. The country has a deep interest that the bank should maintain specie payments, and the Government an additional interest that it should keep the public funds safely, and transfer them, free of expense, wherever they may be wanted. The Government, therefore, has no power over the bank, but the salutary power of enforcing a compliance with the terms of its charter. Every thing is fixed by the law, and nothing left to arbitrary discretion. It is true that the Secretary of the Treasury, with the sanction of Congress, would have the power to prevent the bank from using its power unjustly and oppressively, and to punish any attempt, on the part of the directors, to bring the pecuniary influence of the institution to bear upon the politics of the country, by withdrawing the Government deposits from the offending branches. But this power would not be lightly exercised by the treasury, as its exercise would necessarily be subject to be reviewed by Congress; it is, in its nature, a salutary corrective, creating no undue dependence on the part of the bank.

But the state of things would be widely different, if there was no national bank, and it was left to the discretion of the Secretary of the Treasury to select the local banks in which the Government deposits should be made. All the State banks would, in that case, be competitors for the favor of the treasury; and no one, who will duly consider the nature of this sort of patronage, can fail to perceive, that, in the hands of an ambitious man, not possessed of perfect purity and unbending integrity, it would be imminently dangerous to the public liberty. The State banks would enter the lists of political controversy, with a view to obtain this patronage; and very little sagacity is required to foresee, that, if there should ever happen to be an administration disposed to use its patronage to perpetuate its power, the public funds would be put in jeopardy by being deposited in banks unworthy of confidence, and the most extensive corruption brought to bear upon the elections throughout the Union. A state of things more adverse to the purity of the Government—a power more liable to be abused—can scarcely be imagined. If five millions of dollars were annually placed in the hands of the Secretary of the Treasury, to be distributed at his discretion, for the purposes of internal improvement, it would not invest him with a more dangerous and corrupting power.

In connexion with this branch of the subject, the committee will briefly examine the grounds of a complaint, sometimes made against the Bank of the United States. It is alleged that this bank, availing itself of the Government deposits, consisting in some places principally of local paper, makes heavy and oppressive draughts on the local banks for specie, and thus compels them to curtail their discounts, to the great injury of the community. In the first place, it is to be remarked, that one of the highest duties of the bank—the great object for which it was established—was to prevent the excessive issues of local paper; and this duty can only be performed, by enforcing upon the State banks the payment of specie for any excess in their issues. But the committee are induced to believe, that this complaint is principally owing, so far as it now exists, to the fact, that the operations of the federal treasury are mistaken for the operations of the bank, because the bank is the agent by

whom those operations are performed. This institution receives the Government deposits in the paper of the local banks, certainly in no spirit of hostility to those banks. On the contrary, it tends to give them credit, and is designed to have that effect. But the Bank of the United States is not only bound to pay in specie, or its own bills, what it receives for the Government in local paper, but to transfer the funds to any part of the Union where they may be required for disbursement. Let it be assumed, that the Government collects annually, at the custom house in Charleston, one million of dollars in local bank notes, and disburses in South Carolina only one hundred thousand, it would result from this, that the Government would have nine hundred thousand dollars of local bank paper deposited in the Charleston branch, which the bank would be bound by its charter, and for the national benefit, to transfer perhaps to Washington or Norfolk. As this paper would not answer the purposes of the Government at those places, the bank would be, of course, compelled to provide specie, or bills that will command specie at those places. It is obvious, then, that it is the inequality in the collection and disbursement of the revenue that produces the evil in question. If all the revenue collected in Charleston were disbursed in the State, no draughts would be made upon the local banks for specie. The Bank of the United States, so far from being justly obnoxious to any complaint on this score, has greatly mitigated the action of the treasury upon the local banks, by means of the liberal arrangements which its large capital and numerous branches have enabled it to make with them. The degree in which that institution has reduced the rate of exchange, may be fairly assumed as that in which it has mitigated the action of the treasury upon the State banks. If, for example, there existed no national bank, and the deposits of the revenue collected in Charleston were made in one of the local banks, what would be the effect of transferring, annually, nine hundred thousand dollars to Washington or Norfolk? The local banks, having no branches at either of those places, instead of transmitting drafts, as is now generally done, would be compelled to transmit specie. The bank in which the Government deposits were made, would consequently be under the necessity of demanding specie from all the other banks, in a manner, and to an extent, much more oppressive than any thing that can be imputed to the Bank of the United States. If, to avoid these specie drafts, the local banks should purchase bills on Washington or Norfolk, they would probably cost five or six per cent. even in a tolerable state of the currency, which would be a loss to the banks almost to the full extent of the premium.

Although the expediency of renewing the charter of the present bank is not a question now submitted for the decision of Congress, the committee consider it so far involved in the matter referred to them, as to render it their duty to present some considerations bearing on that question, in addition to what they have said on the general expediency of maintaining such an institution. If a national bank, similar to the present, be a necessary and proper agent for the accomplishment of the great purposes heretofore indicated, the only remaining question would seem to be, whether the charter of the present stockholders should be renewed, or a new set of stockholders incorporated.

In considering this question, Congress will, of course, be governed in some degree by the terms on which the present stockholders will agree to accept a renewal of their charter. But, as the committee have satisfactory reasons for believing that terms eminently advantageous to the Government can be obtained, they will proceed to some other inquiries. What, then, would be the effect of refusing to renew the present charter? And, in the first place, what are the inducements for pursuing that course?

It is sometimes alleged that the present stockholders are large capitalists, and, as the stock of the bank is some twenty per cent. above par, that a renewal of the charter would be equivalent to a grant to them of twenty per cent. upon their capital. It is true, that a small proportion of the capital of the company belongs to very wealthy men. Something more than two millions of that owned in the United States belongs to persons holding upwards of one hundred thousand dollars each. It is also true, that foreigners own

seven millions, or one-fifth of the capital. But, on the other hand, it is to be remarked that the Government, in trust for the People of the United States, holds seven millions; that persons owning less than five thousand dollars each, hold four millions six hundred and eighty-two thousand; and that persons owning between five and ten thousand dollars each, hold upwards of three millions. It is also worthy of remark, that a very considerable portion of the stock, very nearly six millions, is held by trustees and guardians, for the use of females and orphan children, and charitable and other institutions. Of the twenty-eight millions of the stock which is owned by individuals, only three millions four hundred and fifty-three thousand is now held by the original subscribers. All the rest has been purchased at the market prices—a large portion of it, probably, when those prices were higher than at present. Most of the investments made by wills, and deeds, and decrees in equity, for the use of females and minors, are believed to have been made when the stock was greatly above par. From this brief analysis, it will appear that there is nothing in the character or situation of the stockholders, which should make it desirable to deprive them of the advantage which they have fairly gained, by an application of their capital to purposes highly beneficial, as the committee have attempted to show, to the Government and People of the United States. If foreigners own seven millions of the stock of the bank, our own Government owns as much; if wealthy men own more than two millions, men in moderate circumstances own between seven and eight millions; and widows, orphans, and institutions devoted to charitable and other purposes, own nearly six millions.

But, the objection that the stock is owned by men of large capital, would apply with equal, if not greater force, to any bank that could be organized. In the very nature of things, men who have large surplus capitals are the principal subscribers at the first organization of a bank. Farmers and planters, merchants and manufacturers, having an active employment for their capitals, do not choose to be the first adventurers in a bank project. Accordingly, when the present bank went into operation, it is believed that most of the capital was owned by large capitalists, and under a much more unequal distribution than exists at present. The large amount of stock now held in trust for females and minors, has been principally, if not entirely, purchased since the bank went into operation; and the same remark is generally applicable to the stock in the hands of small holders. It is only when the character of a bank is fully established, and when its stock assumes a steady value, that these descriptions of persons make investments in it.

It is morally certain, therefore, that, if another distinct institution were created, on the expiration of the present charter, there would be a much greater portion of its capital subscribed by men of large fortunes, than is now owned by persons of this description, of the stock of the United States' Bank. Indeed, it might be confidently predicted, that the large capitalists who now hold stock in that bank, would, from their local position and other advantages, be the first to forestall the subscriptions to the new bank, while the small stockholders, scattered over the country, would be probably excluded, and the females and minors, and others interested in trust investments made by decrees in equity, would be almost necessarily excluded, as the sanction of a court could scarcely be obtained, after the passage of the new act of incorporation, in time to authorize a subscription.

To destroy the existing bank, therefore, after it has rendered such signal services to the country, merely with a view to incorporate another, would be an act rather of cruelty and caprice, than of justice and wisdom, as it regards the present stockholders. It is no light matter to depreciate the property of individuals, honestly obtained, and usefully employed, to the extent of five millions six hundred thousand dollars, and the property of the Government, to the extent of one million four hundred thousand dollars, purely for the sake of change. It would indicate a fondness for experiment, which a wise Government will not indulge upon slight considerations.

But the great injury which would result from the refusal of Congress to renew the charter of the present bank, would, beyond all question, be that which would result to the community at large. It would be difficult to estimate the extent of the distress which would naturally and necessarily result from the sudden withdrawal of more than forty millions of credit, which the community now enjoys from the bank. But this would not be the full extent of the operation. The Bank of the United States, in winding up its concerns, would not only withdraw its own paper from circulation, and call in its debts, but would unavoidably make such heavy draughts on the local institutions for specie as very greatly to curtail their discounts. The pressure upon the active, industrious, and enterprising classes, who depend most on the facilities of bank credit, would be tremendous. A vast amount of property would change hands at half its value, passing, under the hammer, from the merchants, manufacturers, and farmers, to the large moneyed capitalists, who always stand ready to avail themselves of the pecuniary embarrassments of the community. The large stockholders of the present bank, the very persons whose present lawful gains it would be the object of some to cut off, having a large surplus money capital thrown upon their hands, would be the very first to speculate upon the distresses of the community, and build up princely fortunes upon the ruins of the industrious and active classes. On the other hand, the females and minors, and persons in moderate circumstances, who hold stock in the institution, would sustain an injury, in no degree mitigated by the general distress of the community.

A very grave and solemn question will be presented to Congress, when they come to decide upon the expediency of renewing the charter of the present bank. That institution has succeeded in carrying the country through the painful process necessary to cure a deep-seated disease in the national currency. The nation, after having suffered the almost convulsive agonies of this necessary remedy, is now restored to perfect health. In this state of things, it will be for Congress to decide whether it is the part of wisdom to expose the country to a degree of suffering, almost equal to that which it has already suffered, for the purpose of bringing back that very derangement of the currency, which has been remedied by a process as necessary as it was distressing.

If the Bank of the United States were destroyed, and the local institutions left without its restraining influence, the currency would almost certainly relapse into a state of unsoundness. The very pressure which the present bank, in winding up its concerns, would make upon the local institutions, would compel them either to curtail their discounts, when most needed, or to suspend specie payments. It is not difficult to predict which of these alternatives they would adopt, under the circumstances in which they would be placed. The imperious wants of a suffering community would call for discounts, in language which could not be disregarded. The public necessities would demand, and public opinion would sanction, the suspension, or at least an evasion of specie payments.

But, even if this desperate resort could be avoided in a period of peace and general prosperity, neither reason nor experience will permit us to doubt that a state of war would speedily bring about all the evils which so fatally affected the credit of the Government and the national currency, during the late war with Great Britain. We should be again driven to the same miserable round of financial expedients, which, in little more than two years, brought a wealthy community almost to the very brink of a declared national bankruptcy, and placed the Government completely at the mercy of speculating stockjobbers.

The committee feel warranted, by the past experience of the country, in expressing it as their deliberate opinion, that, in a period of war, the financial resources of the country could not be drawn into efficient operation, without the aid of a national bank, and that the local banks would certainly resort to a suspension of specie payments. The maxim is eminently true, in modern times, that money is the sinew of military power. In this view of the sub-

ject, it does appear to the committee, that no one of the institutions of the country, not excepting the army or navy, is of more vital importance than a national bank. It has this decided advantage over the army and navy; while they are of scarcely any value except in war, the bank is not less useful than either of them in war, and is also eminently useful in peace. It has another advantage, still greater. If, like the army or navy, it should cost the nation millions annually to sustain it, the expediency of the expenditure might be doubted. But, when it actually saves to the Government and to the country, as the committee have heretofore attempted to show, more millions annually than are expended in supporting both the army and navy, it would seem that, if there were any one measure of national policy, upon which all the political parties of the country should be brought to unite, by the impressive lessons of experience, it is that of maintaining a national bank.

It is due to the persons, who, for the last ten years, have been concerned in the administration of the bank, to state, that they have performed the delicate and difficult trust committed to them, in such a manner, as, at the same time, to accomplish the great national ends for which it was established, and promote the permanent interest of the stockholders, with the least practicable pressure upon the local banks. As far as the committee are enabled to form an opinion, from careful inquiry, the bank has been liberal and indulgent in its dealings with these institutions, and, with scarcely an exception, now stands in the most amicable relation to them. Some of those institutions have borne the most disinterested and unequivocal testimony in favor of the bank.

It is but strict justice also to remark, that the direction of the mother bank appears to have abstained, with scrupulous care, from bringing the power and influence of the bank to bear upon political questions, and to have selected, for the direction of the various branches, business men, in no way connected with party politics. The committee advert to this part of the conduct of the directors, not only with a view to its commendation, but for the purpose of expressing their strong and decided conviction that the usefulness and stability of such an institution will materially depend upon a steady and undeviating adherence to the policy of excluding party politics and political partisans from all participation in its management. It is gratifying to conclude this branch of the subject, by stating that the affairs of the present bank, under the able, efficient, and faithful guidance of its two last presidents, and their associates, have been brought from a state of great embarrassment, into a condition of the highest prosperity. Having succeeded in restoring the paper of the local banks to a sound state, its resources are now such as to justify the directors in extending the issue and circulation of its paper, so as to satisfy the wants of the community, both as it regards bank accommodations and a circulating medium. Upon the soundest principles of banking, the very ample resources of the institution would justify the directors in granting accommodations to a much greater extent than they have yet done; and though they have increased the circulation of their paper from four and a half to fourteen millions, since January, 1823. they are ready and willing to increase it still further, by discounting bills of exchange and other business paper. It is believed that the discounts and issues of the institution are now actually limited by the want of application resting upon these, the only substantial and safe foundations of bank credit and circulation.

III. Having said thus much on the constitutionality and expediency of an incorporated National Bank, the only question which remains to be examined by the committee is, the expediency of establishing "a National Bank founded upon the credit of the Government and its revenues."

It is presumed to have been the intention of the President, in suggesting the inquiry as to a bank founded upon the credit and revenues of the Government, to be understood as having allusion to a bank of discount and deposit. Such a bank, it is taken for granted, would have branches established in various parts of the Union, similar to those now established by the Bank of the United States, and co-extensive with them. The great object of furnishing



a national currency could not be accomplished, with an approach to uniformity, without the agency of such branches; and another object, second only in importance to the one just stated, the extension of the commercial facilities of bank accommodations to the different parts of the Union, could not be at all effected without such agency. If there should be simply a great central bank established at the seat of Government, without branches to connect its operations with the various points of the commerce of the Union, the promise to pay specie for its notes, whenever presented, would be almost purely nominal. Of what consequence would it be to a merchant or planter of Louisiana, or a manufacturer or farmer of Maine, that he could obtain specie for bills of the National Bank, on presenting them at the city of Washington—a place wholly unconnected either with Louisiana or Maine, by any sort of commercial intercourse, and where, consequently, these bills would never come in the regular course of trade? A promise to pay specie at a place so remote from the place of circulation, and where the bills would never come but at a great expense, and for the sole purpose of being presented for payment, would neither give credit to the notes, nor operate as an effective check upon excessive issues. Whatever credit such notes might have at a distance from the place of issue, would not be because they were redeemable at the pleasure of the holder, for such would not be the fact; but principally because of the ultimate responsibility of the Government, and of their being receivable in payment of all dues to the treasury. They would rest, therefore, upon almost precisely the same basis of credit as the paper money of our Revolution, the assignats of revolutionary France, and the treasury notes of the late war. These were receivable in discharge of debts due to the treasury, and the Government was of course ultimately responsible for their payment; yet the two former depreciated almost to nothing, and the latter, though bearing interest, sunk to twenty per cent. below par. But the notes of a central Government Bank, without branches, would be subject to depreciation from a cause which constitutes a conclusive objection to such an institution. *There would be nothing to limit excessive issues but the discretion and prudence of the Government or of the direction.* Human wisdom has never devised any adequate security against the excessive issues, and, consequently, the depreciation of bank paper, but its actual, and easy, and prompt convertibility into specie, at the pleasure of the holder. Experience has shown that, where the paper of a bank is, by any means, habitually circulated at places remote from the point where it is issued, and not connected with it by a regular commercial intercourse, there will not exist that easy and prompt convertibility which is so essential to the credit of bank paper. When bank bills are confined to their appropriate sphere of circulation, a redundant issue is certainly and immediately followed by a run upon the bank for specie. This timely admonition is as useful to the bank as it is to the community: for it enables the directors to avoid, with unfailling certainty, an excess equally injurious to both, and which no human sagacity could anticipate or prevent, by calculation merely. Whatever, therefore, in a system of bank circulation, prevents the reflux of redundant issues, necessarily destroys the only adequate security against these injurious and ruinous excesses.

But a Government Bank, without branches, would be obnoxious to another objection, which could not be obviated. Its loans would be confined to the District of Columbia; or, if extended to the various parts of the Union, to say nothing of the inconvenience to which it would expose those at a distance, who obtained accommodations, they would be unavoidably granted without any knowledge of the circumstances of the persons upon whose credit the Government would depend for re-payment. It would, in fact, be, for all useful purposes, a mere District Bank.

These views of the subject have brought the committee to the conclusion, that, if a Government Bank should be established, it would have at least as many branches as the Bank of the United States, and probably a much greater number. Few administrations would have the firmness to resist an application to establish a branch, coming from any quarter of the Union, however

injudicious the location might be, upon correct principles of commerce and banking.

The Bank of the United States now employs five hundred agents, in the various parts of the Union, where its offices are established. From this fact some idea may be formed of the very great addition which would be made to the patronage of the Executive Government, by the establishment of such a bank as the one under consideration.

But the patronage resulting from the appointment, the annual appointment, of these agents, great as it would doubtless be, would be insignificant and harmless, when compared to that which would result from the dispensation of bank accommodations to the standing amount of at least fifty millions of dollars! The mind almost instinctively shrinks from the contemplation of an idea so ominous to the purity of the Government, and the liberties of the People. No government of which the committee have any knowledge, except, perhaps, the despotism of Russia, was ever invested with a patronage at once so prodigious in its influence, and so dangerous in its character. In the most desperate financial extremities, no other European government has ever ventured upon an experiment so perilous. If the whole patronage of the English monarchy were concentrated in the hands of the American Executive, it may be well doubted whether the public liberty would be so much endangered by it, as it would by this vast pecuniary machine, which would place in the hands of every administration fifty millions of dollars, as a fund for rewarding political partizans.

Without assuming that a corrupt use would be made of this new species of Government patronage, a very slight acquaintance with the practice of all political parties, whatever may be their professions, will be sufficient to satisfy any reflecting mind that all the evil consequences of corruption would flow from its exercise. Have not our political contests too frequently degenerated into a selfish scramble for the offices of the country? Are there not those who sincerely and honestly believe that these offices are legitimate objects of political warfare, and the rightful reward of the victorious party? And, disinterested and patriotic as the great body of every political party is admitted to be, the fact is no less true than it is lamentable, that the most devoted and active partizans are very often mere soldiers of fortune, who watch the political signs, and enlist at the eleventh hour, under the banners of the party most likely to prove successful. Such being, more or less, the composition of all political parties, what would be the probable use made of fifty millions of bank patronage, by a political party which conscientiously held the doctrine that all the offices in the gift of the Executive should be divided among the partizans of a successful political leader? Would not the same principle be even more applicable to bank loans? And would not the treasury of the United States, under the sanctifying influence of party delusion and party infatuation, be literally plundered by mercenary retainers, bankrupts in fortune, and adventurers in politics?

Even if the administration should be ever so much disposed to restrain the abuse of this patronage, it would be utterly impracticable to exercise any efficient control over the great number of bank directors who would be scattered over the Union, and who, upon all the known principles of human nature, it may be confidently predicted, would principally consist of busy and officious political partizans.

Such would be the depositories, acting, not under the public eye, but under the protecting mystery of a sort of concealment and secrecy, deemed indispensable in banking operations, to whom not only the whole treasury of the Union would be confided, to be squandered, perhaps, in profligate favoritism, but the tremendous power of putting the whole property of the nation under mortgage, for the redemption of the bills issued at their discretion. To say nothing of the utter insecurity of the public revenues under such a system, a new species of legislative power, unknown to the constitution, would be committed to these irresponsible bank directors, of which no human sagacity can predict the consequences.

A just analysis of the operation of granting loans by this Government bank, in exchange for the notes of private individuals, will show, that it involves the exercise, on the part of the directors, of the two-fold power of appropriating the public revenue in the most dangerous of all forms, discretionary loans, and of pledging the responsibility of the Government, to an unlimited extent, for the payment of the debts at the same time created against it. These are among the highest functions of legislative power, and have been expressly and exclusively vested in Congress. Unless, therefore, it be assumed that Congress may rightfully transfer the powers with which it is invested to these bank directors, it will be difficult to find any warrant, either in the letter or spirit of the constitution, for the creation of this tremendous engine of pecuniary influence. It may, indeed, be doubted, whether all the branches of the legislative authority united have any constitutional power to lend the public revenue, either to individuals, corporations, or States, without reference to the objects to which it shall be applied. But, whatever may be the power of Congress on this subject, it appears to the committee to be inexpedient, in every view of the question, that the Government should be converted into a great money lender. There is no species of trade in which it would be wise for the Government to embark; but of all the variety of pursuits known to human enterprise, that of lending money by the Government to the citizens of the country, would be fraught with the most pernicious consequences.

In the first place, it is a business to which, in the very nature of things, no government is adapted, and, least of all, a popular government. There is no employment of capital that requires a more vigilant and skilful superintendence. Nothing but the ever active motive of individual interest can supply the watchfulness necessary to secure a banking institution against the grossest frauds and impositions. In pecuniary transactions, few men are to be found who will serve others, in cases involving the exercise of discretionary power, with the same fidelity that they would serve themselves; and when we consider the strong motives, both of private friendship and political attachment, which would operate on the directors of a government bank, to bestow its favors without impartiality or prudence, it requires but little sagacity to foresee that enormous losses would be annually sustained by the insolvency of the government debtors.

All governments have found it expedient to place the public treasury under the guardianship of a high and confidential officer, aided, in the enforcement of a rigid responsibility, by a system of checks and counterchecks, operating upon all the subordinate officers concerned in collecting and disbursing the public revenue. Such is our own system. No discretion is vested in the chief officer of the treasury, much less in those that are subordinate, in the appropriation of a single dollar of the public money. "No money can be drawn from the treasury but in consequence of appropriations made by law." How far these wise and provident safeguards, and this constitutional barrier, would be prostrated by placing not only the public revenue, but the public credit, at the disposal of some hundreds of bank directors, in various parts of the Union, is a very grave question for the consideration of the House.

Our own experience has demonstrated the great danger of having large masses of the community indebted to the Government. It was a deep conviction of this danger that induced Congress to abolish the system of credit sales in the disposition of the public lands. Congress has been compelled to yield to the pressing importunities of the purchasers of these lands, by granting them not only repeated indulgences, but by remitting some millions of the debt. What, then, would be the situation of the Government, with a debt of fifty millions diffused throughout the country, and due to it from the most active, enterprising, and influential classes of the community? Nothing that has not happened can be more certain, than that every unfavorable vicissitude in trade, every period of commercial distress and embarrassment, would give rise to importunate and clamorous calls for indulgence, and for an injudicious

extension of discounts, which no administration would have the firmness to resist. Every one who has witnessed the urgency and unanimity with which the representatives of the States indebted for public lands, have pressed the claims of their citizens for indulgence and remission, must be satisfied that, if the citizens of all the States should become indebted much more largely for bank loans, the Government would have scarcely any faculty of resistance, when appeals for indulgence should come from all quarters of the Union, sustained by the strong plea of public distress and embarrassment.

The policy of extending indulgence to the public debtors, and of granting more liberal loans to the community, would, in the natural course of things, become the favorite theme of those who aspired to popular favor. Political parties would come to be divided upon the question of observing towards the public debtors a strict banking policy, indispensable to the maintenance of specie payments, on the one hand, or a liberal Government policy, necessarily involving a suspension of specie payments, on the other. And when it is considered that the whole class of debtors, always the most numerous and active portion of the community, would be naturally in favor of increasing bank issues, and extending bank indulgences, it can scarcely be doubted that specie payments would be suspended in the first great pecuniary exigency, growing out of embarrassments in our commerce, or deficiencies in our revenue.

The Government, therefore, which is under the most sacred obligations to constrain all the banks to maintain specie payments, with a view to the uniformity and soundness of the currency, would, by its own example, perpetuate the great national evil of a fluctuating and depreciated circulating medium.

These evils, which would be so highly probable in time of peace, would be almost certain in the event of war. The temptation to supply the Federal treasury by the easy process of bank issues, rather than resort to the unpopular process of internal taxation, would be too fascinating to be resisted. We should thus experience, what every nation has experienced in like circumstances, the manifold evils of a mere paper currency, having no relation to any standard of intrinsic value. In these views the committee are fully sustained by the opinion of Mr. Lowndes, expressed in 1819. These are his words: "That the destruction of the [United States] Bank would be followed by the establishment of paper money, he firmly believed; he might almost say, he knew. It was an extremity from which the House would recoil, if now proposed; but, if the resolution on the table were passed, it would very soon be proposed. The subject was too large for an incidental discussion. Gentlemen thought the amount of Government paper might be limited, and depreciation prevented, by the rate of interest which should be exacted. Inadequate every where, the security was particularly ineffectual in the United States."

But the inevitable tendency of a Government bank to involve the country in a paper system, is not, in the opinion of the committee, the greatest objection to it. The powerful, and, in the hands of a bad administration, the irresistible and corrupting influence which it would exercise over the elections of the country, constitutes an objection more imposing than all others united. No matter by what means an administration might get into power, with such a tremendous engine in their hands it would be almost impossible to displace them, without some miraculous interposition of Providence.

Deeply impressed with the conviction that the weak point of a free Government is the absorbing tendency of Executive patronage, and sincerely believing that the proposed bank would invest that branch of the Government with a weight of moneyed influence, more dangerous in its character, and more powerful in its operation, than the entire mass of its present patronage, the committee have felt that they were imperiously called upon, by the highest considerations of public duty, to express the views they have presented, with a frankness and freedom demanded by the occasion. It is, at the same time, due to their own feelings, that they should state, unequivocally, their conviction, that the suggestion of the Chief Magistrate, which they have thus freely

examined, proceeded from motives of the most disinterested patriotism, and was exclusively designed to promote the welfare of the country. This is not the mere formal and heartless homage, sometimes offered up to official station, either from courtesy or interest, but a tribute which is eminently due, and cheerfully rendered, to the exalted character of the distinguished individual on whom it is bestowed.

*Extracts of a letter from an intelligent merchant in Charleston, South Carolina, to the Chairman of the Committee of Ways and Means, illustrating the exchange operations of the Bank of the United States, and accompanying the foregoing report.*

"This effect of diminishing the vast difference of exchange between the various points of the country, was evidently produced by the bank. The advantages produced by this institution, in the intercourse between the Western and Atlantic States, can be duly appreciated only by one who sees, passing before him, the actual operation of the system of exchange it has created. For example: Lexington, in Kentucky, annually accumulates a large surplus of funds to her credit in Charleston, derived from the sale of horses, hogs, and other live stock, driven to that as well as to other Southern markets by her citizens. Philadelphia is indebted to Charleston for exchange remitted, dividends on bank stock, &c. and Lexington is indebted to Philadelphia for merchandise. Without the transportation of a single piece of coin, Lexington draws on Charleston, and remits the check to Philadelphia in payment of her debt there; which operation adjusts the balance between the three points of the triangle, almost without expense or trouble. Could such facilities be obtained from any other than an institution having branches in different parts of the Union, acting as co-partners in one concern? Local banks, whatever might be their willingness, could not accommodate in the same manner, and to a like extent."

"The discounting of bills, on the low terms established by the branch bank at this place, is a great benefit to the agricultural interest, particularly in enhancing the price of cotton and rice; and were the bank to stop its operations, there is no saying how far these staples would be depressed. The private dealers in exchange would take the place of the bank in that business, and their profits on bills would be taken out of the pockets of the planters, as the merchants would always regulate the price they would give for an agricultural production, by the high or low rate at which they could negotiate their bills. On account of its connexion with all parts of the Union, the bank affords this important advantage to the public: it is always a purchaser and always a seller of exchange, at fixed and low rates, and thus prevents extortion by private dealers." \* \* \* "Before this bank went into operation, exchange was from eight to ten per cent., either for or against Charleston, which was a loss to the planter to that amount on all the produce of Georgia and South Carolina, and, indeed, you might say, all the produce of the Southern and Western States."

"If the Bank of the United States were destroyed, the local banks would again issue their paper to an excessive amount; and while a few adventurous speculators would be much benefitted by such an issue, the honest and unsuspecting citizens of our country would, finally, be the losers. If we look back to what took place in New York, Pennsylvania, the Western States, and even in our own State, we shall see the grossest impositions committed by banks, commencing with a few thousand dollars in specie, buying up newspapers to puff them as specie paying banks, in order to delude the public, and, after getting their bills in circulation, blowing up, and leaving the unsuspecting planter and farmer victims of a fraud, by which they were deprived of the hard earnings of years of honest industry. But, sir, I believe the bank owes a great deal of the opposition which exists, and has existed, to the fact that

it has put down these fraudulent institutions, got up by combinations and conspiracies of speculators; and who, after receiving large dividends, managed to destroy the credit of their own paper, and, by the agency of brokers, bought it up at half its nominal value.

"Since I last wrote you, I had a conversation with a gentleman in the confidence of some of the moneyed men of the North, and he says they are determined to break up the United States' Bank, to enable them to use their money to advantage; as that institution gives so many facilities to the community, as to deprive them of their former profits."

"There is another consideration: the distress would be immense, which a refusal to renew the charter would produce among those who are indebted to the institution: for I find that, to this branch, the planters owe upwards of a million of dollars; and I have no hesitation in saying, as safe a debt as is owing to any bank in the Union. But if the bank should wind up its affairs, these planters could not get credit from other institutions; and as the bank can sue in the United States' court, where judgment is obtained almost at once, property would be greatly depressed, and moneyed men would buy it up for half its value. Throughout the Union, all classes would suffer, except those who should hold up their money to go into the brokerage business, or buy property at a sacrifice. If I were sure the bank would not be re-chartered, I would convert my property into money, with a view to dealing in exchange. I could make a vast fortune by it."



APPENDIX, No. 1.

Prices Current, exhibiting a comparative view of the relative value of Bank Notes in 1816 and in 1829, at various places.

	Boston.		New York.		Philadelphia.		Baltimore.		Washington.		Norfolk.	
	1816, July 1.	1829, Dec. 5.	1816, July 1.	1829, Dec. 5.	1816, July 1.	1829, Dec. 5.	1816, July 1.	1829, Dec. 5.	1816, July 1.	1829, Dec. 5.	1816, July 1.	1829, Dec. 5.
Spanish Dollars,	par	-	-	-	18½ adv.	par a ¼ ad	18 adv.	-	20 a 22 ad	par	9 a 10 ad	par
American "	par	par	-	-	17 "	par "	-	-	do	par	do	par
Gold,	-	-	-	-	17 "	4½ adv	-	-	-	-	-	par
Boston Notes,	-	-	7 adv.	par	17 "	par	12 a 14 ad	-	20 a 22 ad	½ dis	8 adv	par
New York "	7½ a 8 dis.	¼ dis. a par	-	-	9½ "	par	8½ a 9 ad	-	15 a 16 ad	par	5 adv	par
Philadelphia "	17 a 18 dis.	do	17 dis.	par	-	-	2½ adv.	-	6 a 7 ad	par	4 dis	par
Pennsylvania "	-	-	-	-	11 dis.	par	-	-	6 a 7 ad	par	par	par
Baltimore "	19½ a 20 dis.	¼ dis. a par	20 a 21 dis	¼ dis. a par	4½ "	par	-	-	2 ad	par	7 a 9 dis	par
Maryland "	-	-	-	-	10 "	¾ dis	-	-	-	-	-	-
Virginia "	-	-	13 dis.	1 dis.	4 adv.	½ a ¾ dis	7½ adv.	-	par	par	-	-
Dis. Colum. "	-	-	21 a 22 dis	½ dis. a par	7 dis.	¾ "	-	-	-	-	9 a 10 dis	1 dis
N. Carolina "	-	-	13 dis.	1 dis.	4 adv.	2½ "	-	-	par a 3 dis	par a 1 dis	5 dis	1 a 1½ dis
S. Carolina "	-	-	10 a 12 dis	1 dis.	6½ "	1½ "	7 a 8½ ad	-	do	do	2 a 2½ dis	do
Georgia "	-	-	do	1 dis.	-	-	do	-	-	-	do	do

APPENDIX, No. 1—Continued.

	Charleston.		Savannah.		New Orleans.		Louisville.		Lexington.		Cincinnati.		Pittsburgh.	
	1816, July 1.	1829, Dec. 5.	1816, July 1.	1829, Dec. 5.	1816, July 1.	1829, Dec. 1.	1816, July 1.	1829, Dec. 5.	1816, July 1.	1829, Dec. 5.	1816, July 1.	1829, Dec. 5.	1816, July 1.	1829, Dec. 5.
Spanish Dollars,	-	-	-	-	12a15 ad.	par	-	-	-	-	-	-	18 a25 ad.	par
American do.	6 a 8 ad.	par	-	-	-	-	10 ad.	par	-	-	-	-	-	-
Gold.	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Boston Notes,	8 ad.	par	-	-	-	-	-	par	2 ad.	par	par	par	-	-
New York do.	2 ad.	par	5a9 dis.	1½ dis.	-	-	4 ad.	par	2 ad.	par	par	par	-	-
Philadelphia do.	5 a 6½ dis	par	do.	-	-	-	3 ad.	par	2 ad.	par	par	par	-	-
Pennsylv <sup>a</sup> do.	-	-	do.	1½ dis.	-	-	-	-	-	-	-	-	10 ad.	par
Baltimore do.	8 a 9 dis.	par	do.	-	-	-	-	par	-	-	-	-	9 ad.	par
Maryland do.	-	-	do.	1½ dis.	-	-	-	-	-	-	-	-	-	-
Virginia do.	-	-	do.	½ dis.	-	-	4 ad.	1 dis.	-	-	-	-	-	-
Dis. Colum. do.	-	-	do.	-	-	-	-	-	-	-	-	-	-	-
N. Carolina do.	-	-	-	3½ dis.	-	-	4 ad.	-	-	-	-	-	-	-
S. Carolina do.	-	-	-	par a ½ ad.	-	-	-	-	-	-	-	-	-	-
Georgia do.	-	-	-	-	-	-	-	-	-	-	-	-	-	-

REPORT OF COMMITTEE, 1830.

APPENDIX, No. 2.

Rates of Exchange at which Drafts are sold, and Domestic Bills purchased or collected, by the Bank of the United States and its Offices of Discount and Deposit.

	Bank United States.		Portland.		Portsmouth.		Boston.		Providence.		Hartford.	
	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.
At Bank U. States,	-	-	par a $\frac{1}{2}$	par	par a $\frac{1}{4}$	par	par a $\frac{1}{4}$	par	par a $\frac{1}{4}$	par	par a $\frac{1}{4}$	par
Office Portland,	par	par	-	-	-	-	par	par	-	par	-	par
Portsmouth,	par	par	-	par	-	-	par	par	-	par	-	par
Boston,	par	par	-	par	-	par	-	-	-	par	-	par
Providence,	par	par	-	-	-	-	par	par	-	-	-	par
Hartford,	par	par	-	-	-	-	par	par	-	-	-	par
New York,	par	par	par	par	par	par	par a $\frac{1}{4}$	par	par	par	par	par
Baltimore,	par	par	-	-	-	-	par	par	-	-	-	par
Washington,	par	par	1	par	1	par	1	par	par	par	par	par
Richmond,	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par	par a $\frac{1}{2}$
Norfolk,	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par	par a $\frac{1}{2}$
Fayetteville,	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par	par a $\frac{1}{2}$
Charleston,	par a $\frac{1}{4}$	-	par a $\frac{1}{4}$	-	par a $\frac{1}{4}$	-	par a $\frac{1}{4}$	-	par a $\frac{1}{4}$	-	-	par a $\frac{1}{4}$
Savannah,	-	-	-	-	-	-	-	-	-	-	-	-
Mobile,	par a $\frac{1}{2}$	-	-	-	-	-	par a $\frac{1}{2}$	1 $\frac{1}{2}$	-	-	-	-
N. Orleans,	par a $\frac{1}{2}$	1	-	1	-	1	par a $\frac{1}{2}$	1	par a $\frac{1}{2}$	1	par a $\frac{1}{2}$	1
St. Louis,	par a $\frac{1}{2}$	-	-	-	-	-	1	-	par a $\frac{1}{2}$	-	1	1
Nashville,	par a $\frac{1}{2}$	$\frac{3}{4}$	par a $\frac{1}{2}$	-	par a $\frac{1}{4}$	-	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	par a $\frac{1}{2}$
Louisville,	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	-	par a $\frac{1}{4}$	-	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	par a $\frac{1}{2}$
Lexington,	$\frac{3}{4}$	par	$\frac{3}{4}$	1	$\frac{3}{4}$	-	$\frac{3}{4}$	-	$\frac{3}{4}$	-	$\frac{3}{4}$	$\frac{3}{4}$
Cincinnati,	par a $\frac{1}{2}$	-	-	-	-	-	1	-	-	1	-	-
Pittsburgh,	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	-
Buffalo,	par a $\frac{1}{2}$	par	-	-	-	-	-	-	-	-	-	-

APPENDIX, No. 2—Continued.

	New York.		Baltimore.		Washington.		Richmond.		Norfolk.		Fayetteville.	
	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.
At Bank U. States, Office	par a $\frac{1}{8}$	par	par	par	par	par a	par	$\frac{1}{2}$	par	$\frac{1}{2}$	par	1
Portland, -	par	par	-	par	-	par	-	$\frac{1}{2}$	-	-	-	-
Portsmouth, -	par	par	-	$\frac{1}{2}$	-	-	-	$\frac{1}{2}$	-	$\frac{1}{2}$	-	-
Boston, -	par	par	-	par	-	$\frac{1}{2}$	-	$\frac{1}{2}$	-	$\frac{1}{2}$	-	-
Providence, -	par	par	-	par	-	$\frac{1}{2}$	-	$\frac{1}{2}$	-	$\frac{1}{2}$	-	-
Hartford, -	par	par	-	-	-	$\frac{1}{2}$	-	1	-	1	-	-
New York, -	-	-	par	par	par	-	-	$\frac{3}{4}$	-	$\frac{1}{2}$	-	-
Baltimore, -	par	par	-	-	-	par	-	par	-	-	-	-
Washington, -	par	par	par a $\frac{1}{4}$	par	-	-	par	par	par	-	-	par
Richmond, -	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	-	-	-	par	-	-	par
Norfolk, -	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	-	par	par	-	-	-	par
Fayetteville, -	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par a $\frac{1}{2}$	par	par	par
Charleston, -	par a $\frac{1}{4}$	par	par a $\frac{1}{4}$	par	par a $\frac{1}{4}$	-	par a $\frac{1}{4}$	-	par a $\frac{1}{4}$	-	-	par a $\frac{1}{4}$
Savannah, -	-	$\frac{1}{4}$	-	-	-	$\frac{1}{4}$	-	-	-	-	-	-
Mobile, -	par a $\frac{1}{2}$	1 $\frac{1}{2}$	par a $\frac{1}{2}$	1 $\frac{1}{2}$	par a $\frac{1}{2}$	1 $\frac{1}{2}$	par	-	par a $\frac{1}{2}$	-	-	par a $\frac{1}{2}$
N. Orleans, -	par a $\frac{1}{2}$	1	par a $\frac{1}{2}$	1	par	1	1	1	par a $\frac{1}{2}$	-	-	par a $\frac{1}{2}$
St. Louis, -	1	$\frac{1}{2}$	par a $\frac{1}{2}$	$\frac{1}{2}$	-	1	1	1	par a $\frac{1}{2}$	-	-	par a $\frac{1}{2}$
Nashville, -	par a $\frac{1}{2}$	$\frac{1}{4}$	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	$\frac{1}{2}$	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	-	-	par a $\frac{1}{2}$
Louisville, -	par a $\frac{1}{2}$	$\frac{1}{2}$	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	$\frac{1}{2}$	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	-	-	par a $\frac{1}{2}$
Lexington, -	$\frac{1}{4}$	par	par a $\frac{1}{4}$	$\frac{1}{2}$	-	1	$\frac{1}{4}$	1	par a $\frac{1}{4}$	-	-	par a $\frac{1}{4}$
Cincinnati, -	1	-	par a	1	par a	-	-	-	-	-	-	-
Pittsburgh, -	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	1	par a $\frac{1}{2}$	-	par a $\frac{1}{2}$	-	-	-
Buffalo, -	par a $\frac{1}{2}$	par	-	-	-	-	-	-	-	-	-	-

APPENDIX, No. 2—Continued.

	Charleston.		Savannah.		Mobile.		New Orleans.		St. Louis.		Nashville.	
	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts old.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.
At Bank U. States,	par $a \frac{1}{2}$	-	$\frac{3}{4}$	1	1	1	1	1	par	1	par	$\frac{3}{4}$
Office Portland,	-	-	-	-	-	-	-	$\frac{1}{2}$	-	-	-	-
Portsmouth,	-	1	-	1	-	1	-	1	-	-	-	1
Boston,	-	1	-	1	-	1	-	1	-	-	-	1
Providence,	-	1	-	1	-	1	-	1	-	-	-	1
Hartford,	par $a \frac{1}{2}$	-	-	$\frac{1}{2}$	$\frac{1}{2} a 1$	$\frac{1}{2} a 1$	$\frac{1}{2} a 1$	1	-	1	-	$\frac{1}{2}$
New York,	-	1	-	1	-	-	-	1	-	1	-	1
Baltimore,	par	-	par	-	par	-	par	1	par	-	par	-
Washington,	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	-	par	-	par	1	par	-	par	-
Richmond,	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	-	-	-	-	1	-	-	-	1
Norfolk,	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	1	-	-	-	-	-	-	-	-
Fayetteville,	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	-
Charleston,	-	-	par $a \frac{1}{2}$	-	par $a \frac{1}{4}$	-	par $a \frac{1}{4}$	-	par $a \frac{1}{4}$	-	par $a \frac{1}{4}$	-
Savannah,	-	-	-	-	-	-	-	-	-	-	-	-
Mobile,	par $a \frac{1}{2}$	-	-	-	-	-	par $a \frac{1}{2}$	$\frac{1}{2}$	-	-	par $a \frac{1}{2}$	-
N. Orleans,	1	1	-	-	-	1	-	-	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	$\frac{1}{2}$
St. Louis,	-	-	-	-	-	-	par $a \frac{1}{2}$	$\frac{1}{2}$	-	-	-	-
Nashville,	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	1	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	-
Louisville,	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	1	par $a \frac{1}{2}$	1	par $a \frac{1}{2}$	1
Lexington,	$\frac{1}{4}$	1 $\frac{1}{2}$	-	1 $\frac{1}{4}$	-	-	-	1	par $a \frac{1}{2}$	1	par	1 $\frac{1}{2}$
Cincinnati,	-	-	-	-	-	1	par $a \frac{1}{2}$	1	-	1	-	1
Pittsburgh,	-	-	-	-	-	-	$\frac{1}{2} a 1$	1	par	1	par	1
Buffalo,	-	-	-	-	-	-	-	-	-	-	-	-

APPENDIX, No. 2.—Continued.

	Louisville.		Lexington.		Cincinnati.		Pittsburgh.		Buffalo.	
	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.	Drafts sold.	Bills purchased.
At Bank United States, -	par	$\frac{3}{4}$	par	$\frac{3}{4}$	par	$\frac{3}{4}$	par $a \frac{1}{2}$	$\frac{1}{2}$	par $a \frac{1}{2}$	$\frac{1}{2}$
Office Portland.										
Portsmouth.										
Boston, -	-	1	-	-	-	1	-	1	-	
Providence.										
Hartford.										
New York, -	-	$\frac{3}{4}$	-	$\frac{3}{4}$	-	$\frac{3}{4}$	-	$\frac{3}{4}$	-	$\frac{1}{2}$
Baltimore, -	-	1	-	1	-	1	-	$\frac{3}{4}$		
Washington, -	par	-	par	1	par	-	par	par	par	
Richmond,										
Norfolk.										
Fayetteville, -	par $a \frac{1}{2}$	-	par $a \frac{3}{4}$	-	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	-	par $a \frac{3}{4}$	
Charleston, -	par $a \frac{1}{4}$	-	par $a \frac{1}{4}$	-	par $a \frac{1}{2}$	-	par $a \frac{1}{4}$	-	par $a \frac{1}{4}$	
Savannah.										
Mobile,	-	-	-	-	par $a \frac{1}{2}$					
New Orleans, -	par $a \frac{1}{2}$	1	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	1	par $a \frac{1}{2}$	$\frac{1}{2}$		
St. Louis, -	par $a \frac{1}{2}$	$\frac{1}{2}$	par $a \frac{1}{2}$	$\frac{1}{2}$	par $a \frac{1}{2}$	$\frac{1}{2}$	par $a \frac{1}{2}$	$\frac{1}{2}$		
Nashville, -	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	$\frac{1}{2}$	par $a \frac{1}{2}$	$\frac{1}{2}$	par $a \frac{1}{2}$	$\frac{1}{2}$	par $a \frac{1}{2}$	$\frac{1}{2}$
Louisville, -	-	-	par $a \frac{1}{2}$	$\frac{1}{2}$	par $a \frac{1}{2}$	-	par $a \frac{1}{2}$	$\frac{1}{2}$	par $a \frac{1}{2}$	$\frac{1}{2}$
Lexington, -	$\frac{3}{4}$	$\frac{1}{2}$	-	-	$\frac{3}{4}$	1	$\frac{3}{4}$	1	par $a \frac{1}{4}$	
Cincinnati, -	par $a \frac{1}{4}$	$\frac{1}{2}$	par $a \frac{1}{4}$	$\frac{1}{4}$	-	-	par $a \frac{1}{2}$	$\frac{1}{2}$		
Pittsburgh, -	par	$\frac{1}{2}$	par	-	par	$\frac{1}{2}$	-	$\frac{1}{2}$	par $a \frac{1}{2}$	
Buffalo, -	-	1	-	-	-	1	par	-		

REPORT OF COMMITTEE, 1830.



APPENDIX, No. 3.—*List of Transfers by the Secretary of the Treasury from and to Bank United States and Offices, from 6th June to 14th Dec. 1829.*

No.	Date.	Where from.	Where to.	Amount.
1	June 8, 1829	New York, -	Washington, -	\$100,000
2	" "	Bank United States, -	Ditto, -	50,000
3	" "	New York, -	Ditto, -	150,000
		Ditto, -	Bank United States, -	1,865,000
		New Orleans, -	Ditto, -	75,000
		Louisville, -	Ditto, -	50,000
		Cincinnati, -	Ditto, -	115,000
		Bank United States, -	Baltimore, -	135,000
		Ditto, -	Norfolk, -	80,000
		Ditto, -	Fayetteville, -	20,000
		Ditto, -	Charleston, -	200,000
		Ditto, -	Savannah, -	15,000
		Ditto, -	Mobile, -	35,000
		Portland, -	Portsmouth, -	20,000
		Ditto, -	Boston, -	90,000
		New York, -	Ditto, -	40,000
		Providence, -	New York, -	140,000
		Hartford, -	Ditto, -	35,000
		New York, -	Richmond, -	70,000
		Ditto, -	Charleston, -	80,000
		Cincinnati, -	Pittsburgh, -	15,000
31	July 8, "	New York, -	Washington, -	100,000
32	Aug. 3, "	Ditto, -	Ditto, -	100,000
33	" "	Baltimore, -	Ditto, -	50,000
	Sept. 1, "	New York, -	Ditto, -	100,000
	" 9, "	Louisville, -	Pittsburgh, -	20,000
	" "	Charleston, -	Fayetteville, -	10,000
	" "	Bank United States, -	Norfolk, -	20,000
	" "	New York, -	Ditto, -	20,000
	" "	Louisville, -	Nashville, -	20,000
44	" 14, "	New York, -	Washington, -	100,000
45	" "	Boston, -	Ditto, -	40,000
47	" 21, "	Charleston, -	Fayetteville, -	20,000
49	Oct. 5, "	New York, -	Norfolk, -	50,000
50	" 12, "	Ditto, -	Washington, -	100,000
51	Nov. 2, "	Bank United States, -	Norfolk, -	50,000
52	" "	New York, -	Washington, -	100,000
53		Boston, -	Ditto, -	50,000
63		Bank United States, -	Norfolk, -	50,000
64		New York, -	Washington, -	100,000
65		Ditto, -	Norfolk, -	50,000
66		Ditto, -	Washington, -	100,000
67		Bank United States, -	Ditto, -	100,000
68		Boston, -	Ditto, -	25,000
69	Dec. 14, 1829	Ditto, -	Bank United States, -	500,000
70	" "	New York, -	Ditto, -	1,000,000
71	" "	New Orleans, -	Ditto, -	400,000
72	" "	Bank United States, -	Baltimore, -	300,000
73	" "	Ditto, -	Charleston, -	50,000
74	" "	Savannah, -	Norfolk, -	50,000
				<b>\$7,055,000</b>

From the above statement, the annual amount of the transfers made for the Government, free of expense, may be inferred.

## APPENDIX, No. 4.

*Distribution of Domestic Bills of Exchange, according to the latest statements, up to the 15th March, 1830.*

THE FOLLOWING BRANCHES:	Have now running to maturity, the following amount of Bills:	PAYABLE AT						
		Philadelphia.	Portland.	Portsmouth.	Boston.	Providence.	Hartford.	New York.
Philadelphia, -	911,518 81	-	-	7,500 00	43,729 62	15,877 60	8,956 09	283,242 83
Portland, -	33,579 76	4,936 53	-	600 00	16,343 62	-	-	4,013 00
Portsmouth, -	43,073 95	-	-	-	28,659 01	-	-	14,414 94
Boston, -	712,590 70	94,182 16	5,509 01	3,196 66	-	6,384 40	10,373 44	342,424 15
Providence, -	210,077 12	60,110 01	1,268 73	-	9,101 91	-	3,382 33	74,552 79
Hartford, -	47,750 47	1,080 00	-	-	4,425 00	2,851 70	6,238 32	31,867 45
New York, -	521,785 42	95,953 68	4,045 73	2,791 09	50,747 63	23,739 78	15,826 58	-
Baltimore, -	240,456 34	66,026 11	-	-	21,330 97	936 30	-	48,254 81
Washington, -	84,379 44	7,182 00	-	-	3,500 00	-	-	13,887 12
Richmond, -	377,539 83	13,535 07	-	2,000 00	2,550 00	6,400 00	432 76	14,163 54
Norfolk, -	167,165 27	25,041 05	6,163 19	657 56	5,790 52	5,197 01	-	44,826 34
Fayetteville, -	113,976 92	30,750 00	-	-	500 00	-	-	56,638 79
Charleston, -	513,051 12	14,327 32	5,454 69	1,251 68	202,103 96	15,721 88	1,964 00	202,262 52
Savannah, -	251,613 12	18,762 99	-	-	39,959 35	29,800 88	2,000 00	153,255 72
Mobile, -	677,526 28	6,610 15	-	-	86,273 69	25,799 79	-	352,582 99
New Orleans, -	1,303,600 96	55,775 84	881 40	-	297,760 53	24,690 04	-	391,623 45
St. Louis, -	51,001 04	400 00	-	-	-	-	-	10,756 06
Nashville, -	1,789,601 06	6,000 00	-	10,000 00	-	-	-	-
Louisville, -	669,966 60	13,104 94	-	-	641 64	-	-	3,220 00
Lexington, -	614,710 44	12,572 56	-	-	1,900 00	-	-	28,200 00
Cincinnati, -	371,988 54	14,261 09	100 00	-	-	3,740 00	-	40,227 64
Pittsburgh, -	249,264 17	39,934 36	-	-	157 00	-	-	2,470 00
Buffalo, -	160,171 15	358 33	-	-	-	-	-	115,561 75
Dollars,	10,116,388 51	580,904 19	23,422 75	27,996 99	815,474 45	161,139 37	49,173 52	2,228,445 89

REPORT OF COMMITTEE, 1830.

769

APPENDIX, No. 4—Continued.

BRANCHES.	BILLS PAYABLE AT								
	Baltimore.	Washington.	Richmond.	Norfolk.	Fayetteville	Charleston.	Savannah.	Mobile.	New Orleans.
Philadelphia, -	103,731 52	37,652 01	33,688 55	2,873 68	211 78	15,055 31	4,507 19	2,923 27	34,744 99
Portland, -	-	3,000 00	3,286 61	-	-	-	-	-	1,300 00
Portsmouth, -	-	-	-	-	-	-	-	-	-
Boston, -	81,719 97	3,666 37	3,718 71	997 78	-	46,577 45	16,152 29	7,142 17	42,474 22
Providence, -	34,527 26	400 00	-	-	375 00	13,042 27	7,404 02	400 00	2,895 03
Hartford, -	-	1,000 00	-	-	-	-	-	-	-
New York, -	51,552 48	3,160 41	2,785 71	1,173 90	1,661 18	16,268 04	21,209 50	210 21	105,074 56
Baltimore, -	-	25,496 56	6,699 73	6,420 98	-	365 96	3,012 38	-	-
Washington, -	35,154 86	-	-	-	-	1,000 00	-	-	14,405 46
Richmond, -	12,715 88	6,944 46	-	39,737 88	16,119 39	58,833 27	43,765 01	56,445 25	26,575 00
Norfolk, -	5,066 80	7,000 00	19,573 65	26,649 08	1,872 76	2,144 90	1,762 06	-	2,000 00
Fayetteville, -	-	2,000 00	-	455 00	-	-	-	-	3,200 00
Charleston, -	33,469 87	2,031 63	1,46	55 52	-	-	5,679 60	-	24,150 20
Savannah, -	1,124 50	3,399 68	-	850 00	-	1,960 00	-	-	500 00
Mobile, -	26,323 11	500 00	-	-	-	-	-	-	173,157 34
New Orleans, -	60,339 21	2,771 25	53,409 18	-	-	6,300 00	-	133,572 01	-
St. Louis, -	4,080 00	250 00	-	-	-	-	-	-	8,775 00
Nashville, -	-	1,050 00	-	-	-	-	-	11,788 50	1,748,937 81
Louisville, -	8,550 00	9,617 13	-	-	-	-	700 00	9,745 72	416,939 93
Lexington, -	5,500 00	8,838 33	14,957 84	-	-	23,202 50	14,200 00	100 00	297,390 45
Cincinnati, -	47,700 00	180 00	-	-	-	-	2,768 00	13,628 74	97,755 92
Pittsburg, -	10,052 73	4,837 50	-	-	-	-	-	-	8,106 82
Buffalo, -	-	-	-	-	-	-	-	-	-
<b>Dollars,</b>	<b>521,608 19</b>	<b>125,798 33</b>	<b>139,582 24</b>	<b>82,323 82</b>	<b>20,240 11</b>	<b>184,749 70</b>	<b>121,160 05</b>	<b>261,955 87</b>	<b>3,008,382 73</b>

BANK OF THE UNITED STATES.

APPENDIX, No. 4—Continued.

BRANCHES.	BILLS PAYABLE AT							
	St. Louis.	Nashville.	Louisville.	Lexington.	Cincinnati.	Pittsburgh.	Buffalo.	Various other places.
Philadelphia, -	15,773 38	50,726 05	122,201 22	15,172 05	74,397 22	25,006 52	-	13,550 93
Portland, -	-	-	-	-	-	-	-	100 00
Portsmouth, -	-	-	-	-	-	-	-	-
Boston, -	-	-	27,131 98	-	19,524 90	571 87	-	843 17
Providence, -	-	203 00	-	-	-	-	-	2,414 77
Hartford, -	288 00	-	-	-	-	-	-	-
New York, -	2,041 41	29,209 24	10,853 11	402 12	30,451 98	1,684 73	4,157 77	18,784 58
Baltimore, -	13,221 59	7,235 05	6,199 34	-	16,679 73	18,454 88	-	121 95
Washington, -	-	5,550 00	1,600 00	950 00	-	500 00	-	650 00
Richmond, -	4,810 76	13,645 37	4,056 61	963 88	30,794 85	796 09	-	22,254 76
Norfolk, -	-	-	-	-	-	-	-	13,420 35
Fayetteville, -	-	-	-	-	-	-	-	20,433 13
Charleston, -	-	-	-	-	-	-	-	-
Savannah, -	-	-	-	-	-	-	-	-
Mobile, -	-	-	-	-	-	-	-	6,279 21
New Orleans, -	4,486 47	62,886 36	125,425 22	2,815 50	12,605 85	9,436 90	-	58,821 75
St. Louis, -	-	-	19,417 99	-	4,650 00	2,671 99	-	-
Nashville, -	-	-	2,950 30	2,375 38	4,553 65	1,945 42	-	-
Louisville, -	14,331 79	79,179 65	-	13,948 14	18,728 35	36,738 16	-	44,521 15
Lexington, -	1,000 00	36,743 39	101,652 81	-	27,045 20	800 00	-	40,607 36
Cincinnati, -	11,648 57	24,027 83	66,814 24	596 71	-	26,544 53	-	21,995 27
Pittsburgh, -	7,452 12	31,277 67	49,149 70	467 38	65,926 81	-	-	29,372 08
Buffalo, -	-	-	-	-	-	-	-	44,251 07
<i>Dollars,</i>	75,054 09	340,683 61	537,452 52	37,691 16	305,418 54	125,151 09	4,157 77	338,421 53

REPORT OF COMMITTEE, 1830.

*State of the Bank of the United States, April 1, 1830.*

Notes discounted,	-	-	-	-	\$32,138,270	89
Domestic bills discounted,	-	-	-	-	10,506,882	54
Funded debt held by the bank,	-	-	-	-	11,122,530	90
Real estate,	-	-	-	-	2,891,890	75
Funds in Europe, equal to specie,	-	-	-	-	2,789,498	54
Specie,	-	-	-	-	9,043,748	97
Public deposits,	-	-	-	-	8,903,501	87
Private deposits,	-	-	-	-	7,704,256	87
Circulation,	-	-	-	-	* 16,083,894	00

## IN SENATE.

MARCH 29, 1830.

Mr. SMITH, of Maryland, made the following report:

The Committee on Finance, to which was referred a resolution of the 30th December, 1829, directing the committee to inquire into the expediency of establishing an uniform national currency for the United States, and to report thereon to the Senate, report:

That nothing, short of the imperative order of the Senate, could induce the committee to enter on a subject so surrounded with difficulty. They undertake it with diffidence, and a distrust of their capacity to elucidate a subject that has engaged many nations and the pens of the ablest writers, without, as yet, coming to any definite conclusion. It still remains to be determined, What is the soundest and most uniform currency? One nation assumes one system, another a different plan. In one nation, a plan is devised, and succeeds, for a time, by prudent and restrictive emissions. Elated with success, larger and more extensive emissions are risked; a rapid nominal rise of all property takes place; the people are not aware that such nominal rise is the effect of depreciation; the bubble bursts, and ruin to the unsuspecting is the consequence. All history shows such a result in several nations, and, particularly, in that of the United States. The committee, engaged on a variety of subjects, cannot devote so much time on the resolution as the mover must believe would be necessary to develop fully the question before them, to wit: A sound and uniform national currency. Presuming, from the tenor of the resolution, that the uniform national currency proposed must be prepared by the National Government, circulated under its authority, and maintained by its credit, the committee have complied with the instruction of the Senate, by endeavoring to devise some plan, through which the agency of the Government, in such a measure, could be safe or useful; but, after giving to it all the consideration they could bestow, their reflections have resulted in a belief that any such measure must resolve itself, at last, into a mere system of paper money, issued by the Government. The resort to the issue of a paper money has been often the desperate expedient of the wants of a nation. It has then found its justification only in the necessity which created it: yet, such are its inevitable evils, that every prudent Government has, the moment its pressing exigencies permitted, returned to the only safe basis of a circulating medium—the precious metals, and the private credits attached to the use of them. Such were the expedients of the Government of the United States during its two wars; such its immediate abandonment of them at the return

\* This is the circulation from the office returns. We know, however, that a part of it is received at other offices, and is in passage from one to the other. So that the nett circulation is \$14,176,927.

of peace. But, in the present condition of the treasury of the United States, with a revenue far beyond its wants, with a debt almost nominal, and hastening to its entire extinguishment, such a measure is not needed by the interests of the Government, nor is there the slightest indication of its being demanded by the wants of the country. Of such an issue of paper money, the Executive at Washington would be the natural fountain. The agents of the Executive, the natural channels. The individuals, and corporations, and States, who borrowed it, must become debtors to the Government; and the inevitable consequence would be, the creation of a moneyed engine, of direct dependence on the officers of Government, at variance with the whole scheme of our institutions. The limit to which this currency should be issued, the persons to whom it would be lent, the securities taken for its repayment, the places where it should be redeemed, involve great complication and great hazard, regarding it merely in a financial point of view; while, on more enlarged considerations of political expediency, the objections to it are, in the opinion of the committee, insuperable and fatal.

Believing such a scheme to be impracticable, the committee were consoled with the reflection that it is *unnecessary*, as they are satisfied that the country is in the enjoyment of an uniform national currency, not only sound and uniform in itself, and perfectly adapted to all the purposes of the Government and the community, but more sound and uniform than that possessed by any other country. The importance of this truth will justify the committee in stating some details to establish it.

The currency of the United States, the only legal currency, is gold and silver—all debts to the Government, and all debts to individuals, being received in that medium, and in no other. As, however, the amount of coin requisite for these purposes would be unmanageable and inconvenient, the United States, like other commercial countries, have adopted the system of making credit supply many of the cases of coin; and numerous banking companies have been established, issuing notes, promising to pay, on demand, gold and silver. The Government of the United States has established one of a similar character; and, for the convenience of the community, the public revenue is collected in gold and silver, the notes of the Bank of the United States, and the notes of such solvent State banks as the Bank of the United States and its branches will receive as cash.

The currency, therefore, of the United States, in its relation to the Government of the United States, consists of gold and silver, and of notes equivalent to gold and silver. And the inquiry which naturally presents itself, is, whether this mixed mass of currency is sound and uniform for all the practical purposes of the Government, and the trade of the Union. That it is so, will appear from the following facts:

1st. The Government receives its revenue from—

- 343 Custom Houses,
- 42 Land Offices,
- 8,004 Post Offices,
- 134 Receivers of Internal Revenue,
- 37 Marshals,
- 33 Clerks of Courts.

These, with other receiving officers, which need not be specified, compose an aggregate of more than 9,000 persons, dispersed through the whole of the Union, who collect the public revenue. From these persons, the Government has, for the ten years preceding January 1, 1830, received \$230,068,855 17. This sum has been collected in every section of this widely extended country. It has been disbursed at other points, many thousand miles distant from the places where it was collected; and yet it has been so collected and distributed, without the loss, as far as the committee can learn, of a single dollar, and without the expense of a single dollar to the Government. That a currency, by which the Government has been thus enabled to collect and transfer such an amount of revenue to pay its army and navy, and all its ex-



penses, and the national debt, is unsafe and unsound, cannot readily be believed: for there can be no surer test of its sufficiency, than the simple fact that every dollar, received in the form of a bank note, in the remotest parts of the interior, is, without charge, converted into a silver dollar, at every one of the vast number of places where the service of the Government requires its disbursement. The Secretary of the Treasury, in his report of the 6th of December, 1828, declares, that, during the four years preceding, the receipts of the Government had amounted to more than ninety-seven millions of dollars, and that "all payments on account of the public debt, whether for interest or principal; all on account of pensions; all for the civil list; for the army; for the navy; or for whatever purpose wanted, in any part of the Union, have been punctually met." The same officer states, that "it is the preservation of a good currency that can alone impart stability to property, and prevent those fluctuations in its value, hurtful alike to individuals, and to national wealth. This advantage, the *bank has secured to the community*, by confining within prudent limits its issues of paper, &c. &c.

2d. If this currency is thus sound and uniform for the Government, it is not less so to the community.

The basis of all good currency should be the precious metals, gold and silver; and in a mixed currency of paper circulating with gold or silver, and convertible into it, the great object to be attained is, that the paper should always be equal to gold or silver; that is, it should always be exchangeable for gold or silver. Such a currency is perfect, uniting the convenience of a portable material with the safety of a metallic medium. Now it cannot be doubted that, throughout this whole country, the circulating bank notes are equal to specie, and convertible into specie. There may be, and probably are exceptions; because, among banks, as among men, there are some who make a show of unreal strength. But it is a fact, so familiar to the experience of every citizen in the community, as to be undeniable, that, in all the Atlantic and commercial cities, and, generally speaking, throughout the whole country, the notes of the State banks are equal to gold or silver. The committee do not mean to say that there may not be too many banks, or that insolvencies do not occasionally occur among them; but, as every bank which desires to maintain its character, must be ready to make settlements with the Bank of the United States, as the agent of the Government, or be immediately discredited, and must therefore keep its notes equal to gold or silver, there can be little danger to the community, while the issues of the banks are restrained from running to excess, by the salutary control of the Bank of the United States, whose own circulation is extremely moderate, compared with the amount of its capital. Accordingly, the fact is, that the general credit of the banks is good, and that their paper is always convertible into gold or silver, and for all local purposes forms a local currency equivalent to gold and silver. There is, however, superadded to this currency, a general currency, more known, more trusted, and more valuable, than the local currency, which is employed in the exchanges between different parts of the country. These are the notes of the national bank. These notes are receivable for the Government, by the 9,000 receivers, scattered throughout every part of the country. *They are, in fact, in the course of business, paid in gold or silver, though they are not legally, or necessarily so paid, by the branches of the bank in every section of the Union.* In all commercial places they are received, in all transactions, without any reduction in value, and never, under any circumstances, does the paper, from the remotest branches, vary beyond a quarter of one per cent. in its actual exchange for silver. Here, then, is a currency as safe as silver; more convenient, and more valuable than silver; which, through the whole Western and Southern, and interior parts of the Union, is eagerly sought in exchange for silver; which, in those sections, often bears a premium paid in silver; which is, throughout the Union, equal to silver in payment to the Government and payments to individuals in business; and with which, whenever silver is needed, in any part of the country, will command it, without the charge of the slightest fraction of a per centage. By means of

this currency, funds are transmitted at an expense less than in any other country. In no other country can a merchant do what every citizen of the United States can do—deposit, for instance, his silver at St. Louis, or Nashville, or New Orleans, and receive notes, which he can carry with him 1,000 or 1,500 miles, to the Atlantic cities, and there receive for them an equivalent amount of silver, without any expense whatever; and in no possible event, an expense beyond a quarter of one per cent. If, however, a citizen does not wish to incur the anxiety of carrying these notes with him, or to run the hazard of the mail, he may, instead of them, receive a draft, payable to himself or his agent alone, so as to ensure the receipt of an equal amount, at an expense of not one-half, and often not one-fourth, of the actual cost of carrying the silver. The owner of funds, for instance, at St. Louis or Nashville, can transfer them to Philadelphia for one-half per cent.; from New Orleans generally, without any charge at all—at most, one-half per cent.; from Mobile, from par to one-half per cent.; from Savannah, at one-half per cent.; and from Charleston, at from par to one-quarter per cent.

This seems to present a state of currency approaching as near to perfection as could be desired: for here is a currency issued at twenty-four different parts of the Union, obtainable by any citizen who has money or credit. When in his possession, it is equivalent to silver in all its dealings with all the 9,000 agents of the Government, throughout the Union. In all his dealings with the interior, it is better than silver; in all his dealings with the commercial cities, equal to silver; and if, for any purpose, he desires the silver with which he bought it, it is at his disposal, almost universally, without any diminution, and never more than a diminution of one-quarter per cent. It is not easy to imagine, it is scarcely necessary to desire, any currency better than this.

It is not among its least advantages, that it bears a proper relation to the real business and exchanges of the country, being issued only to those whose credit entitles them to it, increasing with the wants of the active operations of society, and diminishing, as these subside, into comparative inactivity; while it is the radical vice of all government paper to be issued without regard to the business of the community, and to be governed wholly by considerations of convenience to the Government.

After escaping so recently from the degradation of a depreciated paper currency, the committee would abstain from every thing which might, however remotely, revive it. The period is not remote, when, in the language of the late Secretary of the Treasury, the country was oppressed by a "currency without any basis of coin, or other effective check, and of no value, as a medium of remittance or exchange, beyond the jurisdiction of the State whence it had been issued—a currency that not unfrequently imposed upon the treasury the necessity of meeting, by extravagant premiums, the mere act of transferring the revenue, collected at one point, to defray unavoidable expense at another." It is still within the recollection of the Senate, when, at the seat of Government itself, specie could only be had at twenty or twenty-two per cent. in exchange for the bank paper promises to pay specie; that for bank notes of Baltimore, two per cent. were paid; for those of Philadelphia, six to seven per cent.; for those of New York, fifteen to sixteen per cent.; and for those of Boston, twenty to twenty-two per cent.; ruinous inequalities, which have now happily disappeared.

3d. The soundness of the currency may be further illustrated by the present condition of the foreign exchanges.

Exchange on England is, at the present moment, more than one per cent. under par; that is, more than one per cent. in favor of the United States: this being the real fact, disguised by the common forms of quoting exchange on England at between eight and nine per cent. premium.

It would lead the committee too far from its present purpose to explain that the original estimate of the American dollar, as being worth four shillings and sixpence, and that, therefore, the English pound sterling, is worth \$1 44, is wholly erroneous, and occasions a constant misapprehension of the real state

of our intercourse with Great Britain. The Spanish dollar has not, for a century, been worth four and sixpence: the American dollar never was; and whatever artificial value we may assign to our coins, is wholly unavailing to them in the crucibles of London or Paris. According to the latest accounts from London, at the close of December last, the Spanish dollar, instead of being worth four shillings and sixpence, or 54 pence, was worth only 49½ pence; the American dollar at least one-fourth per cent. less; so that, to produce one hundred times four and sixpence, it would be necessary to send to England, not 100 dollars, but  $109\frac{1}{8}$  Spanish dollars, or  $109\frac{1}{4}$  of the United States' dollar. If to this be added, the expenses and charges of sending the money, and converting it into English gold, it will cost 111; so that 111 is, at this moment, the real par of exchange between the United States and England. If, therefore, a bill at sight can be procured for less than this sum, or a bill at sixty days for one per cent. less, say 110 per cent. it is cheaper than sending silver; that is to say, he who has silver to send to England can purchase a bill on London for a greater amount than he would get if he shipped the silver itself, and of course exchange would be in favor of the United States against England. Now, such bills can be bought at a less rate, by more than one per cent. in every city in the United States.

This fact is conclusive as to the state of the currency. If the bank notes of the country were not equal to specie, specie would be at a premium, which it no where is at present. If the currency were unsound, more must be paid of that currency in order to produce an equal amount of coin in another country, where these bank notes do not circulate. But if, as is the case at present, the bank notes are convertible into specie; if you can buy with bank notes as much as you can buy with silver; and if, in the transactions of the country abroad, the merchants, who, if the notes were not equal to coin, would go to the bank and ship the coin, can pay as much debt in foreign countries with the notes, as by sending the coin, there seems nothing wanting to complete the evidence of the soundness and uniformity of the currency.

On the whole, the committee are of opinion that the present state of the currency is safe for the community, and eminently useful to the Government; that, for some years past, it has been improving by the infusion into the circulating medium of a larger portion of coin, and the substitution of the paper of more solvent banks, in lieu of those of inferior credit; and that, if left to the progress of existing laws and institutions, the partial inconveniences, which still remain, of the paper currency of the last war, will be wholly and insensibly remedied. Under these circumstances, they deem it prudent to abstain from all legislation; to abide by the practical good which the country enjoys, and to put nothing to hazard by doubtful experiments.

The committee submit, for the information of the Senate, certain questions propounded to the President of the Bank of the United States, together with his answers thereto, and a document furnished by that officer, showing the rates of exchange at which drafts are drawn by the Bank of the United States, and its offices of discount and deposit; and ask to be discharged from the further consideration of the subject.

*Questions submitted to the President of the Bank of the United States, with his answers.*

Question 1. When the Bank went into operation, was not Philadelphia paper ten per cent. worse than Boston, and that much better than Baltimore?

Answer. *Philadelphia paper was 17 per cent. worse than Boston paper; 9 to 9½ worse than New York paper; 4½ better than Baltimore.*

Q. 2. Were not the State banks indebted to the Government in large sums, which they could not have paid in sound currency? If so, to what amount? And did not the Bank in many instances assume those debts, and pay them in sound currency, (if so, to what amount?) and indulge those banks until it

was convenient for them to pay? and did not the bank lose money by such indulgence?

A. In the years 1817 and 1818, the Government transferred to the bank at Philadelphia, from the State institutions, \$7,472,419 87, which was cashed, and \$3,336,691 67 of special deposit, to be collected by the bank, making \$10,809,111 54. The loss sustained by the bank, I cannot estimate. I should willingly compromise for a loss of only \$200,000.

Q. 3. Has the bank at any time oppressed any of the State banks?

A. Never. There are very few banks which might not have been destroyed by an exertion of the power of the bank. None have ever been injured. Many have been saved. And more have been, and are constantly relieved, when it is found that they are solvent, but are suffering under temporary difficulty.

Q. 4. When a State bank becomes indebted to the bank to an improper extent, what course do you pursue? Do you let them go beyond a certain amount? and what is that amount?

A. The great object is, to keep the State banks within proper limits; to make them shape their business according to their means. For this purpose they are called upon to settle; never forced to pay specie, if it can be avoided, but payment is taken in their bills of exchange, or suffered to lie occasionally until the bank can turn round; no amount of debt is fixed, because the principle we wish to establish is, that every bank should always be ready to provide for its notes.

Q. 5. If you give drafts on any of the branches, or from one branch on another, or on the mother bank, what is the commission charged?

A. The charge for drafts is less than the transportation of specie. I send a detailed statement on this point.

Q. 6. Do you, and at every branch, pay specie on demand? Has there ever been a refusal?

A. Never.

Q. 7. Can you state whether specie is more or less abundant in the United States at present, than at any former period?

A. At the present moment I think specie is more abundant than usual. It comes in as usual. And the state of the exchanges with Europe, is such that it is cheaper to buy bills than to ship coin. The bank had, on the first instant, \$7,608,000, which is more than it has had for nine years past.

Q. 8. When the debt is annually paid off to foreigners, do they remit in specie or bills of exchange? Do you supply the means in either way?

A. When foreigners are paid off, a part is remitted in other stocks, a part goes in bills, a considerable portion of which are bills of the bank. Specie is never resorted to unless the bill market is so high as to make that mode of remittance cheaper.

Q. 9. Since you commenced the purchase and sale of bills of exchange, has the rate varied; if so, to what extent?

A. The operations of the bank in exchanges has had the effect of preventing the great fluctuations to which they were previously liable.

Q. 10. What is the reason that exchange on England continues above what was formerly considered the par, that is, the dollar, valued at 4s. 6d. sterling? Is it that the intrinsic value of the dollar has been found to be less than 4s. 6d.? If so, what is that intrinsic value?

A. The reason is, that we choose to call our dollar 4s. 6d. when it never has been worth four and sixpence, and of course when it goes abroad, it is estimated not by the name we give it, but according to its real value.

[For the views of Mr. MADISON, recently expressed, upon the great constitutional question so frequently discussed in the preceding pages, the reader is referred to the following letters, addressed by this distinguished statesman to Mr. INGERSOLL, of Philadelphia. Their insertion at an earlier period of the work was accidentally omitted.]

## LETTERS FROM JAMES MADISON TO C. J. INGERSOLL.

MONTPELIER, *February 2, 1831.*

DEAR SIR: I have received your letter of January 21, asking—

1. Is there any State power to make banks?
2. Is the federal power, as has been exercised, or as proposed to be exercised by President Jackson, preferable?

The evil which produced the prohibitory clause in the constitution of the United States, was the practice of the States in making bills of credit, and, in some instances, appraised property, "a legal tender." If the notes of State banks, therefore, whether chartered or unchartered, be made a legal tender, they are prohibited; if not made a legal tender, they do not fall within the prohibitory clause. The number of the "Federalist" referred to, was written with that view of the subject; and this, with probably other cotemporary expositions, and the uninterrupted practice of the States in creating and permitting banks, without making their notes a legal tender, would seem to be a bar to the question, if it were not inexpedient now to agitate it.

A virtual and incidental enforcement of the depreciated notes of State banks, by their crowding out a sound medium, though a great evil, was not foreseen; and if it had been apprehended, it is questionable whether the constitution of the United States, which had so many obstacles to encounter, would have ventured to guard against it by an additional provision. A virtual, and, it is hoped, an adequate remedy, may hereafter be found in the refusal of State paper when debased, in any of the federal transactions, and in the control of the federal bank, this being itself controlled from suspending its specie payments by the public authority.

On the other question, I readily decide against the project recommended by the President. Reasons more than sufficient appear to have been presented to the public, in the reviews and other comments which it has called forth. How far a hint for it may have been taken from Mr. Jefferson, I know not. The kindred ideas of the latter may be seen in his memoirs, &c. vol. 4, pages 196, 207, 526, and in his view of the State banks, vol. 4, pages 199, 220.

There are sundry statutes of Virginia, prohibiting the circulation of notes payable to bearer, whether issued by individuals or unchartered banks.

These observations, little new or important as they may be, would have been promptly furnished, but for an indisposition in which your letter found me, and which has not yet entirely left me. I hope this will find you in good health, and you have my best wishes for its continuance, and the addition of every other blessing.

JAMES MADISON.

CHARLES J. INGERSOLL, Esq. *Harrisburg, Pa.*MONTPELIER, *June 25, 1831.*

DEAR SIR: I have received your friendly letter of the 18th inst. The few lines which answered your former one of the 21st of January last, were written in haste and in bad health: but they expressed, though without the attention in some respects due to the occasion, a dissent from the views of the President, as to a Bank of the United States and a substitute for it; to which

I cannot but adhere. The objections to the latter have appeared to me to predominate greatly over the advantages expected from it, and the constitutionality of the former I still regard as sustained by the considerations to which I yielded in giving my assent to the existing bank.

The charge of inconsistency between my objection to the constitutionality of such a bank, in 1791, and my assent in 1817, turns on the question, how far legislative precedents, expounding the constitution, ought to guide succeeding legislatures, and to overrule individual opinions.

Some obscurity has been thrown over the question, by confounding it with the respect due from one legislature to laws passed by preceding legislatures. But the two cases are essentially different. A constitution being derived from a superior authority, is to be expounded and obeyed, not controlled or varied by the subordinate authority of a legislature. A law, on the other hand, resting on no higher authority than that possessed by every successive legislature, its expediency as well as its meaning is within the scope of the latter.

The case in question has its true analogy in the obligation arising from judicial expositions of the law on succeeding judges; the constitution being a law to the legislator, as the law is a rule of decision to the judge.

And why are judicial precedents, when formed on due discussion and consideration, and deliberately sanctioned by reviews and repetitions, regarded as of binding influence, or rather of authoritative force, in settling the meaning of a law? It must be answered, 1st, because it is a reasonable and established axiom, that the good of society requires that the rules of conduct of its members should be certain and known, which would not be the case if any judge, disregarding the decisions of his predecessors, should vary the rule of law according to his individual interpretation of it. *Misera est servitus ubi jus est aut vagum aut incognitum.* 2nd, because an exposition of the law, publicly made, and repeatedly confirmed by the constituted authority, carries with it, by fair inference, the sanction of those who, having made the law through their legislative organ, appear, under such circumstances, to have determined its meaning through their judiciary organ.

Can it be of less consequence that the meaning of a constitution should be fixed and known, than that the meaning of a law should be so? Can, indeed, a law be fixed in its meaning and operation, unless the constitution be so? On the contrary, if a particular legislature, differing in the construction of the constitution, from a series of preceding constructions, proceed to act on that difference, they not only introduce uncertainty and instability in the constitution, but in the laws themselves; inasmuch as all laws preceding the new construction, and inconsistent with it, are not only annulled for the future, but virtually pronounced nullities from the beginning.

But it is said that the legislator having sworn to support the constitution, must support it in his own construction of it, however different from that put on it by his predecessors, or whatever be the consequences of the construction. And is not the judge under the same oath to support the law? Yet, has it ever been supposed that he was required, or at liberty to disregard all precedents, however solemnly repeated and regularly observed; and by giving effect to his own abstract and individual opinions, to disturb the established course of practice in the business of the community? Has the wisest and most conscientious judge ever scrupled to acquiesce in decisions in which he has been overruled by the matured opinions of the majority of his colleagues; and subsequently to conform himself thereto, as to authoritative expositions of the law? And is it not reasonable to suppose that the same view of the official oath should be taken by a legislature, acting under the constitution, which is his guide, as is taken by a judge, acting under the law, which is his?

There is in fact, and in common understanding, a necessity of regarding a course of practice, as above characterized, in the light of a legal rule of interpreting a law: and there is a like necessity of considering it a constitutional rule of interpreting a constitution.

That there may be extraordinary and peculiar circumstances controlling the rule in both cases, may be admitted; but with such exceptions, the rule



will force itself on the practical judgment of the most ardent theorist. He will find it impossible to adhere to, and act officially upon, his solitary opinions as to the meaning of the law or constitution, in opposition to a construction reduced to practice, during a reasonable period of time; more especially where no prospect existed of a change of construction by the public or its agents. And if a reasonable period of time, marked with the usual sanctions, would not bar the individual prerogative, there could be no limitation to its exercise, although the danger of error must increase with the increasing oblivion of explanatory circumstances, and with the continual changes in the import of words and phrases.

Let it then be left to the decision of every intelligent and candid judge, which, on the whole, is most to be relied on, for the true and safe construction of a constitution: that which has the uniform sanction of successive legislative bodies, through a period of years, and under the varied ascendancy of parties; or that which depends upon the opinions of every new legislature, heated as it may be by the spirit of party, eager in the pursuit of some favorite object, or led astray by the eloquence and address of popular statesmen, themselves, perhaps, under the influence of the same misleading causes.

It was in conformity with the view here taken of the respect due to deliberate and reiterated precedents, that the Bank of the United States, though on the original question held to be unconstitutional, received the Executive signature in the year 1817. The act originally establishing a bank had undergone ample discussions in its passage through the several branches of the Government. It had been carried into execution, throughout a period of twenty years, with annual legislative recognitions; in one instance, indeed, with a positive ramification of it into a new State, and with the entire acquiescence of all the local authorities, as well as the nation at large; to all of which may be added, a decreasing prospect of any change in the public opinion adverse to the constitutionality of such an institution. A veto from the Executive, under these circumstances, with an admission of the expediency and almost necessity of the measure, would have been a defiance of all the obligations derived from a course of precedents amounting to the requisite evidence of the national judgment and intention.

It has been contended that the authority of precedents was in that case invalidated by the consideration that they proved only a respect for the stipulated duration of the bank with a toleration of it until the law should expire, and by the casting vote given in the Senate by the Vice President, in the year 1811, against a bill for establishing a national bank, the vote being expressly given on the ground of unconstitutionality. But, if the law itself was unconstitutional, the stipulation was void, and could not be constitutionally fulfilled or tolerated. And as to the negative of the Senate, by the casting vote of the presiding officer, it is a fact, well understood at the time, that it resulted not from an equality of opinions in that assembly on the power of Congress to establish a bank, but from a junction of those who admitted the power, but disapproved the plan, with those who denied the power. On a simple question of constitutionality, there was a decided majority in favor of it.

JAMES MADISON.

Mr. INGERSOLL.

JUDICIAL DECISIONS.

SUPREME COURT OF THE UNITED STATES.—1819.

M'CULLOCH, vs. THE STATE OF MARYLAND, et al.

The following points were decided:

- 1 Congress has power to incorporate a bank. *(See dissent of Chief Justice)*
- 2 The Government of the Union is a Government of the People; it emanates from them; its powers are granted by them; and are to be exercised directly on them, and for their benefit. *erroneous*
- 3 The Government of the Union, though limited in its powers, is supreme within its sphere of action; and its laws, when made in pursuance of the constitution, form the supreme law of the land. *Correct in theory but different off precise definition*
- 4 There is nothing in the constitution of the United States, similar to the articles of confederation, which exclude incidental or implied powers.
- 5 If the end be legitimate, and within the scope of the constitution, all the means which are appropriate, which are plainly adapted to that end, and which are not prohibited, may constitutionally be employed to carry it into effect. *Correct*
- 6 The power of establishing a corporation is not a distinct sovereign power or end of Government, but only the means of carrying into effect other powers which are sovereign. Whenever it becomes an appropriate means of exercising any of the powers given by the constitution to the Government of the Union, it may be exercised by that Government. *The power to incorporate is a substantive power*
- 7 If a certain means to carry into effect any of the powers, expressly given by the constitution to the Government of the Union, be an appropriate measure, not prohibited by the constitution, the degree of its necessity is a question of legislative discretion, not of judicial cognizance. *There are powers Congress is entitled and a doubt.*
- 8 The act of the 10th April, 1816, c. 44, to "incorporate the subscribers to the Bank of the United States," is a law made in pursuance of the constitution.
- 9 The Bank of the United States has, constitutionally, a right to establish its branches, or offices of discount and deposit, within any State. *After 1816 it is to be understood the application to tax the real property of the bank cannot be admitted and is likely to be denied a objection Case shall occur and if the taxable property of a State can be absorbed the Government can be a specific tax imposed into one of absolute and unlimited power of a Republican Government cannot exist without taxing to Revenue, not the Constitution gives authority to every State a Republican form of Government*
- 10 The State within which such branch may be established, cannot, without violating the constitution, tax that branch.
- 11 The State Governments have no right to tax any of the constitutional means employed by the Government of the Union to execute its constitutional powers.
- 12 The States have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control, the operations of the constitutional laws enacted by Congress, to carry into effect the powers vested in the National Government.
- 13 This principle does not extend to a tax paid by the real property of the Bank of the United States, in common with the other real property in a particular State, nor to a tax imposed on the proprietary interest which the citizens of that State may hold in this institution, in common with other property of the same description throughout the State.

This was an action of debt, brought by John James, who sued, as well for himself, as for the State of Maryland, in the county court of Baltimore, against the plaintiff in error, M'Culloch, to recover certain penalties imposed by the Legislature of Maryland. By an act of that State it was made penal for any bank, or branch thereof, established without authority of the said State, "to issue notes, in any manner, of any other denomination than five, ten, twenty, fifty, one hundred, five hundred, and one thousand dollars;"

and such bank, or branch, was further prohibited from issuing notes of these denominations, except upon stamped paper, for which they were to pay to the State treasurer a duty, at certain fixed rates. It was provided, however, that, by the annual payment, in advance, of the sum of fifteen thousand dollars, any such bank, or branch, might be relieved from the operation of these restrictions.

For a violation of the provisions of this act, the officers of the bank were, by the said act, made personally and individually liable to the penalty of five hundred dollars, each: and it was to recover this penalty, in a *qui tam* action, that this suit was brought.

The decision having been, in the county court of Baltimore, against the defendant M'Culloch, and, also, in the court of appeals of Maryland, the cause was brought, by writ of error, to the Supreme Court of the United States. It was argued for the plaintiff in error by Mr. WEBSTER, Mr. WIRT, *Attorney General*, and Mr. PINKNEY; and, for the defendant, by Mr. MARTIN, *Attorney General of Maryland*, Mr. HOPKINSON, and Mr. JONES.

MARCH 7th, 1819.

Mr. Chief Justice MARSHALL delivered the opinion of the court.

In the case now to be determined, the defendant, a sovereign State, denies the obligation of a law, enacted by the Legislature of the Union, and the plaintiff, on his part, contests the validity of an act which has been passed by the Legislature of that State. The constitution of our country, in its most interesting and vital parts, is to be considered; the conflicting powers of the Government of the Union, and of its members, as marked in that constitution, are to be discussed, and an opinion given, which may essentially influence the great operations of the Government. No tribunal can approach such a question without a deep sense of its importance, and of the awful responsibility involved in its decision. But it must be decided peacefully, or remain a source of hostile legislation, perhaps of hostility of a still more serious nature; and if it is to be so decided, by this tribunal alone can the decision be made. On the Supreme Court of the United States has the constitution of our country devolved this important duty.

The first question made in the cause is, has Congress power to incorporate a bank?

It has been truly said, that this can scarcely be considered as an open question, entirely unprejudiced by the former proceedings of the nation respecting it. The principle now contested, was introduced at a very early period of our history, has been recognised by many successive Legislatures, and has been acted upon by the Judicial Department, in cases of peculiar delicacy, as a law of undoubted obligation.

It will not be denied, that a bold and daring usurpation might be resisted, after an acquiescence still longer and more complete than this. But it is conceived that a doubtful question—one on which human reason may pause, and the human judgment be suspended—in the decision of which the great principles of liberty are not concerned, but the respective powers of those who are equally the representatives of the People, are to be adjusted, if not put at rest, by the practice of the Government, ought to receive a considerable impression from that practice. An exposition of the constitution, deliberately established by legislative acts, on the faith of which an immense property has been advanced, ought not to be lightly disregarded.

The power, now contested, was exercised by the first Congress elected under the present constitution. The bill for incorporating the Bank of the United States did not steal upon an unsuspecting legislature, and pass unobserved. Its principle was completely understood, and was opposed with equal zeal and ability. After being resisted, first, in the fair and open field of debate, and, afterwards, in the Executive cabinet, with as much persevering talent as any measure has ever experienced, and being supported by arguments which convinced minds as pure and as intelligent as this country can

boast, it became a law. The original act was permitted to expire; but a short experience of the embarrassments to which the refusal to revive it exposed the Government, convinced those who were most prejudiced against the measure, of its necessity, and induced the passage of the present law. It would require no ordinary share of intrepidity to assert, that a measure adopted under these circumstances, was a bold and plain usurpation, to which the constitution gave no countenance.

These observations belong to the cause; but they are not made under the impression that, were the question entirely new, the law would be found irreconcilable with the constitution.

In discussing this question, the counsel for the State of Maryland have deemed it of some importance, in the construction of the constitution, to consider that instrument, not as emanating from the People, but as the act of sovereign and independent States. The powers of the General Government, it has been said, are delegated by the States, who alone are truly sovereign, and must be exercised in subordination to the States, who alone possess supreme dominion.

It would be difficult to sustain this proposition. The convention which framed the constitution was indeed elected by the State Legislatures. But the instrument, when it came from their hands, was a mere proposal, without obligation, or pretensions to it. It was reported to the then existing Congress of the United States, with a request that it might "be submitted to a convention of delegates chosen in each State by the People thereof, under the recommendation of its legislature, for their assent and ratification." This mode of proceeding was adopted; and, by the convention, by Congress, and by the State Legislatures, the instrument was submitted to the People. They acted upon it in the only manner in which they can act safely, effectively, and wisely, on such a subject, by assembling in convention. It is true, they assembled in their several States. And where else should they have assembled? No political dreamer was ever wild enough to think of breaking down the lines which separate the States, and of compounding the American People into one common mass. Of consequence, when they act, they act in their States. But the measures they adopt do not, on that account, cease to be the measures of the People themselves, or become the measures of the State Governments.

From these conventions the constitution derives its whole authority. The Government proceeds directly from the People; is "ordained and established" in the name of the People; and is declared to be ordained, "in order to form a more perfect union, establish justice, ensure domestic tranquillity, and secure the blessings of liberty to themselves and to their posterity." The assent of the States, in their sovereign capacity, is implied in calling a convention, and thus submitting that instrument to the People. But the People were at perfect liberty to accept or reject it; and their act was final. It required not the affirmance of, and could not be negated by, the State Governments. The constitution, when thus adopted, was of complete obligation, and bound the State sovereignties.

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 be settled in this country. Much more might the legitimacy of the General Government be doubted, had it been created by the States. The powers delegated to the State sovereignties, were to be exercised by themselves, not by a distinct and independent sovereignty, created by themselves. To the formation of a league, such as was the confederation, the State sovereignties were certainly competent. But when, "in order to form a more perfect union," it was deemed necessary to change this alliance into an effective government, possessing great and sovereign powers, and acting directly on the People, the necessity 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 actually granted, is perpetually arising, and will, probably, continue to arise, as long as our system shall exist.

In discussing these questions, the conflicting powers of the General and State Governments must be brought into view, and the supremacy of their respective laws, when they are in opposition, must be settled.

If any one proposition could command the universal assent of mankind, we might expect 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 State may be willing to control its 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, "this 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 Legislatures, and the officers of the executive and judicial departments of the States, 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, "any thing in the constitution or laws of any State to the contrary notwithstanding."

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 implied powers, and which requires that every thing granted shall be expressly and minutely described. Even the tenth amendment, which was framed for the purpose of quieting the excessive jealousies which had been excited, omits the word "expressly," and declares only that the powers "not 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 particular power which may become the subject 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 adopted 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 embarrassments. A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into 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 important 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 language. Why else were some of the limitations, found in the ninth section of the first article, introduced? It is, also, in some degree, warranted by their having omitted to use any restrictive term which might prevent its receiving a fair and just interpretation. In considering this

question, then, we must never forget that it is *a constitution* we are expounding.

Although, among the enumerated powers of Government, we do not find the word "bank," or "incorporation," we find the great powers to lay and collect taxes; to borrow money; to regulate commerce; to declare 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 others of inferior importance, merely because they are inferior. Such an idea can never be advanced. But it may, with great reason, be contended, that a Government, entrusted with such ample powers, on the due execution of which the happiness and prosperity of the nation so vitally depends, must also be entrusted with ample means for their execution. The power being given, it is the interest of the nation to facilitate its execution. It can never be their interest, and cannot be presumed to have been their intention, to clog and embarrass its execution, by withholding the most appropriate means. Throughout this vast republic, from the St. Croix to the Gulf of Mexico, from the Atlantic to the Pacific, revenue is to be collected and expended, armies are to be marched and supported. The exigencies of the nation may require that the treasure raised in the north should be transported to the south, *that* raised in the east conveyed to the west, or that this order should be reversed. Is that construction of the constitution to be preferred, which would render these operations difficult, hazardous, and expensive? Can we adopt that construction, (unless the words imperiously require it) which would impute to the framers of that instrument, when granting these powers for the public good, the intention of impeding their exercise, by withholding a choice of means? If, indeed, such be the mandate of the constitution, we have only 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 corporation, if such a being be essential to the beneficial exercise of those powers. It is, then, the subject of fair inquiry, how far such means may be employed.

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 conveying money from place to place, as the exigencies 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 sovereignty, and is not expressly conferred on Congress. This is true; but all legislative powers appertain to sovereignty. The original power of giving the law, on any subject whatever, is a sovereign power; and if the Government of the Union is restrained from creating a corporation, as a means for performing its functions, on the single reason 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 sustaining 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, and 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 admitted. 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



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 were formed *before*, some *since* that of the United States. We cannot believe that their relation to each other is, in any degree, dependent upon this circumstance. Their respective powers must, we think, be precisely the same as if they had been formed at the same time. Had they been formed at the same time, and had the People conferred on the General Government the power contained in the constitution, and on the States the whole residuum of power, would it have been asserted that the Government of the Union was not sovereign, 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 maintains, 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 subserve the legitimate objects of that Government. The power of creating a corporation, though appertaining to sovereignty, is not, like the power of making war, or levying taxes, or of regulating commerce, a great substantive and independent power, which cannot be implied as 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 accomplished. No contributions are made to charity for the sake of incorporation, but a corporation is created to administer the charity; no seminary of learning is instituted in order to be incorporated, but the corporate charter is conferred to subserve the purposes of education. No city was ever built 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 sake, but for the purpose of effecting something else. 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.

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 enumeration of powers is added that of making "all laws 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."

The counsel for the State of Maryland have urged various arguments, to prove that this clause, though in terms of a grant of power, is not so in effect; but is really restrictive of the general right, which might otherwise be implied, of selecting means for executing the enumerated powers.

In support of this proposition, they have found it necessary to contend, 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 Representatives. Each House may determine the rule of its proceedings; and it is declared that every bill, which shall have passed both Houses, shall, before it becomes a law, be presented to the President of the United States. The 7th section describes the course of proceedings, by which a bill shall become a law; and, then, the 8th section enumerates the powers of Congress. Could it be necessary to say, that a legislature should exercise legislative powers, in the shape of legislation? After allowing each House to prescribe its own course of proceeding, after describing the manner in which a bill should become a law, would it have entered the mind of a single member of the convention, that an express power to make laws was necessary to enable the legislature to make them? That a legislature, endowed with legislative powers, can legislate, is a proposition too self-evident to have been questioned.

But the argument on which most reliance is placed, is drawn from the peculiar language 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 carrying them into execution. The word "*necessary*" is considered as controlling the whole sentence, and as limiting the right, to pass laws for the execution 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 "*necessary*" 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 generally 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 unattainable. Such is the character 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 all compositions contain words, which, taken in their rigorous sense, would convey a 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 increase or diminish the impression the mind receives of the urgency it imports. A thing may be necessary, very necessary, absolutely or indispensably necessary. To no mind would the same idea be conveyed, by these several phrases. This comment on the word is well illustrated by the passage cited at the bar, from the tenth section of the first article of the constitution. It is, we think, impossible to compare the sentence which prohibits a State from laying "imposts, or duties on imports or exports, except what may be *absolutely* necessary for executing its inspection laws," with that which authorizes Congress "to make all laws which shall be necessary and proper for carrying into execution" the powers of the General Government, 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.

Let this be done in the case under consideration. The subject is the execution of those great powers on which the welfare of a nation essentially depends. It must have been the intention of those who gave these powers, to ensure, as far as human prudence could ensure, their beneficial execution. This could not be done by confiding the choice of means to such narrow limits as not to leave it in the power of Congress to adopt any which might be appropriate, and which were conducive to the end. This provision is made in a constitution intended to endure for ages to come, and, consequently, to be adapted to the various *crises* of human affairs. To have prescribed the means by which Government should, in all future time, execute its powers, would have been to change, entirely, the character of the instrument, and give it the properties of a legal code. It would have been an unwise attempt to provide, by immutable rules, for exigencies which, if foreseen at all, must have been seen dimly, and which can be best provided for as they occur. To have declared that the best means shall not be used, but those alone without which the power given would be nugatory, 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

construction to any of the powers of the Government, we shall find it so pernicious in its operation that we shall be compelled to discard it. The powers vested in Congress may certainly be carried into execution, without prescribing an oath of office. The power to exact this security for the faithful performance of duty, is not given, nor is it indispensably necessary. The different departments may be established; taxes may be imposed and collected; armies and navies may be raised and maintained; and money may be borrowed, without requiring an oath of office. It might be argued, with 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 insanity who should contend, that the Legislature might not superadd, to the oath directed by the constitution, such other oath of office as its wisdom 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; and yet, this is not among 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 “to provide for the punishment of counterfeiting the securities and current coin of the United States,” and “to define and punish piracies and felonies committed on the high seas, and offences against the law of nations.” The several powers of Congress may exist, in a very imperfect state to be sure, but they may exist, and be carried into execution, although no punishment should be inflicted in cases where the right to punish is not expressly given.

Take, for example, the power “to establish post offices and post roads.” This power is executed by the single act of making the establishment. But, from this has been inferred the power and duty of carrying the mail along the post road, from one post office to another. And, from this implied power, has again been inferred the right to punish those who steal letters from the post office, or rob the mail. It may be said, with some plausibility, that the right to carry the mail, and to punish those who rob it, is not indispensably necessary to the establishment of a post office and post road. This right is indeed essential to the beneficial exercise of the power, but not indispensably necessary to its existence. So, of the punishment of the crimes of stealing or falsifying a record or process of a court of the United States, or of perjury in such court. To punish these offences is certainly conducive to the due administration of justice. But courts may exist, and may decide the causes brought before them, though such crimes escape punishment.

The baneful influence of this narrow construction, on all the operations of the Government, and the absolute impracticability 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 pronounced, 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 sovereign powers, and may be used, although not indispensably necessary. It is a right incidental to the power, and conducive to its beneficial exercise.

If this limited 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 vindictive in their nature? If the word “necessary” means “needful,” “requisite,” “essential,” “conducive to,” in order to let in the power of punishment for the infraction of law, why is it not equally comprehensive when required to authorize 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 "to make all laws which shall be necessary and *proper* to carry into execution" the powers of the Government. If the word "necessary" was used in that strict and rigorous sense in which the counsel for the State of Maryland contend, it 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 straitened and compressed within the narrow limits for which gentlemen contend.

But the argument which most conclusively demonstrates the error of the construction contended for by the counsel for the State 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 its 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 annihilate, this useful 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 reasons:

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

2d. Its terms purport 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. The framers of the constitution wished its adoption, and well knew that it would be endangered by its strength, not by its weakness. Had they been capable of using language which would convey to the eye one idea, and, after deep reflection, impress on the mind another, they would rather have disguised the grant of power, than its limitation. If, then, their intention had been, by this clause, to restrain the free use of means which might otherwise have been implied, that intention would have been inserted in another place, and would have been expressed in terms resembling these: "In carrying into execution the foregoing powers, and all others," &c. "no laws shall be passed but such as are necessary and proper." Had the intention been to make this clause restrictive, it would unquestionably have been so in form as well as in effect.

The result of the most careful and attentive consideration bestowed upon this clause is, that, if it does not enlarge, it cannot be construed to restrain the powers of Congress, or to impair the right of the Legislature to exercise its best judgment in the selection of measures to carry into execution the constitutional powers of the Government. If no other motive for its insertion can be suggested, a sufficient one is found in the desire to remove all doubts respecting the right to legislate on that vast mass of incidental powers which must be involved in the constitution, if that instrument be not a splendid bauble.

We admit, as all must admit, that the powers of the Government are limited, and that its limits are not to be transcended. But we think the sound construction of the constitution must allow to the National Legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the People. Let the end be legitimate; let it be within the scope of the constitution; and all means which

are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional.

That a corporation must be considered as a means not less usual, not of higher dignity, not more requiring a particular specification than other means, has been sufficiently proved. If we look to the origin of corporations, to the manner in which they have been framed in that Government from which we have derived most of our legal principles and ideas, or to the uses to which they have been applied, we find no reason to suppose that a constitution, omitting, and wisely omitting, to enumerate all the means for carrying into execution the great powers vested in Government, ought to have specified this. Had it been intended to grant this power as one which should be distinct and independent, to be exercised in any case whatever, it would have found a place among the enumerated powers of Government. But being considered as a means, to be employed only for the purpose of carrying into execution the given powers, there could be no motive for particularly mentioning it.

The propriety of this remark would seem to be generally acknowledged, by the universal acquiescence in the construction which has been uniformly put on the third section of the fourth article of the constitution. The power to "make all needful rules and regulations respecting the territory, or other property belonging to the United States," is not more comprehensive than the power "to make all laws which shall be necessary and proper for carrying into execution" the powers of the Government. Yet all admit the constitutionality of a territorial Government, which is a corporate body.

If a corporation may be employed indiscriminately with other means to carry into execution the powers of the Government, no particular reason can be assigned for excluding the use of a bank, if required for its fiscal operations. To use one, must be within the discretion of Congress, if it be an appropriate mode of executing the powers of Government. That it is a convenient, a useful, and essential instrument in the prosecution of its fiscal operations, is not now a subject of controversy. All those who have been concerned in the administration of our finances, have concurred in representing its importance and necessity; and so strongly have they been felt, that statesmen of the first class, whose previous opinions against it had been confirmed by every circumstance which can fix the human judgment, have yielded those opinions to the exigencies of the nation. Under the confederation, Congress, justifying the measure by its necessity, transcended, perhaps, its powers to obtain the advantage of a bank; and our own legislation attests the universal conviction of the utility of this measure. The time has passed away when it can be necessary to enter into any discussion in order to prove the importance of this instrument as a means to effect the legitimate objects of the Government.

But, were its necessity less apparent, none can deny its being an appropriate measure; and if it is, the degree of its necessity, as has been very justly observed, is to be discussed in another place. Should Congress, in the execution of its powers, adopt measures which are prohibited by the constitution; or should Congress, under the pretext of executing its powers, pass laws for the accomplishment of objects not entrusted to the Government, it would become the painful duty of this tribunal, should a case requiring such a decision come before it, to say that such an act was not the law of the land. But where the law is not prohibited, and is really calculated to effect any of the objects entrusted to the Government, to undertake here to inquire into the degree of its necessity, would be to pass the line which circumscribes the judicial department, and to tread on legislative ground. This court disclaims all pretensions to such a power.

After this declaration, it can scarcely be necessary to say, that the existence of State banks can have no possible influence on the question. No trace is to be found in the constitution, of an intention to create a dependence of the Government of the Union on those of the States, for the execution of the great powers assigned to it. Its means are adequate to its ends; and on

those means alone was it expected to rely for the accomplishment of its ends. To impose on it the necessity of resorting to means which it cannot control, which another government may furnish or withhold, would render its course precarious, the result of its measures uncertain, and create a dependence on other governments, which might disappoint its most important designs, and is incompatible with the language of the constitution. But were it otherwise, the choice of means implies a right to choose a National Bank in preference to State banks, and Congress alone can make the selection.

After the most deliberate consideration, it is the unanimous and decided opinion of this court, that the act to incorporate the Bank of the United States is a law made in pursuance of the constitution, and is a part of the supreme law of the land.

The branches proceeding from the same stock, and being conducive to the complete accomplishment of the object, are equally constitutional. It would have been unwise to locate them in the charter, and it would be unnecessarily inconvenient to employ the legislative power in making those subordinate arrangements. The great duties of the bank are prescribed; those duties require branches; and the bank itself may, we think, be safely trusted with the selection of places where those branches shall be fixed; reserving always to the Government the right to require that a branch shall be located where it may be deemed necessary.

It being the opinion of the court, that the act incorporating the bank is constitutional; and that the power of establishing a branch in the State of Maryland, might be properly exercised by the bank itself, we proceed to inquire—

II. Whether the State of Maryland may, without violating the constitution, tax that branch?

That the power of taxation is one of vital importance; that it is retained by the States; that it is not abridged by the grant of a similar power to the Government of the Union; that it is to be concurrently exercised by the two Governments; are truths which have never been denied. But, such is the paramount character of the constitution, that its capacity to withdraw any subject from the action of even this power, is admitted. The States are expressly forbidden to lay any duties on imports or exports, except what may be absolutely necessary for executing their inspection laws. If the obligation of this prohibition must be conceded; if it may restrain a State from the exercise of its taxing power on imports and exports; the same paramount character would seem to restrain, as it certainly may restrain, a State from such other exercise of this power, as is in its nature incompatible with, and repugnant to, the constitutional laws of the Union. A law, absolutely repugnant to another, as entirely repeals that other, as if express terms of repeal were used.

On this ground, the counsel for the bank place its claim to be exempted from the power of a State to tax its operations. There is no express provision for the case, but the claim has been sustained on a principle which so entirely pervades the constitution, is so intermixed with the materials which compose it, so interwoven with its web, so blended with its texture, as to be incapable of being separated from it, without rending it into shreds.

This great principle is, that the constitution, and the laws made in pursuance thereof, are supreme; that they control the constitution and laws of the respective States, and cannot be controlled by them. From this, which may be almost termed an axiom, other propositions are deduced as corollaries, on the truth or error of which, and on their application to this case, the cause has been supposed to depend. These are,—1st. That a power to create, implies a power to preserve. 2d. That a power to destroy, if wielded by a different hand, is hostile to, and incompatible with, these powers to create and to preserve. 3d. That, where this repugnancy exists, that authority which is supreme must control, not yield to that over which it is supreme.

These propositions, as abstract truths, would, perhaps, never be controverted. Their application to this case, however, has been denied; and, both in main-



taining the affirmative and the negative, a splendor of eloquence and strength of argument, seldom, if ever, surpassed, have been displayed.

The power of Congress to create, and of course to continue, the bank, was the subject of the preceding part of this opinion; and is, no longer, to be considered as questionable.

That the power of taxing it by the States, may be exercised so as to destroy it, is too obvious to be denied. But taxation is said to be an absolute power, which acknowledges no other limits than those expressly prescribed in the constitution, and, like sovereign power of every other description, is trusted to the discretion of those who use it. But the very terms of this argument admit that the sovereignty of the State, in the article of taxation itself, is subordinate to, and may be controlled by, the constitution of the United States. How far it has been controlled by that instrument, must be a question of construction. In making this construction, no principle, not declared, can be admissible, which would defeat the legitimate operations of a supreme government. It is of the very essence of supremacy to remove all obstacles to its action within its own sphere, and so to modify every power vested in subordinate governments, as to exempt its operations from their own influence. This effect need not be stated in terms. It is so involved in the declaration of supremacy, so necessarily implied in it, that the expression of it could not make it more certain. We must, therefore, keep it in view while construing the constitution.

The argument on the part of the State of Maryland is, not that the States may directly resist a law of Congress, but that they may exercise their acknowledged powers upon it, and that the constitution leaves them this right in the confidence that they will not abuse it.

Before we proceed to examine this argument, and to subject it to the test of the constitution, we must be permitted to bestow a few considerations on the nature and extent of this original right of taxation, which is acknowledged to remain with the States. It is admitted that the power of taxing the people and their property, is essential to the very existence of government, and may be legitimately exercised on the objects to which it is applicable, to the utmost extent to which the Government may choose to carry it. The only security against the abuse of this power, is found in the structure of the Government itself. In imposing a tax, the Legislature acts upon its constituents. This is, in general, a sufficient security against erroneous and oppressive taxation.

The People of a State, therefore, give to their Government a right of taxing themselves and their property, and, as the exigencies of Government cannot be limited, they prescribe no limits to the exercise of this right, resting confidently on the interest of the legislator, and on the influence of the constituents over their representative, to guard them against its abuse. But the means employed by the Government of the Union have no such security, nor is the right of a State to tax them sustained by the same theory. Those means are not given by the people of a particular State, not given by the constituents of the legislature which claim the right to tax them, but by the People of all the States. They are given by all, for the benefit of all; and upon theory, should be subjected to that government only which belongs to all.

It may be objected to this definition, that the power of taxation is not confined to the people and property of a State. It may be exercised upon every object brought within its jurisdiction.

This is true. But to what source do we trace this right? It is obvious, that it is an incident of sovereignty, and is co-extensive with that to which it is an incident. All subjects over which the sovereign power of a State extends, are objects of taxation; but those over which it does not extend, are, upon the soundest principles, exempt from taxation. This proposition may almost be pronounced self-evident.

The sovereignty of a State extends to every thing which exists by its own authority, or is introduced by its permission; but does it extend to those means which are employed by Congress to carry into execution powers con-

ferred on that body by the People of the United States? We think it demonstrable that it does not. Those powers are not given by the People of a single State. They are given by the People of the United States, to a Government whose laws, made in pursuance of the constitution, are declared to be supreme. Consequently, the People of a single State cannot confer a sovereignty which will extend over them.

If we measure the power of taxation residing in a State, by the extent of sovereignty which the people of a single State possess, and can confer on its Government, we have an intelligible standard, applicable to every case to which the power may be applied. We have a principle which leaves the power of taxing the People and property of a State unimpaired; which leaves to a State the command of all its resources; and which places beyond its reach, all those powers which are conferred by the People of the United States on the Government of the Union, and all those means which are given for the purpose of carrying those powers into execution. We have a principle which is safe for the States, and safe for the Union. We are relieved, as we ought to be, from clashing sovereignty; from interfering powers; from a repugnance between a right in one government to pull down what there is an acknowledged right in another to build up; from the incompatibility of a right in one government to destroy what there is a right in another to preserve. We are not driven to the perplexing inquiry, so unfit for the judicial department, what degree of taxation is the legitimate use, and what degree may amount to the abuse of the power. The attempt to use it on the means employed by the Government of the Union, in pursuance of the constitution, is itself an abuse, because it is the usurpation of a power which the people of a single State cannot give.

We find, then, on just theory, a total failure of this original right to tax the means employed by the Government of the Union, for the execution of its powers. The right never existed, and the question whether it has been surrendered, cannot arise.

But, waiving this theory for the present, let us resume the inquiry, whether this power can be exercised by the respective States, consistently with a fair construction of the constitution.

That the power to tax, involves the power to destroy; that the power to destroy, may defeat and render useless the power to create; that there is a plain repugnance in conferring on one government a power to control the constitutional measures of another, which other, with respect to those very measures, is declared to be supreme over that which exerts the control; are propositions not to be denied. But all inconsistencies are to be reconciled by the magic of the word CONFIDENCE. Taxation, it is said, does not necessarily and unavoidably destroy. To carry it to the excess of destruction, would be an abuse, to presume which, would banish that confidence which is essential to all government.

But is this a case of confidence? Would the People of any one State trust those of another with a power to control the most insignificant operations of their State Government? We know they would not. Why, then, should we suppose that the People of any one State should be willing to trust those of another with a power to control the operations of a government to which they have confided their most important and most valuable interests? In the Legislature of the Union, alone, are all represented. The Legislature of the Union, alone, therefore, can be trusted by the People with the power of controlling measures which concern all, in the confidence that it will not be abused. This, then, is not a case of confidence, and we must consider it as it really is.

If we apply the principle for which the State of Maryland contends, to the constitution generally, we shall find it capable of changing totally the character of that instrument. We shall find it capable of arresting all the measures of the Government, and of prostrating it at the foot of the States. The American People have declared their constitution, and the laws made in pursuance thereof, to be supreme; but this principle would transfer the supremacy, in fact, to the States.

If the States may tax one instrument, employed by the Government in the execution of its powers, they may tax any and every other instrument. They may tax the mail; they may tax the mint; they may tax patent rights; they may tax the papers of the custom house; they may tax judicial process; they may tax all the means employed by the Government, to an excess which would defeat all the ends of Government. This was not intended by the American People. They did not design to make their Government dependent on the States.

Gentlemen say, they do not claim the right to extend State taxation to these objects. They limit their pretensions to property. But on what principle is this distinction made? Those who make it have furnished no reason for it, and the principle for which they contend denies it. They contend that the power of taxation has no other limit than is found in the 10th section of the 1st article of the constitution; that, with respect to every thing else, the power of the States is supreme, and admits of no control. If this be true, the distinction between property and other subjects, to which the power of taxation is applicable, is merely arbitrary, and can never be sustained. This is not all. If the controlling power of the States be established; if their supremacy, as to taxation, be acknowledged; what is to restrain their exercising this control in any shape they may please to give it? Their sovereignty is not confined to taxation. That is not the only mode in which it might be displayed. The question is, in truth, a question of supremacy; and, if the right of the States to tax the means employed by the General Government be conceded, the declaration, that the constitution, and the laws made in pursuance thereof, shall be the supreme law of the land, is empty and unmeaning declamation.

In the course of the argument, the *Federalist* has been quoted, and the opinions expressed by the authors of that work, have been justly supposed to be entitled to great respect, in expounding the constitution. No tribute can be paid to them which exceeds their merit; but, in applying their opinions to the cases which may arise in the progress of our Government, a right to judge of their correctness must be retained; and, to understand the argument, we must examine the proposition it maintains, and the objections against which it is directed. The subject of those numbers, from which passages have been cited, is, the unlimited power of taxation which is vested in the General Government. The objection to this unlimited power, which the argument seeks to remove, is stated with fullness and clearness. It is, "that an indefinite power of taxation in the latter (the Government of the Union) might, and probably would, in time, deprive the former (the Government of the States) of the means of providing for their own necessities, and would subject them entirely to the mercy of the National Legislature. As the laws of the Union are to become the supreme law of the land; as it is to have power to pass all laws that may be necessary for carrying into execution the authorities with which it is proposed to vest it; the National Government might at any time abolish the taxes imposed for State objects, upon the pretence of an interference with its own. It might allege a necessity for doing this, in order to give efficacy to the national revenues; and thus, all the resources of taxation might, by degrees, become the subjects of federal monopoly, to the entire exclusion and destruction of the State Governments."

The objections to the constitution which are noticed in these numbers, were to the undefined power of the Government to tax, not to the incidental privilege of exempting its own measures from State taxation. The consequences apprehended from this undefined power were, that it would absorb all the objects of taxation, "to the exclusion and destruction of the State Governments." The arguments of the *Federalist* are intended to prove the fallacy of these apprehensions; not to prove that the Government was incapable of executing any of its powers, without exposing the means it employed to the embarrassments of State taxation. Arguments urged against these objections and these apprehensions, are to be understood as relating to the points they mean to prove. Had the authors of those excellent essays been asked, whether they contended for that construction of the constitution, which would place within the reach of the States those measures which the Government

might adopt for the execution of its powers, no man, who has read their instructive pages, will hesitate to admit, that their answer must have been in the negative.

It has also been insisted, that, as the power of taxation in the General and State Governments is acknowledged to be concurrent, every argument which would sustain the right of the General Government to tax banks chartered by the States, will equally sustain the right of the States to tax banks chartered by the General Government.

But the two cases are not on the same reason. The People of all the States have created the General Government, and have conferred upon it the general power of taxation. The People of all the States, and the States themselves, are represented in Congress, and, by their representatives, exercise this power. When they tax the chartered institutions of the States, they tax their constituents; and these taxes must be uniform. But, when a State taxes the operations of the Government of the United States, it acts upon institutions created, not by their own constituents, but by people over whom they claim no control. It acts upon the measures of a government created by others, as well as themselves, for the benefit of others, in common with themselves. The difference is, that which always exists, and always must exist, between the action of the whole on a part, and the action of a part on the whole; between the laws of a government declared to be supreme, and those of a government which, when in opposition to those laws, is not supreme.

But, if the full application of this argument could be admitted, it might bring into question the right of Congress to tax the State banks, and could not prove the right of the States to tax the Bank of the United States.

The court has bestowed on this subject its most deliberate consideration. The result is, a conviction that the States have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control, the operations of the constitutional laws enacted by Congress to carry into execution the powers vested in the General Government. This is, we think, the unavoidable consequence of that supremacy which the constitution has declared.

We are unanimously of opinion, that the law passed by the Legislature of Maryland, imposing a tax on the Bank of the United States, is unconstitutional and void.

This opinion does not deprive the States of any resources which they originally possessed. It does not extend to a tax paid by the real property of the bank, in common with the other real property within the State, nor to a tax imposed on the interest which the citizens of Maryland may hold in this institution, in common with other property of the same description throughout the State. But this is a tax on the operations of the bank, and is, consequently, a tax on the operation of an instrument employed by the Government of the Union to carry its powers into execution. Such a tax must be unconstitutional.

**JUDGMENT.** This cause came on to be heard on the transcript of the record of the court of appeals of the State of Maryland, and was argued by counsel. On consideration whereof, it is the opinion of this court, that the act of the Legislature of Maryland is contrary to the constitution of the United States, and void; and, therefore, that the said court of appeals of the State of Maryland erred in affirming the judgment of the Baltimore county court, in which, judgment was rendered against James W. M'Culloch; but, that the said court of appeals of Maryland ought to have reversed the said judgment of the said Baltimore county court, and ought to have given judgment for the said appellant, M'Culloch. It is, therefore, adjudged and ordered, that the said judgment of the said court of appeals of the State of Maryland, in this case, be, and the same hereby is, reversed and annulled. And this court, proceeding to render such judgment as the said court of appeals should have rendered, it is further adjudged and ordered, that the judgment of the said Baltimore county court be reversed and annulled, and that judgment be entered in the said Baltimore county court for the said James W. M'Culloch.

Osborn and others, *Appellants*,

vs.

The President, Directors, and Company, of the Bank of the United States.  
*Respondents.*

[9th Wheaton, 738.]

[It was the intention of the editors to have given, at length, the opinion of the learned judge, (Marshall) pronounced in this case, but, its great length, forbids. A brief summary of the case, and of the points decided, is all that can be attempted; the latter will be given in the words of the reporter.]

On the 8th of February, 1819, the Legislature of Ohio passed an act, entitled "An act to levy and collect a tax from all banks and individuals, and companies, and associations of individuals, that may transact banking business, in this State, without being authorized to do so, by the laws thereof." The penalty assigned, for a violation of this act, was fifty thousand dollars on each office of discount and deposite. On the 17th of September, 1819, Osborn, one of the *appellants*, who was auditor of the State, caused the office of the United States' Bank, at Chillicothe, to be entered, and, under color of executing the said law, violently took therefrom, in specie and bank notes. To restrain the said Osborn from proceeding farther, in the execution of the said law, and to obtain a restitution of the said sum, a bill in equity, with prayer for an injunction, was filed in the Circuit Court of Ohio. The injunction was granted, and, upon the hearing of the cause, a decree was passed, ordering a restitution of the money; from this decree an appeal was taken to the Supreme Court of the United States, in which court the following points were decided:

The act of incorporation of the Bank of the United States gives the circuit courts of the United States jurisdiction of suits by and against the bank.

This provision in the charter is warranted by the 3d article of the constitution, which declares that "the judicial power shall extend to *all cases*, in law and equity, arising under this constitution, *the laws of the United States*, and treaties made, or which shall be made, under their authority."

It is unnecessary for an attorney or solicitor, who prosecutes a suit for the Bank of the United States, or other corporation, to produce a warrant of attorney under the corporate seal.

Whatever authority may be necessary for an attorney or solicitor to appear for a natural or artificial person, it is not a ground of reversal for error, in an appellate court, that such authority does not appear on the face of the record. It is a formal defect, which is cured by the statute of jeofails, and the 32d section of the judiciary act of 1789, ch. 20.

In general, the answer of one defendant, in equity, cannot be read in evidence against another. But where one defendant succeeds to another, so that the right of the one devolves on the other, and they become privies in estate, the rule does not apply.

Where the defendant is restrained by an injunction, from using money in his possession, interest will not be decreed against him.

An injunction will be granted to prevent the franchise of a corporation from being destroyed, as well as to restrain a party from violating it, by attempting to participate in its exclusive privileges.

In general, an injunction will not be allowed, nor a decree rendered, against an agent, where the principal is not made a party to the suit. But, if the principal be not himself subject to the jurisdiction of the court, (as in the case of a sovereign State) the rule may be dispensed with.

A court of equity will interpose by injunction to prevent the transfer of a specific thing, which, if transferred, will be irretrievably lost to the owner, such as negotiable securities and stocks.

The circuit courts of the United States have jurisdiction of a bill brought by the Bank of the United States, for the purpose of protecting the bank in the exercise of its franchises, which are threatened to be invaded, under the unconstitutional laws of a State; and, as the State itself cannot, according to the 11th amendment of the constitution, be made a party defendant to the suit, it may be maintained against the officers and agents of the State, who are entrusted with the execution of such laws.

A State cannot tax the Bank of the United States; and any attempt, on the part of its agents and officers, to enforce the collection of such tax against the property of the bank, may be restrained by injunction from the Circuit Court.

The following points have also been decided by the Supreme Court in regard to the Bank of the United States, its powers and liabilities, in the respective cases referred to:

The act of April 10, 1816, c. 44, (6 L. U. S. 35) incorporating the Bank of the United States, does not, by the ninth rule of the fundamental articles, prohibit the bank from discounting promissory notes, or receiving a transfer of notes in payment of a debt due to the bank.—*Fleckner v. Bank of United States*, 8 Wheat. 338.

The Bank of the United States, and every other bank not restricted by its charter, and also private bankers, on discounting notes and bills, have a right to deduct the legal interest from the amount of the note or bill, at the time it is discounted.—*Ibid*.

The statute incorporating the Bank of the United States does not avoid securities on which usurious interest may have been taken, and the usury cannot be set up as a defence to a note on which it is taken. It is merely a violation of the charter, for which a remedy may be applied by the Government.—*Ibid*.

The circuit courts of the United States have jurisdiction of suits brought by the Bank of the United States against a bank incorporated by a statute of a State, and of which the State is itself a stockholder, together with private individuals who are citizens of the same State with some of the stockholders of the Bank of the United States. *Bank of United States v. Planters' Bank of Georgia*, 9 Wheat. 104.

The Bank of the United States may sue in the Circuit Courts as endorsee or bearer of a promissory note, although the original payee or endorser could not sue in those courts, being a citizen of the same State with defendant; such a case is not within the 11th section of the judiciary act of September 24, 1789, c. 20, (2 Bior. 56,) which was merely a limitation on the jurisdiction conferred by that act.—*Ibid*.

In a suit brought by the Bank of the United States upon a bond given to the bank to secure the faithful performance of the official duties of a cashier, evidence of the execution of the bond, and of its approval by the board of directors, (according to the rules and regulations contained in the charter of the bank) is admissible, notwithstanding there was no record of such approval, and the plaintiff may prove the fact of such approval by the board, by presumptive evidence, in the same manner as such fact might be proved in the case of private persons, not acting as a corporation or as the agents of a corporation.—*Bank of United States v. Dandridge et al.* 12 Wheat. 64.

Where, in such case, the cashier is duly appointed and permitted to act in his office for a long time, under the sanction of the directors, it is not necessary that his official bond should be accepted by the board of directors as satisfactory, according to the terms of the charter, in order to enable him to enter legally on the duties of his office, or to make his securities responsible for the non-performance of those duties; the charter and by-laws are to be considered in this respect as directory to the board, and not as conditions precedent.—*Ibid*.





## APPENDIX.



By the original plan of the present work, the editors did not design to extend their researches, in point of time, beyond the 10th of April, 1816, when the existing charter of the United States' Bank was approved. To that period they have endeavored, in the body of the work, to give the entire proceedings and debates of Congress, as minutely as their sources of information would permit.

Without professing to aim at the same accuracy of detail, in regard to subsequent proceedings, they inserted such of them as seemed most prominent and important; such as the report of the committee specially appointed to examine the books of the bank at Philadelphia, and the two reports on the currency, made in the year 1830, &c. With a view, however, to render the work more complete, and more permanently useful, the editors have thought it advisable to insert, in an appendix, such other proceedings of Congress, since the enactment of the charter, as seemed to indicate the views of that body, in regard to the character and operations of the institution. The charter itself, though diffused as widely as the laws of the Union, is also inserted.

## CONTENTS OF THE APPENDIX.

<i>Bank Charter of 1816,</i> - - - - -	801-811
<i>Memorial, by the Bank, presented,</i> - - - - -	811
<i>Bill, in the House, to amend the charter,</i> - - - - -	812
<i>Bill, in the Senate,</i> - - - - -	812
<i>Report, of Committee of Ways and Means, on the power of the Bank to receive public debt in pledge for loans of money, &amp;c.</i> - - - - -	813
<i>Resolution, (Mr. Spencer's) as amended, for an examination of bank books, &amp;c.</i> - - - - -	813
<i>Bill, reported by Mr. Spencer to regulate the right of voting for directors,</i> - - - - -	814
<i>Memorials in favor of the Bank, presented, from Boston and New York,</i> - - - - -	814-815
<i>Act, regulating the right of voting for directors, &amp;c.</i> - - - - -	815-816
<i>Resolution, by Mr. Spencer, asking information as to the state of the bank, 1st March, 1819,</i> - - - - -	817
<i>Memorial, by the bank, soliciting amendments to its charter,</i> - - - - -	817
<i>Bill, in Senate, to authorize the appointment of an agent and register to sign bills and notes,</i> - - - - -	820
<i>Mr. Smith, of South Carolina, calls for information, in regard to frauds by officers of the bank, &amp;c.</i> - - - - -	822
<i>Ohio Proceedings, in regard to the bank,</i> - - - - -	822
<i>Resolution, by Mr. Colden, respecting usury,</i> - - - - -	823
<i>Report, on the subject of usury by the bank,</i> - - - - -	823
<i>Mr. A. Smith's resolution for limiting the issue of notes by the bank, in proportion to the amount of specie,</i> - - - - -	823
<i>On the tenure of offices by directors, &amp;c.</i> - - - - -	824-825
<i>Charleston Memorial, respecting the bank,</i> - - - - -	825
<i>Report of Committee, upon that, and the bank memorial,</i> - - - - -	826
<i>Mr. P. P. Barbour's resolution, for the sale of bank stock held by the United States,</i> - - - - -	831
<i>Renewal of charter of 1816, application for, and bill,</i> - - - - -	832

*An act to incorporate the subscribers to the Bank of the United States.*

A Bank of the United States, with a capital of 35,000,000.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a Bank of the United States of America shall be established, with a capital of thirty-five millions of dollars, divided into three hundred and fifty thousand shares, of one hundred dollars each share. Seventy thousand shares, amounting to the sum of seven millions of dollars, part of the capital of the said bank, shall be subscribed and paid for by the United States, in the manner hereinafter specified; and two hundred and eighty thousand shares, amounting to the sum of twenty-eight millions of dollars, shall be subscribed and paid for by individuals, companies, or corporations, in the manner hereinafter specified.

Places, &c. for receiving subscriptions.

**SEC. 2.** *And be it further enacted,* That subscriptions for the sum of twenty-eight millions of dollars, towards constituting the capital of the said bank, shall be opened on the first Monday in July next, at the following places, that is to say: at Portland, in the District of Maine; at Portsmouth, in the State of New Hampshire; at Boston, in the State of Massachusetts; at Providence, in the State of Rhode Island; at Middletown, in the State of Connecticut; at Burlington, in the State of Vermont; at New York, in the State of New York; at New Brunswick, in the State of New Jersey; at Philadelphia, in the State of Pennsylvania; at Wilmington, in the State of Delaware; at Baltimore, in the State of Maryland; at Richmond, in the State of Virginia; at Lexington, in the State of Kentucky; at Cincinnati, in the State of Ohio; at Raleigh, in the State of North Carolina; at Nashville, in the State of Tennessee; at Charleston, in the State of South Carolina; at Augusta, in the State of Georgia; at New Orleans, in the State of Louisiana; and at Washington, in the District of Columbia. And the said subscriptions shall be opened under the superintendance of five commissioners at Philadelphia, and of three commissioners at each of the other places aforesaid, to be appointed by the President of the United States, who is hereby authorized to make such appointments, and shall continue open every day, from the time of opening the same, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, for the term of twenty days, exclusive of Sundays, when the same shall be closed, and immediately thereafter the commissioners, or any two of them, at the respective places aforesaid, shall cause two transcripts or copies of such subscriptions to be made, one of which they shall send to the Secretary of the Treasury, one they shall retain, and the original they shall transmit, within seven days from the closing of the subscriptions as aforesaid, to the commissioners at Philadelphia aforesaid. And on the receipt of the said original subscriptions, or of either of the said copies thereof, if the original be lost, mislaid, or detained, the commissioners at Philadelphia aforesaid, or a majority of them, shall immediately thereafter convene, and proceed to take an account of the said subscriptions. And if more than the amount of twenty-eight millions of dollars shall have been subscribed, then the said last mentioned commissioners shall deduct the amount of such excess from the largest subscriptions, in such manner as that no subscription shall be reduced in amount, while any one remains larger: *Provided,* That, if the subscriptions taken at either of the places aforesaid shall not exceed three thousand shares, there shall be no reduction of such subscriptions, nor shall, in any case, the subscriptions taken at either of the places aforesaid, be reduced below that amount. And in case the aggregate amount of the said subscriptions shall exceed twenty-eight millions of dollars, the said last mentioned commissioners, after having apportioned the same as aforesaid, shall cause lists of the said apportioned subscriptions to be made out, including, in each

list the apportioned subscription for the place where the original subscription was made, one of which lists they shall transmit to the commissioners, or one of them, under whose superintendence such subscriptions were originally made, that the subscribers may thereby ascertain the number of shares to them respectively apportioned as aforesaid. And in case the aggregate amount of the said subscriptions, made during the period aforesaid, at all the places aforesaid, shall not amount to twenty-eight millions of dollars, the subscriptions to complete the said sum shall be and remain open at Philadelphia aforesaid, under the superintendence of the commissioners appointed for that place; and the subscriptions may be then made by any individual, company, or corporation, for any number of shares, not exceeding, in the whole, the amount required to complete the said sum of twenty-eight millions of dollars.

Regulations concerning subscriptions, and payments on them, &c.

SEC. 3. *And be it further enacted,* That it shall be lawful for any individual, company, corporation, or State, when the subscriptions shall be opened as herein before directed, to subscribe for any number of shares of the capital of the said bank, not exceeding three thousand shares, and the sums so subscribed shall be payable, and paid, in the manner following, that is to say: seven millions of dollars thereof in gold or silver coin of the United States, or in gold coin of Spain, or the dominions of Spain, at the rate of one hundred cents for every twenty-eight grains and sixty-hundredths of a grain of the actual weight thereof, or in other foreign gold or silver coin, at the several rates prescribed by the first section of an act regulating the currency of foreign coins in the United States, passed tenth day of April, one thousand eight hundred and six, and twenty-one millions of dollars thereof in like gold or silver coin, or in the funded debt of the United States, contracted at the time of the subscriptions, respectively. And the payments made in the funded debt of the United States, shall be paid and received at the following rates, that is to say: the funded debt bearing an interest of six per centum per annum, at the nominal or par value thereof; the funded debt bearing an interest of three per centum per annum, at the rate of sixty-five dollars for every sum of one hundred dollars of the nominal amount thereof; and the funded debt bearing an interest of seven per centum per annum, at the rate of one hundred and six dollars and fifty-one cents, for every sum of one hundred dollars of the nominal amount thereof; together with the amount of the interest accrued on the said several denominations of funded debt; to be computed and allowed to the time of subscribing the same to the capital of the said bank as aforesaid. And the payments of the said subscriptions shall be made and completed by the subscribers, respectively, at the times, and in the manner following, that is to say: at the time of subscribing there shall be paid five dollars on each share, in gold or silver coin as aforesaid, and twenty-five dollars more in coin as aforesaid, or in funded debt as aforesaid; at the expiration of six calendar months after the time of subscribing, there shall be paid the further sum of ten dollars on each share, in gold or silver coins, as aforesaid, and twenty-five dollars more in coin as aforesaid, or in funded debt as aforesaid; at the expiration of twelve calendar months from the time of subscribing, there shall be paid the further sum of ten dollars on each share, in gold or silver coin as aforesaid, and twenty-five dollars more in coin as aforesaid, or in funded debt as aforesaid.

SEC. 4. *And be it further enacted,* That, at the time of subscribing to the capital of the said bank as aforesaid, each and every subscriber shall deliver to the commissioners, at the place of subscribing, as well the amount of their subscriptions, respectively, in coin as aforesaid, as the certificates of funded debt, for the funded debt proportions of their respective subscriptions, together with a power of attorney, authorizing the said commissioners, or a majority of them, to transfer the said stock, in due form of law, to "the president, directors, and company, of the Bank of the United States," as soon as the said bank shall be organized: *Provided, always,* That if, in consequence of the apportionment of the shares in the capital of the said bank among the sub-

scribers, in the case, and in the manner herein before provided, any subscriber shall have delivered to the commissioners, at the time of subscribing, a greater amount of gold or silver coin and funded debt than shall be necessary to complete the payments for the share or shares to such subscribers, apportioned as aforesaid, the commissioners shall only retain so much of the said gold or silver coin and funded debt as shall be necessary to complete such payments, and shall, forthwith, return the surplus thereof, on application for the same to the subscribers lawfully entitled thereto. And the commissioners, respectively, shall deposite the gold and silver coin, and certificates of public debt, by them respectively received as aforesaid, from the subscribers to the capital of the said bank, in some place of secure and safe keeping, so that the same may and shall be specifically delivered and transferred, as the same were by them respectively received, to the president, directors, and company, of the Bank of the United States, or to their order, as soon as shall be required after the organization of the said bank. And the said commissioners appointed to superintend the subscriptions to the capital of the said bank as aforesaid, shall receive a reasonable compensation for their services, respectively, and shall be allowed all reasonable charges and expenses incurred in the execution of their trust, to be paid by the president, directors, and company, of the bank, out of the funds thereof.

The United States may redeem the funded debt, &c. and the bank may sell for gold and silver, &c.

SEC. 5. *And be it further enacted*, That it shall be lawful for the United States to pay and redeem the funded debt subscribed to the capital of the said bank, at the rates aforesaid, in such sums, and at such times, as shall be deemed expedient, any thing in any act or acts of Congress to the contrary thereof notwithstanding. And it shall also be lawful for the president, directors, and company, of the said bank, to sell and transfer, for gold and silver coin, or bullion, the funded debt subscribed to the capital of the said bank as aforesaid: *Provided, always*, That they shall not sell more thereof than the sum of two millions of dollars in any one year; nor sell any part thereof at any time, within the United States, without previously giving notice of their intention to the Secretary of the Treasury, and offering the same to the United States for the period of fifteen days, at least, at the current price, not exceeding the rates aforesaid.

The Secretary of the Treasury to subscribe on behalf of the United States, &c.

SEC. 6. *And be it further enacted*, That, at the opening of subscription to the capital stock of the said bank, the Secretary of the Treasury shall subscribe, or cause to be subscribed, on behalf of the United States, the said number of seventy thousand shares, amounting to seven millions of dollars as aforesaid, to be paid in gold or silver coin, or in stock of the United States, bearing interest at the rate of five per centum per annum; and if payment thereof, or of any part thereof, be made in public stock, bearing interest as aforesaid, the said interest shall be payable quarterly, to commence from the time of making such payment on account of the said subscription, and the principal of the said stock shall be redeemable in any sums, and at any periods, which the Government shall deem fit. And the Secretary of the Treasury shall cause the certificates of such public stock to be prepared, and made in the usual form, and shall pay and deliver the same to the president, directors, and company, of the said bank, on the first day of January, one thousand eight hundred and seventeen, which said stock it shall be lawful for the said president, directors, and company, to sell and transfer for gold and silver coin or bullion, at their discretion: *Provided*, They shall not sell more than two millions of dollars thereof in any one year.

The subscribers to the bank incorporated, &c. their name and style.

SEC. 7. *And be it further enacted*, That the subscribers to the said Bank of



the United States of America, their successors and assigns, shall be, and are hereby, created a corporation and body politic, by the name and style of "The president, directors, and company, of the Bank of the United States," and shall so continue until the third day of March, in the year one thousand eight hundred and thirty-six, and by that name shall be, and are hereby, made able and capable, in law, to have, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of whatsoever kind, nature, and quality, to an amount not exceeding, in the whole, fifty-five millions of dollars, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, alien or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all State courts having competent jurisdiction, and in any circuit court of the United States: and also to make, have, and use, a common seal, and the same to break, alter, and renew, at their pleasure; and also to ordain, establish, and put in execution, such by-laws, and ordinances, and regulations, as they shall deem necessary and convenient for the government of the said corporation, not being contrary to the constitution thereof, or to the laws of the United States; and generally to do and execute all and singular the acts, matters, and things, which to them it shall or may appertain to do; subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed and declared.

Twenty-five directors—five to be appointed by the President, &c.

SEC. 8. *And be it further enacted*, That, for the management of the affairs of the said corporation, there shall be twenty-five directors, five of whom, being stockholders, shall be annually appointed by the President of the United States, by, and with, the advice and consent of the Senate, not more than three of whom shall be residents of any one State; and twenty of whom shall be annually elected at the banking house in the city of Philadelphia, on the first Monday of January, in each year, by the qualified stockholders of the capital of the said bank, other than the United States, and by a plurality of votes then and there actually given, according to the scale of voting hereinafter prescribed: *Provided, always*, That no person, being a director in the Bank of the United States, or any of its branches, shall be a director of any other bank; and should any such director act as a director in any other bank, it shall forthwith vacate his appointment in the direction of the Bank of the United States. And the directors, so duly appointed and elected, shall be capable of serving, by virtue of such appointment and choice, from the first Monday in the month of January of each year, until the end and expiration of the first Monday in the month of January of the year next ensuing the time of each annual election to be held by the stockholders as aforesaid. And the Board of Directors, annually, at their first meeting after their election in each and every year, shall proceed to elect one of the directors to be president of the corporation, who shall hold the said office during the same period for which the directors are appointed and elected as aforesaid: *Provided, also*, That the first appointment and election of the directors and president of the said bank shall be at the time and for the period hereinafter declared: *And provided, also*, That, in case it should at any time happen that an appointment or election of directors, or an election of the president of the said bank, should not be so made as to take effect on any day when, in pursuance of this act, they ought to take effect, the said corporation shall not, for that cause, be deemed to be dissolved; but it shall be lawful at any other time to make such appointments, and to hold such elections, (as the case may be) and the manner of holding the elections shall be regulated by the by-laws and ordinances of the said corporation: and until such appointments or elections be made, the directors and president of the said bank, for the time being, shall continue in office: *And provided, also*, That in case of the death, resignation, or removal, of the president of the said corporation, the directors shall proceed to elect another president from the directors as aforesaid; and in case of the death, resignation, or absence from the United

States, or removal of a director from office, the vacancy shall be supplied by the President of the United States, or by the stockholders, as the case may be. But the President of the United States alone shall have power to remove any of the directors appointed by him as aforesaid.

Manner and time of the bank's going into operation, &c.

SEC. 9. *And be it further enacted*, That, as soon as the sum of eight millions four hundred thousand dollars, in gold and silver coin and in the public debt, shall have been actually received on account of the subscriptions to the capital of the said bank, (exclusively of the subscription aforesaid, on the part of the United States) notice thereof shall be given by the persons under whose superintendence the subscriptions shall have been made at the city of Philadelphia, in at least two newspapers printed in each of the places, (if so many be printed in such places, respectively) where subscriptions shall have been made, and the said persons shall, at the same time, and in like manner, notify a time and place, within the said city of Philadelphia, at the distance of at least thirty days from the time of such notification, for proceeding to the election of twenty directors as aforesaid, and it shall be lawful for such election to be then and there made. And the President of the United States is hereby authorized, during the present session of Congress, to nominate, and, by and with the advice and consent of the Senate, to appoint, five directors of the said bank, though not stockholders, any thing in the provisions of this act to the contrary notwithstanding; and the persons who shall be elected and appointed as aforesaid, shall be the first directors of the said bank, and shall proceed to elect one of the directors to be president of the said bank; and the directors and president of the said bank, so appointed and elected as aforesaid, shall be capable of serving in their respective office, by virtue thereof, until the end and expiration of the first Monday of the month of January next ensuing the said appointments and elections; and they shall then and thenceforth commence and continue the operations of the said bank, at the city of Philadelphia.

The directors empowered to appoint officers, clerks, servants, &c.

SEC. 10. *And be it further enacted*, That the directors, for the time being, shall have power to appoint such officers, clerks, and servants under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services, respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities for the well governing and ordering of the officers of the said corporation, as shall be prescribed, fixed, and determined, by the laws, regulations, and ordinances, of the same.

Fundamental articles, &c.

SEC. 11. *And be it further enacted*, That the following rules, restrictions, limitations, and provisions, shall form and be fundamental articles of the constitution of the said corporation, to wit:

Rules concerning voting for directors.

*First.* The number of votes to which the stockholders shall be entitled, in voting for directors, shall be according to the number of shares he, she, or they, respectively, shall hold, in the proportions following, that is to say: for one share and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote; but no person, copartnership, or body public, shall be entitled to a greater number than thirty votes; and, after the first election, no share or shares shall confer a right of voting, which shall not have been holden three calendar months pre-

vious to the day of election. And stockholders actually resident within the United States, and none other, may vote in elections by proxy.

*Second.* Not more than three-fourths of the directors elected by the stockholders, and not more than four-fifths of the directors appointed by the President of the United States, who shall be in office at the time of an annual election, shall be elected or appointed for the next succeeding year; and no director shall hold his office more than three years out of four in succession; but the director who shall be the president at the time of an election may always be re-appointed, or re-elected, as the case may be.

*Third.* None but a stockholder, resident citizen of the United States, shall be a director; nor shall a director be entitled to any emolument; but the directors may make such compensation to the president for his extraordinary attendance at the bank, as shall appear to them reasonable.

*Fourth.* Not less than seven directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence; in which case his place may be supplied by any other director whom he, by writing, under his hand, shall depute for that purpose. And the director so deputed may do and transact all the necessary business, belonging to the office of the president of the said corporation, during the continuance of the sickness or necessary absence of the president.

*Fifth.* A number of stockholders, not less than sixty, who, together, shall be proprietors of one thousand shares or upwards, shall have power at any time to call a general meeting of the stockholders, for purposes relative to the institution, giving at least ten weeks' notice, in two public newspapers of the place where the bank is seated, and specifying in such notice the object or objects of such meeting.

*Sixth.* Each cashier or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with a condition for his good behavior, and the faithful performance of his duties to the corporation.

*Seventh.* The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales, upon judgments which shall have been obtained for such debts.

*Eighth.* The total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, over and above the debt or debts due for money deposited in the bank, shall not exceed the sum of thirty-five millions of dollars, unless the contracting of any greater debt shall have been previously authorized by law of the United States. In case of excess, the directors under whose administration it shall happen, shall be liable for the same in their natural and private capacities; and an action of debt may, in such a case, be brought against them, or any of them, their or any of their heirs, executors, or administrators, in any court of record of the United States, or either of them, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution; any condition, covenant, or agreement, to the contrary notwithstanding. But this provision shall not be construed to exempt the said corporation, or the lands, tenements, goods, or chattels, of the same, from being also liable for, and chargeable with, the said excess.

Such of the said directors, who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the President of the United States, and to the stockholders, at a general meeting, which they shall have power to call for that purpose.

*Ninth.* The said corporation shall not, directly or indirectly, deal or trade in any thing except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged, for money lent and not redeemed in due time, or goods which shall be the proceeds of its lands. It shall not be at liberty to purchase any public debt whatsoever, nor shall it take more than at the rate of six per centum per annum for or upon its loans or discounts.

*Tenth.* No loan shall be made by the said corporation, for the use or on account of the Government of the United States, to an amount exceeding five hundred thousand dollars, or of any particular State, to an amount exceeding fifty thousand dollars, or of any foreign Prince or State, unless previously authorized by a law of the United States.

*Eleventh.* The stock of the said corporation shall be assignable and transferable, according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same.

*Twelfth.* The bills, obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and his, her, or their executors or administrators, and his, her, or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees, successively, and to enable such assignee or assignees, and his, her, or their executors or administrators, to maintain an action thereupon, in his, her, or their own name or names: *Provided*, That said corporation shall not make any bill, obligatory or of credit, or other obligation, under its seal, for the payment of a sum less than five thousand dollars. And the bills or notes which may be issued by order of the said corporation, signed by the president, and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her, or their order, or to bearer, although not under the seal of the said corporation, shall be binding and obligatory upon the same, in like manner, and with like force and effect, as upon any private person or persons, if issued by him, her, or them, in his, her, or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons; that is to say, those which shall be payable to any person or persons, his, her, or their order, shall be assignable by endorsement, in like manner, and with the like effect as foreign bills of exchange now are; and those which are payable to bearer shall be assignable and negotiable by delivery only: *Provided*, That all bills or notes, so to be issued by said corporation, shall be made payable on demand, other than bills or notes for the payment of a sum not less than one hundred dollars each, and payable to the order of some person or persons, which bills or notes it shall be lawful for said corporation to make payable at any time not exceeding sixty days from the date thereof.

*Thirteenth.* Half yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors advisable; and once in every three years the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of the profits, if any, after deducting losses and dividends. If there shall be a failure in the payment of any part of any sum subscribed to the capital of the said bank, by any person, copartnership, or body politic, the party failing shall lose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

*Fourteenth.* The directors of the said corporation shall establish a competent office of discount and deposit in the District of Columbia, whenever any law of the United States shall require such an establishment; also one such office of discount and deposit in any State in which two thousand shares shall have been subscribed or may be held, whenever, upon application of the Legislature of such State, Congress may, by law, require the same: *Provided*, The directors aforesaid shall not be bound to establish such office before the

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whole of the capital of the bank shall have been paid up. And it shall be lawful for the directors of the said corporation to establish offices of discount and deposit, wheresoever they shall think fit, within the United States or the territories thereof, and to commit the management of the said offices, and the business thereof, respectively, to such persons, and under such regulations, as they shall deem proper, not being contrary to law or the constitution of the bank. Or, instead of establishing such offices, it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank or banks, to be first approved by the Secretary of the Treasury, at any place or places that they may deem safe and proper, to manage and transact the business proposed as aforesaid, other than for the purposes of discount, to be managed and transacted by such offices, under such agreements, and subject to such regulations, as they shall deem just and proper. Not more than thirteen, nor less than seven managers or directors, of every office established as aforesaid, shall be annually appointed by the directors of the bank, to serve one year; they shall choose a president from their own number; each of them shall be a citizen of the United States, and a resident of the State, territory, or district, wherein such office is established; and not more than three-fourths of the said managers or directors, in office at the time of an annual appointment, shall be re-appointed for the next succeeding year; and no director shall hold his office more than three years out of four, in succession; but the president may be always re-appointed.

*Fifteenth.* The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same; of the moneys deposited therein; of the notes in circulation, and of the specie in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statement: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

*Sixteenth.* No stockholder, unless he be a citizen of the United States, shall vote in the choice of directors.

*Seventeenth.* No note shall be issued of less amount than five dollars.

Penalties for dealing in a way or in articles interdicted.

*SEC. 12. And be it further enacted*, That, if the said corporation, or any person or persons, for, or to the use of the same, shall deal or trade in buying or selling goods, wares, merchandise, or commodities, whatsoever, contrary to the provisions of this act, all and every person and persons by whom any order or direction for so dealing or trading shall have been given, and all and every person and persons who shall have been concerned as parties or agents therein, shall forfeit and lose treble the value of the goods, wares, merchandise, and commodities, in which such dealing and trade shall have been, one-half thereof to the use of the informer, and the other half thereof to the use of the United States, to be recovered in any action of law, with costs of suit.

Penalties for making unlawful loans to the United States or particular States, or to foreign Governments.

*SEC. 13. And be it further enacted*, That, if the said corporation shall advance or lend any sum of money for the use or on account of the Government of the United States, to an amount exceeding five hundred thousand dollars; or of any particular State, to an amount exceeding fifty thousand dollars; or of any foreign Prince or State, (unless previously authorized thereto by a law of the United States) all and every person and persons, by and with whose order, agreement, consent, approbation, and connivance, such unlawful advance or loan shall have been made, upon conviction thereof, shall forfeit and pay, for every such offence, treble the value or amount of the sum or sums which have been so unlawfully advanced or lent; one-fifth thereof to the use of the informer, and the residue thereof to the use of the United States.

Notes of the bank, unless specially prohibited by law, receivable in payments of all dues to the United States.

SEC. 14. *And be it further enacted*, That the bills or notes of the said corporation, originally made payable, or which shall have become payable on demand, shall be receivable in all payments to the United States, unless otherwise directed by act of Congress.

The bank to give the necessary facilities, without any charge, for transferring the funds of the United States to different quarters.

SEC. 15. *And be it further enacted*, That, during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall give the necessary facilities for transferring the public funds from place to place, within the United States, or the territories thereof, and for distributing the same in payment of the public creditors, without charging commissions or claiming allowance on account of difference of exchange, and shall also do and perform the several and respective duties of the commissioners of loans for the several States, or of any one or more of them, whenever required by law.

Deposites of the public moneys to be made in the bank or its branches, or the reasons to be laid before Congress by the Secretary of the Treasury for its not being done.

SEC. 16. *And be it further enacted*, That the deposits of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in said bank, or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reasons of such order or direction.

Corporation prohibited from suspending payments in specie, by being made chargeable with the payment of interest at the rate of 12 per centum per annum.

SEC. 17. *And be it further enacted*, That the said corporation shall not, at any time, suspend or refuse payment in gold and silver, of any of its notes, bills, or obligations; nor of any moneys received upon deposit in said bank, or in any of its offices of discount and deposit. And, if the said corporation shall, at any time, refuse, or neglect to pay, on demand, any bill, note, or obligation, issued by the corporation, according to the contract, promise, or undertaking, therein expressed; or shall neglect, or refuse to pay, on demand, any moneys received in said bank, or in any of its offices aforesaid, on deposit, to the person or persons entitled to receive the same, then, and in every such case, the holder of any such note, bill, or obligation, or the person or persons entitled to demand and receive such moneys as aforesaid, shall, respectively, be entitled to receive and recover interest on the said bills, notes, obligations, or moneys, until the same shall be fully paid and satisfied, at the rate of twelve per centum per annum, from the time of such demand as aforesaid: *Provided*, That Congress may, at any time hereafter, enact laws enforcing and regulating the recovery of the amount of the notes, bills, obligations, or other debts, of which payment shall have been refused as aforesaid, with the rate of interest above mentioned, vesting jurisdiction for that purpose in any courts, either of law or equity, of the courts of the United States, or territories thereof, or of the several States, as they may deem expedient.

Penalties for forging, counterfeiting, &c.

SEC. 18. *And be it further enacted*, That, if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any bill or note in imitation of, or purporting to be, a bill or note issued by order of the president, directors, and company, of the said bank, or any order, or check, on the said bank or corporation, or any cashier thereof; or shall falsely



alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering, any bill or note, issued by order of the president, directors, and company, of the said bank, or any order or check on the said bank or corporation, or any cashier thereof; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any false, forged, or counterfeited bill or note, purporting to be a bill or note issued by order of the president, directors, and company, of the said bank, or any false, forged, or counterfeited order or check upon the said bank, or corporation, or any cashier thereof, knowing the same to be falsely forged, or counterfeited; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any falsely altered bill or note, issued by order of the president, directors, and company, of the said bank, or any falsely uttered order or check on the said bank or corporation, or any cashier thereof, knowing the same to be falsely altered, with intention to defraud the said corporation, or any other body politic, or person; or shall sell, utter, or deliver, or cause to be sold, uttered, or delivered, any forged or counterfeit note, or bill in imitation, or purporting to be, a bill or note, issued by order of the president and directors of the said bank, knowing the same to be false, forged, or counterfeited; every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned, and kept to hard labor, for not less than three years, nor more than ten years, or shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars: *Provided*, That nothing herein contained shall be construed to deprive the courts of the individual States of jurisdiction, under the laws of the several States, over any offence declared punishable by this act.

Penalties for engraving, after the similitude of the plates used for the bank, any plates, &c.

SEC. 19. *And be it further enacted*, That, if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody or possession, any metallic plate, engraved after the similitude of any plate from which any notes or bills, issued by the said corporation, shall have been printed, with intent to use such plate, or to cause or suffer the same to be used in forging or counterfeiting any of the notes or bills issued by the said corporation; or shall have in his custody or possession, any blank note or notes, bill or bills, engraved and printed after the similitude of any notes or bills issued by said corporation, with intent to use such blanks, or cause or suffer the same to be used in forging or counterfeiting any of the notes or bills issued by the said corporation; or shall have in his custody or possession, any paper adapted to the making of bank notes or bills, and similar to the paper upon which any notes or bills of the said corporation shall have been issued, with intent to use such paper, or cause or suffer the same to be used in forging or counterfeiting any of the notes or bills issued by the said corporation, every such person, being thereof convicted, by due course of law, shall be sentenced to be imprisoned, and kept to hard labor, for a term not exceeding five years; or shall be imprisoned for a term not exceeding five years, and fined in a sum not exceeding one thousand dollars.

Bonus to be paid to the United States for this charter.

SEC. 20. *And be it further enacted*, That, in consideration of the exclusive privileges and benefits conferred by this act, upon the said bank, the president, directors, and company thereof, shall pay to the United States, out of the corporate funds thereof, the sum of one million and five hundred thousand dollars, in three equal payments, that is to say: five hundred thousand dollars at the expiration of two years; five hundred thousand dollars at the expiration of three years; and five hundred thousand dollars at the expiration of four years after the said bank shall be organized, and commence its operations, in the manner herein before provided.

Congress to establish no other banks except in the District of Columbia, &c.

SEC. 21. *And be it further enacted*, That no other bank shall be established by any future law of the United States, during the continuance of the corporation hereby created, for which the faith of the United States is hereby pledged: *Provided*, Congress may renew existing charters for banks in the District of Columbia, not increasing the capital thereof, and may also establish any other bank or banks in said district, with capitals not exceeding, in the whole, six millions of dollars, if they shall deem it expedient. And, notwithstanding the expiration of the term for which the said corporation is created, it shall be lawful to use the corporate name, style, and capacity, for the purpose of suits for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, real, personal, and mixed; but not for any other purpose, or in any other manner whatsoever, nor for a period exceeding two years after the expiration of the said term of incorporation.

Limitation of time prescribed for this bank's going into operation.

SEC. 22. *And be it further enacted*, That, if the subscription and payments to said bank shall not be made and completed so as to enable the same to commence its operations, or if the said bank shall not commence its operations, on or before the first Monday in April next, then, and in that case, Congress may, at any time, within twelve months thereafter, declare, by law, this act null and void.

Committees of either House of Congress may inspect the books, &c. of the bank.

SEC. 23. *And be it further enacted*, That it shall, at all times, be lawful for a committee of either House of Congress, appointed for that purpose, to inspect the books, and to examine into the proceedings of the corporation hereby created, and to report whether the provisions of this charter have been by the same violated or not; and whenever any committee, as aforesaid, shall find and report, or the President of the United States shall have reason to believe, that the charter has been violated, it may be lawful for Congress to direct, or the President to order a scire facias to be sued out of the circuit court of the district of Pennsylvania, in the name of the United States, (which shall be executed upon the president of the corporation for the time being, at least fifteen days before the commencement of the term of said court) calling on the said corporation to show cause wherefore the charter hereby granted, shall not be declared forfeited; and it shall be lawful for the said court, upon the return of the said scire facias, to examine into the truth of the alleged violation; and if such violation be made appear, then to pronounce and adjudge that the said charter is forfeited and annulled: *Provided, however*, Every issue of fact which may be joined between the United States and the corporation aforesaid, shall be tried by jury. And it shall be lawful for the court aforesaid to require the production of such of the books of the corporation as it may deem necessary for the ascertainment of the controverted facts; and the final judgment of the court aforesaid shall be examinable in the Supreme Court of the United States, by writ of error, and may be there reversed or affirmed, according to the usages of law.

Approved: April 10, 1816.

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HOUSE OF REPRESENTATIVES, *January 13, 1818.*

The Speaker presented a memorial from the President and Directors of the Bank of the United States, praying that their act of incorporation may be so amended as to authorize the president and cashier of its several offices of discount and deposite to sign and countersign the notes to be issued at said offices; which was referred to a select committee, consisting of Mr. Ser-

gent, Mr. Smith, of Md., Mr. Tallmadge, Mr. Robertson, of Kentucky, and Mr. Terrill.

JANUARY 20, 1818.

Mr. SERGEANT, from said committee, reported the following bill:

A BILL to amend the act, entitled "An act to incorporate the subscribers to the Bank of the United States."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the president, directors, and company, of the Bank of the United States, be, and they are hereby, authorized to dispense with the signatures of the president and principal cashier of the Bank of the United States, to all such bills or notes as may be issued from the respective offices of discount and deposit, which are now, or may hereafter be, established, by the directors of the said corporation, according to law; and that it shall be lawful for the said corporation to authorize the presidents of the said offices, respectively, to sign, and the respective cashiers thereof to countersign, all such bills or notes as aforesaid; which said bills or notes, so signed and countersigned, shall be binding and obligatory upon the said corporation, in like manner, and to all intents and purposes, as fully and effectually as the bills or notes which have been, or may hereafter be, signed by the president, and countersigned by the principal cashier of the said bank, agreeably to the provisions of the act of incorporation: *Provided,* That nothing herein contained shall be construed to invalidate or impair the obligation and legal effect of any bill or note, signed by the president, and countersigned by the principal cashier of the said corporation, although the same may hereafter be issued from any office of discount and deposit of the said corporation, established according to law.

Sec. 2. *And be it further enacted,* That so much of the act, entitled "An act to incorporate the subscribers to the Bank of the United States, passed on the tenth day of April, one thousand eight hundred and sixteen, as is herein altered or supplied, and no more, be, and the same is hereby, repealed.

There was no further action on said bill.

IN SENATE, January 13, 1818.

A copy of the same memorial was presented in the Senate, and referred to the Committee on Finance, consisting of Mr. Campbell, Mr. Eppes, Mr. King, Mr. Talbot, and Mr. Macon.

On the 9th of April, Mr. CAMPBELL reported the following bill, excepting the *proviso*, which was added thereto, as an amendment:

A BILL in addition to "An act to incorporate the subscribers to the Bank of the United States."

*Be it enacted, &c.* That bills or notes which may be issued by order of "the President, Directors, and Company, of the Bank of the United States," in pursuance of the twelfth rule of the eleventh section of the act incorporating the same, and signed by an assistant president, and assistant cashier, who shall have been appointed by the directors of the said corporation, for the special service of signing such bills and notes, shall be binding and obligatory upon the same, in like manner, and with like force and effect, as if the same were signed by the president, and countersigned by the principal cashier or treasurer thereof. *Provided, always,* That only one such assistant president, and assistant cashier, and, in case of death, resignation, or removal from office, their successors, respectively, be so appointed, for the special purpose aforesaid.

This bill passed the Senate, but was indefinitely postponed in the House.

HOUSE OF REPRESENTATIVES, *February 4, 1818.*

On motion of Mr. FORSYTH,

*Resolved*, That the Committee of Ways and Means be instructed to inquire whether the Bank of the United States is authorized by its charter, to receive as pledge, or security, for loans made to individuals, or corporations, a transfer of the public debt made to the bank, or to any officer thereof; and if, in their opinion, such transfers are not authorized by the act of incorporation, to report to the House some effectual mode of preventing them from being hereafter made."

On the 12th of March, Mr. LOWNDES, from said committee, made the following report; which was read, and laid on the table:

The Committee of Ways and Means, to whom has been referred a resolution of the 4th of February, directing an inquiry into the legality of transfers of public debt, made to the Bank of the United States, to secure the payment of loans made to them, report:

That they do not perceive in the words or principles of the law incorporating the bank, any reason to object to the practice which they understand to prevail, of admitting as a substitute for personal security, that which results from a deposit of stock, with a power to sell it, when it may be necessary to enforce payment of the debt. If the object of the law, in limiting the articles in which the bank may trade, be to secure to the mercantile community the facilities which a large banking capital should offer, this practice will conform to such a design. If the object be (although this is not probable) to prevent the competition of the bank in the purchase of stock, and its consequent enhancement in price, although the practice may prevent the necessity of some sales, this beneficent effect, which may sometimes instigate commercial distress, cannot be objected to by a just and humane Government. Nor can it be objected to the practice in question, that it may enable the bank to throw into the market a quantity of stock, which would depress its value, since this would be to injure the bank as well as the Government, and since it implies an absolute power to dispose of the property, while the power of the bank is considered as contingent and temporary.

On the whole, the committee do not understand the practice to be one which gives to the bank an interest in the price of stock, or an opportunity of speculating in its rise or fall. It is substantially a security, which may be promptly enforced, useful to the merchant whose loans it facilitates, and to the bank whose debts it secures.

NOVEMBER 30, 1818.

*Mr. Spencer's Resolution for an examination of the Bank of Philadelphia, as amended.*

[See the original resolution, page 714, *ante*.]

On motion of Mr. M'LANE, the said resolution was amended, by striking out all thereof, from the words "violated or not," in the third line, until the end of the sentence terminating with the words "since its organization."

On motion of Mr. LOWNDES, the words "to report thereon" were inserted after the words "United States," where they first occur.

Mr. BARBOUR moved further to amend, by *striking out* the following words: "that the said committee have leave to meet in the city of Philadelphia, and to remain there as long as may be necessary."

Which was disagreed to: ayes 34, noes 115.

The resolution, as amended, was agreed to in the following words:

*Resolved*, That a committee be appointed to inspect the books and examine into the proceedings of the Bank of the United States; to report thereon, and to report whether the provisions of its charter have been violated or not; that the said committee have leave to meet in the city of Philadelphia, and to

remain there as long as may be necessary; that they shall have power to send for persons and papers, and to employ the requisite clerks, the expense of which shall be audited and allowed by the committee of accounts, and paid out of the contingent fund of this House.\*

JANUARY 16, 1818.

Mr. SPENCER made a detailed report, *see page 714, ante*.

On the same day, Mr. SPENCER, from the same committee, reported the following bill:

A BILL to enforce those provisions of the act, entitled "An act to incorporate the subscribers to the Bank of the United States," which relate to the right of voting for directors.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in all elections of directors of the Bank of the United States, hereafter to be held, under, and by virtue of, the "Act to incorporate the subscribers to the Bank of the United States," whenever any person shall offer to the judges of such election more than thirty votes in the whole, including those offered in his own right, and those offered by him as attorney, proxy, or agent for any others, the said judges of the elections, or any one of them, are hereby authorized and required to administer to the said person, so offering to vote, the following oath or affirmation, viz:

I, ———, do solemnly swear, (or affirm, as the case may be) that I have no interest, directly or indirectly, in the shares upon which I shall vote at this election, as attorney for others; that those shares are, to the best of my knowledge and belief, truly and in good faith, owned by the persons in whose names they now stand; and that, in voting at this election, I shall not, in any manner, violate the first fundamental article of the "Act to incorporate the subscribers to the Bank of the United States." And the said judges of elections, or any one of them, shall be authorized and empowered, in their discretion, or at the instance of any stockholder of the bank, to administer the said oath or affirmation to any person offering to vote at any such election. And, if any person shall wilfully and absolutely swear or affirm falsely, in taking the said oath or affirmation, such person, so offending, shall, upon due conviction thereof, be subject to the pains and penalties which are by law prescribed for the punishment of wilful and corrupt perjury.

SEC. 2. *And be it further enacted,* That, if the judges of any election of directors, to be held as aforesaid, shall permit any person to give more than thirty votes in the whole, at any such election, without the said person's having taken the aforesaid oath or affirmation, such of the said judges as shall consent thereto, shall severally be deemed guilty of a misdemeanor, and, on due conviction thereof, shall be subject to a fine, not exceeding ———, or to imprisonment not exceeding ———, at the discretion of the court before which such conviction shall be had.

FEBRUARY 9, 1818.

Mr. JOHNSON, of Virginia, submitted the following resolution:

*Resolved,* That the Committee on the Judiciary be instructed to report a bill to repeal the act, entitled "An act to incorporate the subscribers to the Bank of the United States," approved April 10, 1816. Said resolution was read, and, together with those offered previously, by Mr. Spencer and Mr. Trimble, were committed to a committee of the whole on the state of the Union.

On the same day, Mr. MASON, of Massachusetts, presented a memorial, signed by sundry stockholders of the bank, residing in Boston and its vicinity, representing their full confidence in the said institution, and expressing their

\* [For the debate on this resolution, see National Intelligencer of 1st December, 1818.]

hope that no measures would be adopted, calculated in any manner to weaken or destroy that confidence; which was laid on the table.

On the 15th of February, a similar memorial was presented by Mr. WENDOVER, from stockholders residing in the city of New York, which was referred to a committee of the whole on the state of the Union.

FEBRUARY 24, 1819.

Mr. SMITH, of Maryland, from the committee of the whole on the state of the Union, reported their disagreement to the resolutions offered by Mr. Johnson and Mr. Trimble [see page 732, and 734 *ante*] and reported the foregoing bill with amendments:

Whereupon, Mr. SPENCER moved to lay the whole report on the table.

Mr. HARRISON called for a division of the question, so as to except from its effects so much of the said report as relates to the foregoing resolutions. On which the House adjourned.

FEBRUARY 25, 1819.

Mr. SPENCER withdrew his motion, and the House affirmed the report of the committee of the whole, as heretofore stated.

Whereupon, the House proceeded to consider the aforesaid bill and amendments.

Mr. STORRS moved to lay the bill and amendments on the table; which motion was rejected.

A motion was then made by Mr. PINDALL, to refer the said bill to the Committee on the Judiciary, with instructions to amend the same by additional sections, as follows, to wit:

1. To prohibit the offence of usury, and to declare the punishment thereof, when committed by the Bank of the United States, or its branches, or by the directors, officers, or agents thereof, whilst employed for, or on behalf of, the bank; and to prescribe the mode of prosecution for such offence.

2. To prohibit the establishment or continuance, by the said bank, of any office of discount or deposit, in any State, after the first day of February, 1820, unless by the consent of the Legislature of such State.

Whereupon, Mr. HARRISON moved to postpone the bill indefinitely, which motion being rejected, the question was taken on Mr. PINDALL's motion, and decided in the negative.

Mr. SPENCER moved to amend the first amendment of the committee of the whole, and Mr. BALDWIN moved that the bill be postponed indefinitely.

Several ineffectual attempts were, afterwards, made to amend the said bill, and another motion was made, by Mr. HARRISON, to postpone it indefinitely, which being rejected, Mr. JOHNSON, of Virginia, moved to add to the bill a fourth section, (see 4th section of the act hereafter) which was agreed to: Yeas 98, Nays 26.

Mr. POINDEXTER moved to add to the said bill the following: "That this act shall commence and be in force when the same shall have been assented to by a majority of the stockholders of the Bank of the United States;" which being rejected, the bill was ordered to be engrossed for a third reading: Ayes, 98, Noes, 38. And, on the following day, 26th February, 1819, was passed, and without amendment in the Senate, became a law, as follows:

AN ACT to enforce those provisions of the act, entitled "An act to incorporate the subscribers to the Bank of the United States," which relate to the right of voting for directors, and for other purposes.

SEC. 1. *Be it enacted, &c.* That, in all elections of directors of the Bank of the United States, hereafter to be held under, and by virtue of, the "Act to incorporate the subscribers to the Bank of the United States," whenever any person shall offer to the judges of such election more than thirty votes, in the whole, including those offered in his own right, and those offered by



him as attorney, proxy, or agent, for any others, the said judges of the elections, or any one of them, are hereby authorized and required to administer to the said person, so offering to vote, the following oath or affirmation, viz:

*I, —, do solemnly swear (or affirm, as the case may be.) that I have no interest, directly or indirectly, in the shares upon which I shall vote at this election, as attorney for others; that those shares are, to the best of my knowledge and belief, truly, and in good faith, owned by the persons in whose names they now stand; and that, in voting at this election, I shall not, in any manner, violate the first fundamental article of the "Act to incorporate the subscribers to the Bank of the United States."* And the said judges of elections, or any one of them, shall be authorized and empowered, in their discretion, or at the instance of any stockholder of the bank, to administer the said oath or affirmation to any person offering to vote at any such election.

SEC. 2. That no person shall be entitled to vote at any such election, as attorney, proxy, or agent, for any other person, copartnership, or body politic, without a power, for that purpose, being duly executed, in the presence of a witness, and filed in the bank, and on which power shall be enforced the oath or affirmation of the person, or one of the copartners, or of the head, or some of the officers, of the body politic granting such power, in the words following: "*I, —, do solemnly swear (or affirm, as the case may be,) that I am, (or that the copartnership, consisting of myself and —, are, or that the corporation known by the name of —, is, as the case may be,) truly, and in good faith, the owner, (or the owners, as the case may be,) of the shares in the capital stock of the Bank of the United States, specified in the within power of attorney, and of no other shares; that no other person has any interest in the said shares, directly or indirectly, except as stated in the said power, and that no other power has been given to any person, which is now in force, to vote for me, (or for the copartnership aforesaid, or for the body politic aforesaid, as the case may be) at any election of directors of the said bank;*" which oath or affirmation may be taken before a notary public, judge, or justice of the peace, and shall be certified by him.

SEC. 3. That, if the judges of any election of directors, to be held as aforesaid, shall permit any person to give more than thirty votes, in the whole, at any such election, without the said person's having taken the aforesaid oath or affirmation, or shall suffer any person whatever to vote as attorney, agent, or proxy, for any other person, or for any copartnership, or body politic, without a power for that purpose, as prescribed in the foregoing section, with the oath or affirmation and certificate aforesaid; such of the said judges as shall consent thereto, shall severally be deemed guilty of a misdemeanor, and, on due conviction thereof, shall be subject to a fine not exceeding two thousand dollars, or to imprisonment not exceeding one year, at the discretion of the court before which such conviction shall be had. And if any person shall wilfully and absolutely swear or affirm falsely, in taking any oath or affirmation prescribed by this act, such person, so offending, shall, upon due conviction thereof, be subject to the pains and penalties which are, by law, prescribed for the punishment of wilful and corrupt perjury.

SEC. 4. That, if any person shall, directly or indirectly, give any sum or sums of money, or any other bribe, present, or reward, or any promise, contract, obligation, or security, for the payment or delivery of any money, present, or reward, or any thing to obtain or procure the opinion, vote, or interest, of the president of the Bank of the United States, or either of the directors thereof, or the president or a director of either of the branches of the said bank, in any election, question, matter, or thing, which shall come before the said president and directors for decision, in relation to the interest and management of the business of the said bank, and shall be thereof convicted; such person or persons, so giving, promising, contracting, or securing to be given, paid, or delivered, any sum or sums of money, present, reward, or other bribe as aforesaid, and the president or director who shall, in any wise, accept or receive the same, on conviction thereof, shall be fined and imprisoned at the discretion of the court, and shall forever be disqualified to hold

any office of trust or profit under the said corporation, and shall, also, forever, be disqualified to hold any office of honor, trust, or profit, under the United States. [Approved 3d March, 1819, see Story's Laws of U. S. p. 1737.]

February 26, 1819.

On motion of Mr. SPENCER, the committee of the whole on the state of the Union, was discharged from the further consideration of his resolution, and it was laid on the table. [See the resolution, page 732, *ante*.]

MARCH 1, 1819.

*Mr. Spencer's Resolution, asking information respecting the condition of the Bank.*

On motion of Mr. SPENCER,

“Resolved, That the Secretary of the Treasury be requested to transmit to Congress, at an early period of the next session, a general statement of the condition of the Bank of the United States, and its offices, similar to the returns made to him by the bank; and a statement exhibiting, as nearly as may be practicable, the amount of capital invested in the different chartered banks in the several States, and in the District of Columbia: the amount of notes issued by those banks, and in circulation; the public and private deposits in them; the amount of loans and discounts made by them, and remaining unpaid; and the total quantity of specie they possess; and that he be requested also, to report such measures, as in his opinion may be expedient, to procure and retain a sufficient quantity of gold and silver coin in the United States, or to supply a circulating medium in place of specie, adapted to the exigencies of the country, and within the power of the Government.”

On the 24th of February, 1820, the Secretary of the Treasury, (WILLIAM H. CRAWFORD,) made an elaborate reply to this call, furnishing, at great length, the information required. His letter may be found among the Executive Papers, Vol. 6, of the 1st session of the 16th Congress, Document No. 86.

HOUSE OF REPRESENTATIVES, December 13, 1820.

Mr. SERGEANT presented the following memorial, which was referred to a select committee, consisting of Mr. Sergeant, Mr. Whitman, Mr. Tyler, Mr. Gorham, and Mr. Hardin.

No report was made thereon.

A similar memorial was presented in the Senate. It is as follows:

*To the Honorable the Speaker and members of the House of Representatives of the United States.*

The Memorial of the President and Directors of the Bank of the United States, on the part of the stockholders of the said bank, respectfully sheweth:

That the institution, of which they are managers, is laboring under several grievances, not only injurious to the Bank, but, as they respectfully conceive, to the nation also, which call for legislative relief. Some of these arise from the original omission of appropriate legal enactments; others, from certain provisions of the charter, not suited to the condition and circumstances of the bank; and one, of very important character, from a regulation concerning the fiscal receipts of the Government of the Union. For the remedy of these evils, the stockholders of the Bank of the United States can only look to Congress. Under the pledge of its sacred faith, and by its authority, the institution was established, and their natural refuge is, therefore, to the National Legislature, for that relief and protection which the citizen has a right to claim of his Government. Of that body they know they can obtain

nothing forbidden by the sound policy of the State; and could their interest dictate a request inconsistent with that policy, they would forbear to make it; but it is under a conviction of the justice and correctness of their requests that, as citizens, and as a portion of those whose prosperity constitutes the public good, they respectfully ask the attention of Congress to the grievances under which they labor. They ask relief, only if it be found to be consistent with the public welfare; and if it be, they will, they are convinced, not ask in vain; while they feel satisfied that they will be able to show to your honorable body, not only that their claims are consistent with it, but that they are eminently calculated to advance and promote it.

Your petitioners are aware that strong prejudices have existed against the Bank of the United States, and certainly there has been abundant cause for more than prejudice, against some of the acts which have marked the progress of the institution. But these acts have been offences, not against the public or the Government, (except as it is a stockholder) but against the innocent and undesigning stockholders, on whose behalf your petitioners now ask protection and relief. Offences of inferior turpitude, and of inferior public injury, under almost all Governments, have been restrained by severe punishments. By the charter granted by the Congress of the Confederation, to the Bank of North America, it was proposed to make some of these offences felony, and they were accordingly made felony by several acts of the Legislature of Pennsylvania. But, though in the progressive experience of this institution, one example of infidelity, speculation, and fraud, has produced another, and that another and another, and though it has been defrauded of millions of dollars, it is yet entirely without the preventive protection of effective and appropriate penal laws. Will it be believed, too, that these acts, so injurious to the Bank; that these losses, so afflictive to the innocent and suffering stockholders; have excited against the institution the prejudices which your petitioners now so anxiously deprecate? Yet it is a truth, that those are the sole causes of which your petitioners have any knowledge. For they cannot believe that it is considered a crime, at least, not in the eyes of that Legislature from whom they purchased their privileges, for the stockholders to have associated together, and to have placed their property under the protection of the most solemnly considered act that has marked the existence of the Government—an act, the validity of which, all political denominations of men in the country, (at long intervals of time, giving ample room for reflection and investigation) and all departments of the Government, have repeatedly and solemnly considered and confirmed. The usefulness of the bank to the Government and to the country; its purifying effect upon, and sustaining aid of, the currency; its support of the public credit, and its general benign influence on the interests of every solvent man, and every solvent institution in the country, if not readily acknowledged, your petitioners believe can be satisfactorily shown. But, more effectually to dissipate the public prejudices, if any remain, your petitioners entreat your honorable body to inquire who now are the persons really interested in this much injured institution? They will be found to be, with few exceptions, original subscribers, who have continued to hold their stock, alike ignorant and innocent of the frauds to which their interests were a prey; or, they are unfortunate purchasers, who, deceived by the false appearances which the affairs of the institution exhibited, gave an advance of from twenty to fifty per cent. on their purchases. Among those now interested, are all the classes of human helplessness; and among the funds involved in the fate of the institution, are those of charity and religion, to no inconsiderable amount. Of these facts, your petitioners are ready to give satisfactory proof to your honorable body, and crave to be permitted to do so, if it shall be doubted or deemed material.

Under these circumstances, your petitioners will proceed, succinctly, to state the particular subjects on which they respectfully request relief and protection from Congress.

*First.* The charter provides that no director, except the president, shall be eligible for more than three years in four. This provision has, in practice,

been found to deny to the bank the services of those men who are best qualified to administer its affairs with safety and profit to the institution. It is a provision not contained, your petitioners believe, in the charter of any respectable banking institution. It was not contained in the charter of the former Bank of the United States, and it would seem that the provision of the charter, which forbids the re-election of more than three-fourths of the directors in office, at the time of an annual election, (to which your petitioners have no objection) is calculated to effect all the ends of the embarrassing provision, from which your petitioners now crave relief.

*Second.* At present, there is no authority, under the laws of Congress, to punish any fraud, speculation, or violation of trust, committed by any of the officers of the bank, or its offices; and on this point the State laws are also supposed to be deficient. Nor is there any adequate civil remedy for the bank against its faithless agents, who may, the hour before their dismissal from office, while the investigations necessary to their removal indicate to them that result, take the property of the bank from its vaults, and withhold it, spend it, and, if they please, give it in payment to their other creditors, in exclusion of the bank from which it has been thus purloined.

*Third.* Under the charter, it has been doubted whether the bank has power to authorize the issuing of notes not signed by the president and countersigned by the cashier. The labor and the time necessary to sign notes for the bank and all its branches, are much greater than either of those officers can bestow upon that object, and hence the bank has been unable to put in circulation a sufficient amount of notes, of the smaller denominations, which the public most want, and which are best calculated to serve the interest of the bank. If authority were given to the board, from time to time, to appoint one or more persons to sign notes of the smaller denominations, at the parent bank, under the superintendence and direction of the board and its principal officers, there would be no public risk, and it would afford all the aid which your petitioners desire on the point.

*Fourth.* Under the fourteenth section of the act incorporating the bank, the bills or notes of the bank, originally made payable, or which shall have become payable, on demand, are made receivable in all payments to the United States, unless otherwise directed by act of Congress. Under this regulation, the power of the bank to make its capital available, either for its own profit, or the public good, is greatly abridged. The sphere of its circulation is limited to those places where it is least wanted, and made to exclude those where it would be eminently useful, while the whole currency of vast sections of the country is thereby frequently greatly embarrassed.

Your petitioners forbear to enter, at this time, into a further exposition of the grounds of their application for relief on these points; but respectfully hope and request that your honorable body will so dispose of the subject as to give them an opportunity of manifesting the justice, as it regards the Bank, and the policy, as it regards the public, of the relief and protection which they respectfully claim.

On behalf of the Board of Directors.

Attest,

THO. NELSON, *Cashier.*

I. CHEVES, *President.*

IN SENATE, December 1, 1830.

Mr. ROBERTS presented a memorial\* similar to that presented in the House;

\* Accompanying the memorial was a document submitted by a "committee of the bank," for that purpose appointed, to the Committee on Finance, in the Senate, in which are detailed, more at large than in the memorial itself, the grievances under which they suppose the bank to labor. [See Senate Documents, 2d Session of 16th Congress, Document 45, page 7.]

which was, on motion of Mr. BARBOUR, referred to the Committee on Finance, consisting of Mr. Sanford, Mr. Macon, Mr. Dana, Mr. Eaton, and Mr. Holmes, of Maine, by whom, on the 20th of December, 1820, the following bill was reported, to wit:

A BILL to amend the act incorporating the United States' Bank.

*Be it enacted, &c.* That it shall be lawful for the directors of the Bank of the United States to appoint an agent and register; and that all bills and notes of the said corporation, issued after the first appointment of such agent and register, shall be signed by the agent, and countersigned by the register; that such bills and notes shall have the like force and effect as the bills and notes of the said corporation which are now signed by the president, and countersigned by the cashier thereof; and that, as often as an agent or register of the said corporation shall be appointed, no note or bill signed by an agent, or countersigned by a register, shall be issued, until public notice of the appointment of such agent or register shall have been previously given, for ten days, in two gazettes printed in the city of Washington.

SEC. 2. *And be it further enacted,* That if any president, director, cashier, or other officer or servant of the Bank of the United States, or of any of its offices, shall fraudulently convert to his own use, any money, bill, note, security for money, evidence of debt, or other effects whatsoever, belonging to the said bank, such person shall, upon due conviction, be punished by imprisonment, not exceeding three years, and by standing in a pillory not more than three times, in open day, in some public place, during one hour at a time, which standing in a pillory, when inflicted more than once, shall be on different days.

IN SENATE, January 12, 1821.

The Senate took up the said bill, when Mr. SANFORD, in a speech of considerable length, laid before the Senate the views which operated on the Committee of Finance, in recommending this bill; the reasons in favor of its provisions, and those which induced the committee not to recommend the two other objects petitioned for by the bank.

Mr. ROBERTS moved to amend the bill by adding thereto the following sections:

"SEC. 3. *And be it further enacted.* That the bills or notes of the offices of discount and deposit of the said bank, excepting those of the office in the District of Columbia, originally made payable, or which shall have become payable on demand, shall be receivable, in all payments to the United States, only in the States and territories in which they are made payable, and in the States and territories in which no office of discount and deposit shall be established, any thing in the fourteenth section of the act incorporating the subscribers to the Bank of the United States, to the contrary notwithstanding: *Provided,* That all notes of the denomination of five dollars, issued either by the bank, or any of its offices of discount and deposit, made payable on demand, shall be receivable at the bank or any of its offices: *And provided, further,* That it shall not be lawful for the directors of the said bank to establish more than one office of discount and deposit in any State, without the consent of the Legislature thereof first had and received.

"SEC. 4. *And be it further enacted,* That so much of the second and fourteenth fundamental articles of the constitution of the said bank, contained in the eleventh section of the act incorporating the subscribers thereto, as provides that no director of the said bank, or any of its offices of discount and deposit, shall hold his office more than three years out of four in succession, be, and the same is hereby, repealed.

"SEC. 5. *And be it further enacted,* That the directors of the said corporation shall cause a list of the stockholders of the said bank, together with

their places of residence, to be kept in the banking house at Philadelphia, open to the inspection of any and every stockholder of said bank, who may apply for the same within the hours of business, for at least ninety days previously to every annual election of directors; and no person who may be entitled to vote at any election for directors of said bank, as attorney, proxy, or agent, for any other person, co-partnership, or body politic, shall, as such, give a greater number than — votes, under any pretence whatsoever, and no letter of proxy shall be of any force or effect longer than — years, or until it shall have been revoked.

“*SEC. 6. And be it further enacted, That, whenever the said corporation assent to the provisions of this act, and certify such assent to the Secretary of the Treasury Department, by writing, duly authenticated, this act shall be of full force and effect, and not otherwise.*”

After these amendments had been offered, the bill was, on motion, postponed till Wednesday.

#### ON THE PRINTING OF CERTAIN DOCUMENTS.

Mr. SANFORD having laid before the Senate sundry papers connected with the subject of this bill, which had been communicated to the Committee of Finance, by the bank, to enforce the expediency of granting the objects prayed for in their memorial,

Mr. OTIS moved that those papers be printed for the use of the Senate.

Mr. BARBOUR moved that *all* the papers submitted to the Committee on Finance, by the bank, be printed.

[This motion was understood, by the debate which ensued on it, to refer to a particular paper which had been communicated to the committee by the bank, with a request that it might be received confidentially; which paper is understood to contain a statement of frauds committed on the bank, and the names of those persons or officers who committed them.—*Note by the Reporter.*]

A good deal of discussion took place on this motion; the debate turned principally, on the propriety of making public, information of this personal character, which had been confidentially communicated to a committee of the body to whom the subject had been referred, simply to show the expediency of granting to the bank the security of penal sanctions, against violations of trusts, by its officers, and the reason which existed for asking of Congress this additional guard against such treacherous spoliations; some gentlemen being in favor of making the information public, as a just punishment of the offenders, and a warning to the world against them; and others being opposed to disclosing it, under the circumstances in which it came to the knowledge of the Senate. In the course of the debate, it appeared that the document was not now in the possession of the committee, and part of the discussion related to the propriety of taking measures to obtain it, the proper mode of proceeding in that matter, &c. The debate was terminated by a motion by Mr. SMITH, to postpone the subject to Monday, with the view of submitting a resolution on the subject. The desired postponement took place.

On the 17th of January, the subject being resumed, Mr. BARBOUR's motion was negatived, and the original motion of Mr. OTIS was agreed to.

FEBRUARY 19, 1821.

The bill, with Mr. ROBERTS's amendments, being before the Senate as in committee of the whole, the amendments were rejected. Yeas 7, Nays 30.

The bill was further amended, and ordered to be engrossed for a third reading, and on the next day it passed the Senate.

This bill, when sent to the House of Representatives, was not acted on by that body.



## RESOLUTION OF MR. SMITH, OF S. C.

IN SENATE, *January 15, 1831.*

Mr. SMITH, of S. C. submitted the following resolution, to-wit:

“Resolved, That, the better to enable Congress, in considering a bill “to amend the act, entitled an act to incorporate the subscribers to the Bank of the United States, to apportion the punishment to be inflicted upon the presidents, directors, cashiers, or other officers, or servants of the Bank of the United States, and of its several offices or branch banks,” the President of the bank be requested to transmit to the Senate, if any such exists, a statement of any and all fraudulent conversions by the said presidents, directors, cashiers, officers, or servants, or any of them, of any moneys, bills, notes, securities for moneys, evidences of debt, or other effects whatsoever, belonging to the said bank, to his or their own use. And in what offices these frauds have been practised, and to what extent, and by whom committed, and at what times. And likewise to state what facilities each of those several officers have, by means of their stations, respectively, to commit frauds of this character.”

The Senate took the same into consideration, and on motion of Mr. SANFORD, the resolution was amended by adding a request for “a statement of the number of bank notes issued by the bank, signed by the president and countersigned by the cashier thereof, of every different amount or denomination; and also a statement of the amount of notes heretofore issued and made payable at the principal bank, and the amount of notes made payable at the different offices.”

The resolution, thus amended, was, on the 17th of January, disagreed to.

## THE OHIO PROCEEDINGS.

IN SENATE, *February 1, 1821.*

The President communicated a letter from the Governor of Ohio, transmitting the report and resolutions of the joint committee of both Houses of the General Assembly of that State, on the communication of the auditor of state, upon the subject of the proceedings of the Bank of the United States, against the officers of said State, in the circuit court of the United States, and which were approved and adopted by the said General Assembly. The letter, report, and resolutions, were read, and,

On motion of Mr. EATON,

Were ordered to be referred to the committee on Finance, and to be printed.

On the 21st of February, on motion of Mr. SANFORD, the said committee were discharged from the further consideration of the subject.

The letter of the Governor of Ohio, and accompanying report and resolutions, may be found in the “Senate Documents,” vol. 2d, for the 2d session of the 16th Congress, Doc. No. 72.

A like communication was, at the same time, made to the House of Representatives, and laid on the table; but it does not appear to have been printed by their direction; and no further order was taken thereon.

## UNITED STATES' BANK MEMORIAL.

HOUSE OF REPRESENTATIVES, *December 12, 1821.*

Mr. SERGEANT again presented the memorial of the Bank, being a copy of that presented at the last session; and it was referred to a select committee, consisting of Mr. Sergeant, Mr. Gorham, Mr. Colden, Mr. Stevenson, and Mr. Little.

*Resolution Respecting Usury.*

DECEMBER 20, 1821.

Mr. COLDEN moved the following resolution:

"Resolved, That the said committee be directed to inquire whether the Bank of the United States has not taken, and is not in the practice of taking, more than six per cent. per annum for, or upon, its loans or discounts."

MARCH 7, 1822.

Mr. SERGEANT, from the said committee, made the following report; which was read, and ordered to lie on the table.

The committee on the memorial of the Bank of the United States, to whom was referred a resolution directing them to inquire "whether the Bank of the United States has not taken, and is not in the practice of taking, more than six per centum per annum for, or upon, its loans or discounts," report:

That, having inquired into the facts deemed to be material in relation to the question proposed in the resolution, they find,

1st. That it is, and, from the establishment of the Bank of the United States, has been, the practice of that bank, in calculating the discount upon a note payable a certain number of days after the date, to compute the interest upon a month of thirty days, and the fractions of such a month. Thus one per cent. is charged for sixty days.

In this respect, the bank has conformed to the established, and, it is believed, universal usage in the United States, prevailing among individuals as well as in moneyed institutions, and to the most approved tables heretofore in use.

2d. That, in charging the discount upon a sixty days' note, the bank and its branches have followed the usage of the place where the loan was made, as to the number of days (including the days of grace) for which the discount should be computed. In general, it has been the practice in the United States to charge the interest for sixty-four days; but there are some places where the interest is charged for only sixty-three days, and the branches established at such places have conformed to the practice there prevailing.

The committee do not think that there is any thing in either of the modes of computing interest adopted by the bank which calls for legislative interposition, and, therefore, submit the following resolution:

*Resolved*, That the committee be discharged from the further consideration of the subject.

## RESOLUTION BY MR. ARTHUR SMITH.

JANUARY 10, 1822.

Mr. ARTHUR SMITH submitted the following resolution:

"Resolved, That the Committee to whom was referred the memorial of the Bank of the United States, be instructed to inquire into the expediency of making it the condition on which any alteration of the charter, for the benefit of said bank, shall be made, that the eighth clause of the fundamental articles of the constitution of the said bank, be so amended, as to limit the said bank in the contraction of debts, and the issue of its notes, to some multiple of the gold and silver coin of the lawful currency of the United States, actually in its vaults or possession, and held to answer the demands against it; that the said committee also inquire into the expediency of providing, that the plea of the act of limitations shall not bar a recovery in an action brought on a note or notes issued by the Bank of the United States, and payable to bearer."

This resolution was disagreed to by the House.

IN SENATE, December 27, 1821.

Mr. FINDLAY presented a memorial of the president and directors of the bank, which appears to have been a copy of that presented by Mr. Roberts at

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the last session. It was referred to the Committee on Finance, consisting of Mr. Holmes, of Maine, Mr. Eaton, Mr. Macon, Mr. Van Buren, and Mr. Lowrie.

On the 24th of January, 1822, Mr. HOLMES, from the said committee, reported a bill, which was identical with that reported in Senate, on the 20th of December, 1820, (see p. 820) except that it substituted a pecuniary fine, instead of the punishment of the pillory, as directed by the former act, as the sanction of its provisions.

FEBRUARY 8, 1822.

Mr. FINDLAY moved to recommit the bill to the Committee on Finance, "with instructions to introduce a provision suspending, for five years, or otherwise modifying so much of the charter of the bank, as declares that the directors of the bank, and its branches, shall be ineligible, who have served three years in succession, not embracing the Government directors."

This motion was not carried.

This bill being under consideration in Senate, 12th March, 1822, Mr. FINDLAY moved to amend the bill, by the addition of the following section:

"*And be it enacted*, That so much of the second rule of the eleventh section of the act, entitled "An act to incorporate the subscribers to the Bank of the United States," as provides that no director shall hold his office more than three years out of four in succession, and so much of the 14th rule as provides that no director of an office of discount and deposit shall hold his office more than three years out of four in succession, be, and the same is hereby, repealed."

This amendment was rejected by a large majority.

Mr. TALBOT moved the indefinite postponement of the bill; this motion was negatived.

Mr. PLEASANTS then moved to strike out the second section of the bill; but this motion was, after debate, lost, by the casting vote of the chairman, (Mr. DICKERSON) the votes being 19 for, and 19 against the motion.

Mr. EATON moved an amendment to the second section, providing that "the court before whom the conviction shall take place, shall have power to enter a judgment against the party for the amount or value of the thing so fraudulently converted," &c.

The amendment was lost.

MARCH 14, 1822.

Mr. WILLIAMS, of Tennessee, offered an amendment to the first section, going to require of the bank to make all its notes, of and under ten dollars, payable at the principal bank, or any of its branches.

This proposition was supported by the mover, and by Mr. TALBOT, and was opposed by Mr. OTIS, and Mr. KING, of New York. After an ineffectual attempt by Mr. VAN DYKE, to limit the operation of the amendment to five dollar bills, the question was taken on the amendment, and the same was agreed to, by the following vote:

**AYES.**—Messrs. Barbour, Barton, Brown, of Ohio, Chandler, Elliott, Gaillard, Johnson, of Kentucky, King, of Alabama, Lanman, Lloyd, Macon, Noble, Palmer, Pleasants, Ruggles, Smith, Talbot, Taylor, Thomas, Walker, Ware, and Williams, of Tennessee.—22.

**NOES.**—Messrs. Boardman, D'Wolf, Dickerson, Eaton, Findlay, Holmes, of Maine, Holmes, of Miss. Johnston, of Louisiana, King, of New York, Knight, Lowrie, Mills, Otis, Parrott, Seymour, Southard, Stokes, Van Dyke, and Williams, of Miss.—19.

Mr. HOLMES, of Maine, moved an amendment, requiring the bank, within six months, to accept all, or relinquish all the provisions of the first section; but this motion was afterwards withdrawn by the mover.

Mr. BARBOUR moved to strike out the first section of the bill, together with the *proviso*, making all notes of, and under, *ten* dollars, payable at the bank, or either of the branches.

After debate, the motion to strike out was decided in the affirmative, as follows:

**AYES.**—Messrs. Barbour, Benton, Brown, of Ohio, Chandler, D'Wolf, Eaton, Holmes, of Miss. Knight, Lanman, Lloyd, Macon, Mills, Palmer, Parrott, Pleasants, Ruggles, Seymour, Smith, Talbot, Taylor, Thomas, Van Dyke, and Williams, of Miss.—23.

**NOES.**—Messrs. Barton, Brown, of Lou. Dickerson, Edwards, Elliott, Findlay, Holmes, of Maine, Johnson, of Kentucky, Johnston, of Lou. King, of Alabama, King, of New York, Lowrie, Morrill, Noble, Southard, Stokes, Walker, Ware, and Williams, of Tennessee.—19.

The remaining section was then ordered to be engrossed, and read a third time.

The bill, as amended, was afterwards passed, and sent to the House of Representatives.

IN THE HOUSE, the bill was referred to the Committee on the Judiciary, who were discharged from the consideration of it, and it was afterwards referred to a select committee, to whom the memorial of the president and directors of the bank had been referred; but it does not appear that any action of the House took place on it during the session.

JANUARY 20, 1823.

MR. HAMILTON, of S. C., presented a memorial of sundry banking institutions, insurance companies, and individuals, of Charleston, S. C., which is as follows:

*To the Honorable the House of Representatives of the U. S. of America:*

Your petitioners, interested in the commercial prosperity of the United States, and of South Carolina in particular, having learnt, from the proceedings of the stockholders of the Bank of the United States, that a petition would again be presented to your honorable body, praying for an alteration in their charter, by which that bank and its offices would be released from the obligation of receiving in payment of all dues to the Government the notes of all the different offices of the said Bank of the United States, in whatever part of the Union such office may be located, respectfully pray that such petition may be granted.

Your petitioners are perfectly satisfied, if the notes of each office of the Bank of the United States were made receivable only at such office, and thereby confined in their circulation to the State in which they were issued, and to those parts of the adjoining States more immediately connected with it in commerce, that very great benefits would result to the different banking institutions in particular, and to the community in general. The offices would then issue their notes on precisely the same principles and in the same proportions as the State banks, and their business would be conducted according to their several capitals, on terms of perfect reciprocity. The rates of exchange would then become more uniform and moderate, by an increase of competitors in regular exchange operations. The different moneyed institutions and the community would be relieved from the exactions which they occasionally feel, and of which they are always apprehensive. Good will would exist towards an institution very capable of, and even now affording great advantages to, the Government, and harmony would be restored between it and every part of the community.

CHARLESTON, November, 1822.

[On the 17th December, 1823, a copy of this memorial was again presented, by Mr. POINSETT, and referred to the Committee of Ways and Means, upon which no report was made.]

*Ordered*, That the said petition be referred to Mr. Hemphill, Mr. Cambreleng, Mr. Mercer, Mr. Mallary, and Mr. M'Kim.

JANUARY 28, 1823.

Mr. HEMPHILL (by leave of the House) presented a memorial of the president and directors of the Bank of the United States, on the part of the stockholders of the said bank, stating certain grievances under which they labor, arising from defects and omissions in the act for their own incorporation; which memorial was referred to the said committee.

FEBRUARY 27.

Mr. HEMPHILL, from the said committee, made the following report:

The committee, to which were referred the memorial from several banking institutions, and insurance companies, in the State of South Carolina, and the memorial from the President and Directors of the Bank of the United States, praying for certain laws to be passed in relation to the bank, and for certain alterations to be made in the charter, report:

That the memorials claim the interposition of Congress in four particulars:

1. To change that part of the charter which provides that no director, except the president, shall be eligible for more than three years in four.
2. To provide, by law, for the punishment of persons who may be convicted of practising fraud on the bank.
3. To authorize the board to appoint one or more persons to sign notes of the smaller denominations at the parent bank.
4. To pass a law by which the notes of the bank shall only be receivable, in payments to the United States, at the bank or branch where they are made payable.

As to the first, there are many inconveniences which arise from the short duration which is allowed to a directorship; but the committee are not inclined at present to make the change prayed for.

As to the second, the committee report in favor of it, to the fullest extent prayed for, and think that salutary penal laws ought immediately to be passed on the subject.

As to the third, the committee think it is reasonable, and that it ought to be granted. The almost constant manual labor of signing notes must too much exhaust the two principal officers of the bank, and, in a greater or less degree, disqualify them from a due application of their minds to the extensive, critical, and important concerns of the bank.

As to the fourth, the committee are obliged to go into some detail upon it. If the arrangement prayed for would be beneficial to the bank, and not injurious to the Government, nor to local banks, nor to the community at large, it ought to be granted; but more especially ought it to be granted, if it will not only be beneficial to the bank, but productive of public good.

Under the 14th section of the act incorporating the bank, the bills or notes of the bank, originally made payable, or which shall have become payable on demand, are made receivable in all payments to the United States, *unless otherwise directed by act of Congress*.

It will be observed, in the first instance, that no alteration of the charter in relation to this provision is prayed for. It will also be observed, that the act incorporating the bank did not consider this arrangement as unalterable; it was to undergo the test of time and experience; on the one hand, Congress reserved the power to change this provision whenever the public good should require it, and, on the other, the stockholders had every reason to expect that, if this provision should distress the bank, that Congress would remove it, if, by doing so, no disadvantage would accrue to the Government. The question now, after a fair and full experiment on the subject, is, whether this provision is judicious or otherwise; and we can only arrive at the truth of this inquiry by comparing the consequences of this provision with that state of things which will most probably exist if it should be removed.

The bank is to place the funds of the Government at any given point, and it is the duty of the bank, as far as possible, to preserve a sound currency in the country; the bank is not bound to pay its notes, presented by the Government, except where the notes are payable; but as it is bound to transfer the funds, little time only could be gained by refusing to pay them wherever received, and that refusal, perhaps, would be attended with inconvenience to the Government, and accordingly the bank pays the notes wherever received, without reference to the places where they are payable; the result is at times embarrassing to the bank. The practical effect of the provision under consideration, will be more clearly perceived, by attending to the usual course of business, and to the state of exchange. The exchanges between the West and Atlantic, have always been against the former. The exchanges between the North and the South, are, for one portion of the year, against the latter, and for another, in its favor. When the exchanges are unfavorable to the South and West, the notes of the Southern and Western branches are taken to the North, to pay the balance of debt; they are equal to cash, without the expense of transfer, as they are receivable in payment of duties to the Government. To give the best view of this part of the subject, the committee will incorporate a part of the report of the committee of the bank, presented to Congress in the session of 1820.

Speaking of the branch notes, it says, "they are equal to cash, or very nearly so, in all the principal cities north of the Potomac. They are so because they are receivable in payment of duties to the Government, the portion of which, payable to the north of the Potomac, in any quarter of the fiscal year of 1819, was, taking that year as an example, nearly as much as the whole circulation of the Bank of the United States at the same time, and of course kept up a steady demand for the notes of the Southern and Western branches. The union of this demand with the course of exchanges, draws the whole of the notes of the Western offices to the Atlantic, and, at particular seasons of the year, the greater part of the notes of the Southern offices to the North. The revenue collected to the South being comparatively small, there can never be any material reflux of their notes, because they will be absorbed by the northern demand before the exchanges turn, and the balance of payments being always against the West, there is never any towards that quarter. We will now proceed to enumerate some of the evils resulting from the receipt of the notes of the bank and its branches in this manner and under these circumstances.

"1st. It greatly deranges and distresses the money market, both of the places where the notes are received, and where they are payable. The bank at Philadelphia and the offices at New York and Boston, did not receive less than between five and six millions of the notes of the offices south and west of them, in the short period of fourteen months, exclusive of the notes of the office at Washington. These points were obliged to pay the Government the amount of these notes, and in vain sought for speedy reimbursement from the offices where they were payable. The state of the exchanges which caused this flux of their notes, created an inability to reimburse the offices which had received them, until the exchanges turned. The offices receiving them were of necessity obliged to curtail their business suddenly, to provide the means of paying them. Accordingly, the curtailments at Philadelphia, New York, and Boston, within the same period, amounted to upwards of four and a half millions of dollars, and exhausted almost the whole of the capital placed at these points. The capital of New York and Boston, united, was at some periods less than nothing. What distress and embarrassment must have been caused by these circumstances, will easily be conceived by those who have reflected on the nature and effects of the sudden withdrawal of a large portion of the active capital of a trading community.

"The evil suffered in the community where the notes were thus received and paid, was not all. The offices whose notes were thus received and paid were necessarily called upon to provide the means of reimbursement, and curtailments to a corresponding amount were ordered in them, and like dis-



stress and embarrassment produced in the communities where they were located. Double the amount of the notes thus circulated was in this way withdrawn from use to provide for their payment. The aggregate curtailments in the fourteen months before alluded to, (from 1st September, 1818, to 1st November, 1819,) were upwards of  $10\frac{1}{2}$  millions of dollars, and it is confidently believed it would not have been necessary to have reduced the discounts of the bank a single cent, but for this cause. When these reductions commenced, the discounts were very moderate for the capital of the bank. They did not amount to \$42,000,000.

"Nor is the extent of the distress and embarrassment measured by the immediate effects of the reduction of the discounts of the bank and its branches. These reductions, in their operation, throw back upon the State banks a portion of their circulation, and reduce their deposits, and they also are obliged to curtail their business, and add to the general mass of distress.

"The uncertain liability of the bank and its branches, as each is in a certain degree liable to pay the notes of all the rest, and the perpetual alteration of the capital of each, by paying the notes of the others, and having its notes paid by them, put it beyond the power of calculation to determine the extent of business which can be safely done, and leaves the bank to vacillate between the hazards of rashness, and the fruitless results of a torpid prudence. To day, a branch shall have a million of capital, and in three months it may be without a cent.

"2. It diminishes and deranges the currency of the whole country. The bank was under the necessity, to protect itself from danger, and to avoid charging itself to an unlimited amount with the cost of adverse exchanges, to forbid the offices with which the exchanges were unfavorable to issue their notes. It, however, issued its own notes, and the offices against which the exchanges did not run, issued their notes without any limit but that of the demand; yet the circulation of the bank was by this cause greatly decreased. Thus, for example, in the short space of five months, from the 1st April, 1819, to the 30th August, 1819, it was reduced from \$6,045,428 to \$3,838,386.

"This, however, does not shew the entire extent of the abstraction from the currency, which this cause produces. Let it be supposed that the circulation of the bank is four millions of dollars, and that one-half of it has been issued by offices to the South and West, and it is in use for the purposes of being remitted to the North and East. It is, thereby, as much taken out of the currency as if it were destroyed; and it leaves only two millions of currency furnished by the bank. But, the bank will, probably, have four millions of specie in its vaults, and it cannot safely have less under these peculiar circumstances; this sum, also, is withdrawn from circulation. Thus, the bank, not by its fault, but by the necessity which is imposed upon it, has withdrawn four millions of specie from the currency, and has given a substitute, in its notes, only to the amount of two millions. In this view, the currency has been diminished two millions. But even this is not the worst view of it. Let us suppose, that the notes of the bank and its branches could not be converted into bills of exchange, and there is no doubt, it is presumed, that, with its high credit, it could easily do what many local banks have accomplished. It could circulate two dollars of its bills for every dollar it should have in its vaults. Then, it is supposed to have four millions of dollars in its vaults, and could circulate eight millions of its notes, which would be equal to gold and silver. It then would have added four millions to the currency, while, at present, it diminishes it to the amount of two millions, making a practical difference of no less than six millions in the sound currency of the country. The view may even be extended, because the Bank of the United States could, had its capital not been deranged by this very cause, have given a greater addition to the currency with the greatest ease and safety, if a demand had existed for it, by increasing its specie. No evil can be greater than a decreasing currency. In the words of a great man, "poverty, and beggary, and sloth, follow in its train."

"But this evil of a decreasing currency will not occur as a rare calamity, once, perhaps, in a century, but will be renewed with every flux and reflux of the exchanges between the different portions of the country, as long as the bills of the Bank of the United States are thus receivable by the Government.

"3d. It makes the necessary public burthens, in some instances, doubly oppressive. In all the States south of Virginia, and in nearly, if not all, the Western States, the Government of the United States does not expend half the revenue it collects; the surplus must be remitted to other points, where it is necessarily to be expended. This draws so much of the capital of those States from them, and adds it to the capital of another—New York, for example. This is not a subject of complaint, though it is certainly an evil; but, when the revenue of New York is collected in the notes of the offices of the South and West, perhaps to an equal amount, and drawn from the necessary currency of these portions of the country, the evil produced by the remittance of the surplus revenue becomes intolerable, because the means of making it have been taken away. The capital of these States is fettered by the necessary curtailments of their banks, their currency is diminished, and that state of things which is called a scarcity of money, is produced, exchange rises, and when the revenue is to be remitted, the means of doing it no longer exists."

As bank notes represent specie, such a relationship should be maintained between them, as to enable a given amount of specie to sustain as large a paper circulation as could be instantly converted into specie; but this can never be accomplished while specie must be provided at so many different places for the payment of the same note; the uncertainty of the places where the notes will be presented for payment, must at all times confound the most discreet calculation for the maintenance of a proper relation between the specie and paper circulation. To the Government, it can be of no advantage, as debts must be paid to the Government where due, and its funds, the bank is obliged to transfer from place to place, at the pleasure of Government.

In the opinion of the Secretary of the Treasury, in his report to the second session of the 16th Congress, the alteration would be beneficial to the community. It is as follows:

"Preliminary to a resort to internal taxation of any kind, the charter of the Bank of the United States ought to be amended, so as to make the bills of all the offices of the bank, except that at the seat of Government, receivable only in the States where they are made payable, and in the States and territories where no office is established. The effect of this modification would be, to make the notes of the offices of the Bank of the United States, except the office in this district, a local currency, which will enter and continue in the local circulation of the States in which they are issued. The notes, thus issued, will render the local circulation of the States sound, and furnish to the citizens the means of discharging their contributions to the Government.

"This measure will also place the State institutions, to the south and west of this city, in a more eligible situation, in relation to the offices of the Bank of the United States, by enabling them to adjust their accounts with these offices by the exchange of notes, instead of liquidating their balances by the payment of specie."

To the portions of the country where the balance of trade is generally unfavorable, it must be injurious, as it deprives them of every benefit which the sound currency of the Bank of the United States is capable of affording to them; the bank, in such places, for its own defence, being obliged entirely to suspend the issuing of notes.

To the portions of the country where the exchange is at intervals unfavorable, it is injurious, because it occasions an unprofitable and distressing fluctuation in the paper circulation of the place: for, in proportion to the disappearance of branch notes, must inevitably follow curtailments, not only of the branch, but of the local banks. The Southern banks sensibly feel the effects of this vacillating and disordered state of things; and their memorial contains the following remarks on the subject: That "they are perfectly satisfied,

if the notes of each office of the Bank of the United States were made receivable only at such office, and thereby confined in their circulation to the State in which they were issued, and to those parts of the adjacent States more immediately connected with it in commerce, that very great benefits would result to the different banking institutions in particular, and to the community in general.

"The offices would then issue their notes on precisely the same principles, and in the same proportions, as the State banks; and their business would be conducted, according to their several capitals, on terms of perfect reciprocity; the rates of exchange would then become more uniform and moderate, by an increase of competitors in regular exchange operations. The different moneyed institutions, and the community, would be relieved from the exactions which they occasionally feel, and of which they are always apprehensive. Good will would exist towards an institution, very capable of even now affording great advantages to the Government; and harmony would be restored between it and every part of the community."

The regulation, as it now exists, operates as a practical prohibition to issue any notes in the Western States, and to a like prohibition to issue them to the South, during six months in the year; while the collection of the revenue, and the convenience of the People, in these quarters of the Union, require them to be issued continually.

To simplify the case, let any given district be selected, where there is no sound currency, and where no notes of the Bank of the United States can, at present, be issued, for the reasons already given.

If the notes, when issued, could only be receivable at the office issuing them, their circulation would be limited. The office, for its own benefit, must do business; the notes of solvent individuals would be discounted, and a sound paper would be put in circulation, which could not leave the boundary which practice would prescribe for it. The holders of branch notes could demand silver whenever wanted for transportation, and the expense of this transfer, as in the ordinary cases of trade, would soon bring business to a safe and proper level; and some sound standard among the local banks would follow as a necessary consequence.

The same reasoning would, in part, apply to places where exchanges fluctuate. At present the branch notes are often unnaturally taken from the places at which they are wanted, and carried to places where they are not wanted.

If the desired arrangement was effected, the bank would be enabled to put into circulation a much larger quantity of sound paper than at present; by which the bank, and the Government, being the owner of one-fifth of the stock, would be greatly benefitted; and, from its operation, it is believed that the community at large would enjoy real advantages.

What substantial reason can be given for an adherence to this provision of the law?

In what manner does it produce any public good?

Its operation on exchange is ineffectual.

In reference to any two given places, when the balance of trade is against the one, gold and silver there, will be of less value than at the other, by the expense of transportation; and the exchange will always be about equal to this expense. The nature of trade will keep this balance alternating, and it may be, generally, against one place in a certain direction, while, at the same time, it is in its favor in another direction; but the design of making paper circulation for the purpose of exchange better than the specie it represents, appears to be in a great degree fallacious. The bank can never equalize exchange; the expense of exchange must be borne by the debtors, in the debtor part of the country, and every attempt to give a different direction to it, will be baffled. It is alien to the inflexible laws of trade, and cannot be realized.

Indeed, if the branch notes can be drawn directly from the office, they will, of course, be free of the usual expense of exchange; but this rarely happens; the real debtor who uses them as exchange, has generally to pay to the money

dealers a premium higher than a just premium on exchange in its accustomed form.

The Southern institutions, and the most respectable citizens in Charleston, who are materially interested, and who have witnessed the effect produced in practice, have informed us, in their memorial, that the business of exchange will be improved, and the exchange itself moderated.

There are exceptions, which, perhaps, it will be proper to make.

The notes of the parent bank may be receivable at any of the branches.

The notes of the office at Washington might be receivable at the parent bank and the branches, and, for the convenience of travellers, the five dollar bills of the bank ought to be receivable every where, and all the notes of the bank and its branches may be received in the States and Territories where the bank has no establishment.

As it is no part of the charter, the law can be repealed at the pleasure of Congress; and, to guard it, in the most effectual manner, let the law, for the sake of an experiment, be limited to two years; it will then require a re-enactment, which cannot be procured, unless its utility shall have been proved by experience.

There are but few considerations that are more momentous than that which relates to the currency of the country; and it belongs to the Bank of the United States, as far as possible, to preserve its soundness. It is an institution that is entitled to a patient and calm hearing; its advantages to the country have been great, while its sufferings are but too well known. Errors, if any have been committed, it is hoped experience will correct; prejudices, if any existed, it is hoped have now subsided, and that reason alone will, in the end, prevail.

The following resolution is offered:

*Resolved*, That the Committee on the Bank of the United States be instructed to prepare and bring in a bill agreeable to the above report.

No such bill, however, was brought in.

The same memorial was, on the 27th of January, 1823, presented in the SENATE, by Mr. Findley, and referred to the Committee on Finance, who were discharged from the consideration thereof. Nothing farther was done in that body during the session.

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HOUSE OF REPRESENTATIVES, *December, 1826.*

On motion of Mr. McLANE,

*Ordered*, That the petition of the president, directors, and company, of the Bank of the United States, heretofore presented on the 28th of January, 1823, be referred to the Committee of Ways and Means.

No report appears to have been made by that committee.

DECEMBER 13th, 1827.

Mr. PHILIP P. BARBOUR submitted the following resolution:

*Resolved*, That the Committee of Ways and Means be directed to report a bill for the sale of that portion of the stock of the Bank of the United States which is held by the Government of the United States, and the application of the proceeds thereof to the payment of the public debt."

On motion of Mr. GORHAM, said resolution was ordered to lie on the table. On the 20th of December, the said resolution was again considered in the House, and debated.

On the 21st December, after further debate, a motion was made by Mr. RANDOLPH, that the resolution do lie on the table; which was decided in the negative: Yeas 79, Nays 107.

The said resolution was thereupon disagreed to by the House: Yeas 9, Nays 174.

22d CONGRESS, }  
1st Session. } *Application for the renewal of the Charter of 1816.*

Soon after the meeting of the present Congress, memorials were presented by the bank to both Houses, praying a renewal of their charter. These were referred—in the Senate, to a Select Committee; in the House, to the Committee of Ways and Means. This latter committee, on the 9th of February, 1832, made a report favorable to the application, and accompanied it by “A bill to renew and modify the charter of the Bank of the United States.”

The provisions of this bill are, briefly, as follows:

SEC. 1. That the charter be continued in force for the period of twenty years from the 3d day of March, 1836, with a power reserved to Congress to repeal it at any time after ten years, upon giving three years’ notice to the bank.

SEC. 2. That the President of the United States have power to appoint one of the directors of each branch of the bank, as he now does a portion of those of the principal bank.

SEC. 3. That any of the officers of the mother bank who may be designated by the Secretary of the Treasury, shall have power to sign and countersign the notes and bills.

SEC. 4. That the bank be prohibited from issuing any notes except such as are payable at the office from which they are issued; and also, from drawing checks or drafts of twenty dollars or any less amount.

SEC. 5. A list to be furnished annually to each State, of the stockholders residing therein, with the amount of their stock; and the States to have the power of taxing it as they do that of their own banks.

SEC. 6. The bank to pay to the United States interest at the rate of — per cent. upon Government deposits.

SEC. 7. Bank not to establish any additional branch thereof without the consent of Congress.

Upon this bill no action has yet taken place.

THE END.

## INDEX.

	Page.
<i>Alston, Willis</i> , of N. C., his speech against renewal of charter in 1811, -	190
<i>Ames, Mr.</i> , of Mass., his speech in favor of bill of 1791, -	45
<i>Amendments</i> — <i>Mr. Swoope's</i> to bill to renew charter, moved 20th April, 1810, -	134
<i>Mr. Love's</i> , -	134
Various to <i>Fisk's</i> bill, in 1814, -	526-529
<i>Anderson, Joseph</i> , of Tenn., in Senate, moves to strike out the first section of bill to renew the charter, -	302
<i>Ayes and Noes</i> —In Senate, on bill of 1791, -	36
In the House, on same, -	85
In the House, on the postponement of the bill to renew charter in 1811, -	274
In Senate, on the motion to strike out the first section of bill renewing the old charter, -	446
On the resolution declaring that it is expedient to establish a national bank, with branches, in 1814, -	486
On engrossing <i>Mr. Fisk's</i> bill, 28th November, 1814, -	534
On section requiring bank to lend to Government, -	530
In Senate, 5th December, 1814, on motion to reduce capital, -	548
On <i>Mr. King's</i> bill, in Senate, 9th December, 1814, -	548
On the third reading, in House, of <i>Mr. King's</i> bill, -	560
In House, on passage of <i>Mr. K's</i> bill, -	570
On reducing capital from fifty to thirty millions, -	577
On the passage of the bill, 7th January, 1815, in the House, -	579
In Senate, on suspension of specie payments, -	585
In Senate, on bill, <i>after</i> President's veto, -	596
on <i>Barbour's</i> bill, -	605
In House, on indefinite postponement of bill, -	608
on appointment of directors by President, -	679
on engrossment of bill, -	680
on its passage, -	681
In Senate, on passage of bill, 3d April, 1816, -	706
In House, on indefinite postponement of the bill, -	712
<i>Bank of North America</i> : Proceedings on the institution of, -	11, 12
Ordinance of incorporation of, -	12
Utility of said bank, -	25
<i>Bank of the United States</i> : Plan of, submitted by Hamilton, -	31
Bill to incorporate, introduced into the Senate, -	35
Bill passed the Senate, -	36
First reading of the bill in the House, -	36
Passed the House, -	85
Resolution calling for names of stockholders of, -	132
Do. for list of directors of, &c. -	138
In 1811, apply for a temporary continuation of their powers—their prayer denied, -	447-8
<i>Barbour, Mr.</i> , of Va., reports to Senate a bill to incorporate a bank, &c. -	596
Speech on <i>Mr. Mason's</i> motion respecting specie, -	697
<i>Barry, W. T.</i> , of Ken., his speech against renewal of the charter, in 1811, -	211
<i>Bibb, Mr.</i> , of Geo., remarks on payments of specie on each share of stock, -	685
<i>Bill</i> to incorporate subscribers to the old bank, (see <i>Bank of U. S.</i> )	
Presented to, and signed by, the President, -	85
In <i>extenso</i> , reported 2d April, 1810, to establish a bank, -	122
To continue in force the act of Feb. 1791, introduced by <i>Mr. Taylor</i> , -	132
<i>Bill</i> to renew charter of 1791, introduced into the House by <i>Mr. Burwell</i> , -	137
postponed indefinitely, -	274
In Senate, reported by <i>Mr. Crawford</i> , 1811, -	300
Rejected, -	446
To repeal the tenth section of the old charter, -	447
Reported, to establish a bank in Washington, -	473
[This bill was not acted on.]	



	Page.
<i>Bill</i> reported by Committee of Ways and Means, . . . . .	487
Same bill as amended in Committee of the Whole, . . . . .	519
Rejected, on motion for engrossing, . . . . .	534
Reported by Mr. King, of Senate, 2d December, 1814, . . . . .	539
Passed the Senate, . . . . .	549
Rejected in the House, by Speaker's vote, . . . . .	570
Vote reconsidered, . . . . .	574
Recommitted to Select Committee, . . . . .	576
Passed the House, . . . . .	579
Copy of, as passed by the two Houses, . . . . .	585
Reported in Senate, by Mr. Barbour, . . . . .	596
Passed the Senate, . . . . .	605
Reported by Mr. Calhoun, in House, . . . . .	621
Committee of the Whole to the House, . . . . .	668
Ordered to be engrossed—ayes and noes, . . . . .	680
Passed the House, . . . . .	681
Passed the Senate, 3d April, 1816, . . . . .	706
<i>Bonus, Bank:</i> Mr. Troup moves to strike out of the bill to renew the charter the clause requiring a <i>bonus</i> to be paid for the renewal, . . . . .	135
Debate on said motion, . . . . .	467-471
Motion to apply it to internal improvement of the country, . . . . .	675
<i>Books of Bank:</i> May be inspected by a committee of Congress, . . . . .	706
Ordered to be inspected by a committee, . . . . .	714
<i>Boudinot, Mr.</i> , of N. J., his speech in favor of old bank, . . . . .	56
<i>Boyd, Mr.</i> , of N. J., opposed to a renewal of charter in 1811—his speech, . . . . .	204
<i>Bradbury, Mr.</i> , of Mass., his motion respecting subscriptions in Government stock, and debate on motion, . . . . .	492
<i>Branches of Bank:</i> Proviso moved, that they should not be established without the consent of the States, . . . . .	678
<i>Brent, Mr.</i> , of Va., advocates, in the Senate, the renewal of the charter, though instructed by the Legislature of Virginia to vote against it, . . . . .	393
His second speech on the same subject, . . . . .	426
<i>Burwell, Mr.</i> , of Va., introduces a bill to renew charter of 1791, . . . . .	137
Moves to strike out first section, . . . . .	138
His speech on said motion, . . . . .	139
<i>Calhoun, J. C.</i> , of S. C., outline of his plan of a bank, as detailed in debate, 16th November, 1814, . . . . .	495
Moves to divest the Government of all share in the proposed bank, &c. . . . .	496
His motion carried, . . . . .	513
Moves to strike out the section of the bill authorizing the U. S. to subscribe twenty millions in six per cent. stock to the capital of bank, . . . . .	514
This motion debated and carried, . . . . .	514-517
Bill reported by him 8th January, 1815, . . . . .	621
His speech on presenting the bill, . . . . .	630
<i>Capital of Bank:</i> Motion of Mr. Gaston to reduce from fifty to twenty millions, . . . . .	531
Motion by Mr. Lowndes to reduce, . . . . .	533
Do. Mr. Mason, in Senate, to reduce, . . . . .	548
Mr. Sergeant's motion to reduce—thirty-five to twenty millions, . . . . .	638
negatived, . . . . .	653
Clause of bill allowing prospective increase of capital, struck out, . . . . .	653
<i>Casting vote</i> of the Vice President defeats bill to renew the old charter, . . . . .	446
of Speaker, defeats bill reported by Mr. King, . . . . .	571
<i>Cheves, Mr.</i> , of S. C., (Speaker) gives casting vote against Mr. King's bill, . . . . .	571
<i>Clay, Henry</i> , of Ken., opposed to renewal of the charter of old bank in 1811, . . . . .	353
His speech in favor of bill of 1816, . . . . .	669
<i>Clinton, George</i> , Vice President, gives a casting vote on motion to strike out 1st section of bill to renew the charter, and defeats the bill, . . . . .	446
<i>Clopton, Mr.</i> , of Va., moves, 23d December, 1814, to strike out the first section of bill from Senate "to incorporate," &c.—his speech, . . . . .	549
<i>Columbia, District of</i> , committee to inquire into the expediency of establishing a bank in, . . . . .	472

	Page.
<i>Columbia</i> , Bill reported to establish a bank in, . . . . .	473
<i>Committee</i> : In Congress of 1780, to confer on the subject of a bank, . . . . .	9
In Congress of 1781, on same subject, . . . . .	10
Of the Whole House to have charge of Hamilton's report in 1791, . . . . .	15
In Senate, on said report, . . . . .	35
On petition for renewal of charter, 18th December, 1810, . . . . .	135
Of Senate, ask the opinion of the Secretary of the Treasury, as to the renewal of bank charter, . . . . .	300
Of Ways and Means report against power of Congress to incorporate a bank, . . . . .	472
Of Ways and Means directed to inquire into the expediency of establishing a bank within the District of Columbia, . . . . .	472
Report a bill for that purpose, . . . . .	473
On motion of Mr. Grundy to determine the expediency of establishing a bank, . . . . .	475-480
Of the Whole House, 24th October, 1814, report that it is expedient to establish a bank, . . . . .	484
Of Ways and Means report a bill for a bank, . . . . .	487
On National Currency, 6th December, 1815, . . . . .	609
Of Congress may inspect books, &c. of bank, . . . . .	706
Appointed to inspect books and make report, . . . . .	714
Report of, appointed by Congress, . . . . .	714
of Committee of Ways and Means, (Mr. McDuffie's) . . . . .	735
<i>Condict</i> , Mr., of N. J., moves to locate the bank at New York, . . . . .	675
<i>Constitutional power</i> to create a bank denied to Congress, . . . . .	472
Opinions of various gentlemen upon the question, in 1814, . . . . .	484-5
<i>Courts</i> : Bank may "sue and be sued" in State courts, . . . . .	675
<i>Crawford</i> , Mr., of Pa., his speech in opposition to a renewal of charter, . . . . .	269
<i>Crawford</i> , W. H., of Geo., reports a bill to the Senate to renew the charter of 1791, . . . . .	300
His speech on the motion to strike out the first section of the bill, . . . . .	303
Second speech on the same subject, . . . . .	434
<i>Cuthbert</i> , Mr. of Geo., opposed the motion of Mr. Sergeant to reduce capital—his speech, . . . . .	649
<i>Dallas</i> , (Secretary) letter to Committee of Ways and Means in 1814, upon a bank, . . . . .	481
letter to Mr. Lowndes, (Chairman,) . . . . .	535
his proposition relative to bank, . . . . .	609
his letter to Secretary of Treasury, with plan of bank, . . . . .	613
<i>Dana</i> , Mr. of Con. on the amount to be paid in specie, on each share of stock, . . . . .	691
<b>DEBATES</b> on the bill of 1791, . . . . .	37-85
Speech of Mr. Madison, . . . . .	39, 82
Mr. Ames, . . . . .	45
Mr. Sedgwick, . . . . .	50
Mr. Lawrence, . . . . .	53
Mr. Jackson, . . . . .	54
Mr. Boudinot, . . . . .	56
Mr. Smith, of S. C., . . . . .	63
Mr. Stone, . . . . .	64
Mr. Giles, . . . . .	69
Mr. Gerry, . . . . .	75
Mr. Vining, . . . . .	81
<i>On bill to renew charter of 1791, in the House.</i> . . . . .	
Speech of Mr. Burwell, . . . . .	139
Mr. Fisk, of N. Y. . . . .	149-160
Mr. Seybert, . . . . .	160-166
Mr. P. B. Porter, . . . . .	166-180
Mr. Desha, . . . . .	181-186
Mr. Pickman, . . . . .	186-190
Mr. W. Alston, . . . . .	190-193

<i>Debates:</i>		<i>Page.</i>
Speech of Mr. Key,		193-196
Mr. Wright,		197-264
Mr. Boyd,		204
Mr. McKee,		206, 295
Mr. Barry,		211
Mr. Findley,		215
Mr. McKim,		219
Mr. Gold,		223
Mr. Johnson,		226
Mr. Sheffield,		235
Mr. Garland,		248
Mr. Tallmadge,		252
Mr. Nicholson,		257
Mr. Crawford, of Pa.		269
Mr. Rhea, of Ten.		275
Mr. Eppes, of Va.		282
Mr. Stanley, of N. C.		286
Mr. Taylor, of S. C. in 1810,		457
<i>In the Senate.</i>		
On bill to renew the charter in 1811.		
Speech of Mr. Crawford, of Georgia,		303, 434
Mr. Leib, of Pa.		315
Mr. Lloyd, of Mass.		317
Mr. Giles, of Va.		329
Mr. Clay, of Ken.		352
Mr. Pope, of Ken.		360, 393
Mr. Smith, of Md.		374
Mr. Brent, of Va.		393, 426
Mr. Taylor, of S. C.		410
Mr. Pickering, of Mass.		420
Mr. Love, of Va.		451
Mr. Findley,		462
Mr. Troup,		469
On Mr. Grundy's motion for an inquiry into the expediency of a bank,		475-480
On Mr. Gaston's motion to reduce capital of bank from sixty to twenty millions, 15th Nov. 1814,		490
Speech of Mr. Ingham of Pa., 17th November, 1814,		496-506
Mr. Ingersoll, of Pa. on Mr. Calhoun's motion to amend the bill,		506
On motion to strike out section of bill allowing United States to subscribe twenty millions,		514-517
Speech of Mr. Clopton, of Va. on Mr. King's bill,		549
Mr. Webster, 2d January, 1815,		563
Mr. Calhoun, on bill of 1816,		630
Mr. Calhoun's bill, in House,		630
Messrs. Randolph, Ward, Sergeant, Calhoun, Pitkin,		634-5
Speech of Mr. Smith, on motion to reduce capital,		636
Mr. Sergeant on same motion,		638
Remarks of Mr. Ward, of Mass.		641
Speech of Mr. Tucker, of Va. on same motion,		642
Mr. Webster on same,		646
Mr. Cuthbert, of Geo.		649
Mr. Hopkinson,		650
Mr. Sharpe, of Ken.		651
Debate on, to strike out clause, allowing Government to subscribe seven millions—by Mr. Cady, Mr. Calhoun, Mr. Randolph, Mr. Smith, of Md., Mr. Wright, Mr. Jewett, Mr. Ross, and Mr. Goldsborough,		653-658

	Page.
Debate on motion to strike out the clause giving to the President and Senate the appointment of a part of the Directors, . . . . .	661
on this motion by Mr. Forsyth, and Mr. Telfair, . . . . .	662-666
Speech of Mr. Clay in favor of bill of 1816, . . . . .	669
in Senate on motion that specie payments be ten instead of five dollars on each share; by Mr. Mason, Mr. King, Mr. Mr. Bibb, Mr. Barbour, Mr. Dana, Mr. Taylor, and Mr. Sanford, . . . . .	683-692
Speech of Mr. Wells, of Del., in Senate against bill, . . . . .	694
On Mr. Randolph's motion to postpone the bill; by Messrs. Calhoun, Grosvenor, Randolph, Webster, Hurlbut, Wright, McKee, Sheffey, and others, . . . . .	707-712
in 1819, on resolution repeal of charter, referred to, . . . . .	734
<i>Deposites</i> , in United States' Bank, motion to repeal part of an act directing them, . . . . .	180
<i>Desha, Mr. of Ken.</i> his speech against the renewal of charter in 1811, . . . . .	181
<i>Directors of Bank</i> , motion to strike out clause giving to President and Senate the appointment of . . . . .	661
Motion to strike out clause which confined appointment of to those nominated by President of United States, . . . . .	666
Of appointment of President from, . . . . .	666, 667
Proposal to allow those appointed by Government a salary, made and negatived, . . . . .	676, 677
Motion, as to appointment of, by President, renewed, . . . . .	678
Mr. King moves to strike out power of appointment by the President, . . . . .	693
Mr. Goldsborough makes the same motion, on contingency of a sale of United States' stock . . . . .	694
<i>Dividends of the U. S. Bank</i> from 1792 to to 1809, . . . . .	117-120
<i>Eppes, Mr. of Va.</i> denies the expediency of renewing the Bank charter; his speech, . . . . .	282
<i>Expediency of a bank</i> declared by a resolution, . . . . .	484-486
<i>Findley, Mr. of Penn.</i> advocates the renewal of charter in 1811; his speech, . . . . .	215
his speech on Mr. Taylor's bill, . . . . .	462
<i>Fisk, Mr. of New York</i> , speech of, on motion to strike out first section of bill to renew charter in 1811, . . . . .	149
speech of, on motion to reduce capital of bank, . . . . .	490
<i>Forfeiture of Charter.</i> Committee of the Whole had amended the bill, so as to make this the penalty of a non-payment of notes by bank—on motion of Mr. Wright, this amendment was struck out in the House, . . . . .	673
<i>Forsyth</i> of Georgia . . . . .	66
<i>Gallatin, Albert</i> , reports in favor of a bank, . . . . .	116
his opinion of its utility, . . . . .	118
his letter to a Committee of Senate upon the uses of a bank, . . . . .	300
<i>Garland, Mr. of Va.</i> moves postponement of bill to renew, . . . . .	196
advocates renewal of charter; his speech, . . . . .	248
<i>Gaston, Mr. of N. C.</i> his views respecting Fisk's bill, in 1814, . . . . .	489
moves to reduce capital from fifty to twenty millions, . . . . .	490, 531
his motion negatived, 15th November, 1814, . . . . .	492
his remarks in relation to Mr. King's bill, . . . . .	557
<i>Gerry, Mr. of Mass.</i> for the old bank; his speech, . . . . .	75
<i>Giles, of Va.</i> opposed to the bill of 1791, his speech, . . . . .	69
and to renewal of charter in 1811, . . . . .	329
his opinion upon legislative instructions, . . . . .	343
<i>Gold, Mr. of N. Y.</i> advocates the renewal of the charter; his speech, in 1811, . . . . .	223
<i>Grundy, Mr. of Tenn.</i> moves the appointment of a committee to inquire into the expediency of establishing a National Bank, . . . . .	475
<i>Hall, Mr. of Georgia</i> , moves a reconsideration of bill rejected by Speaker's vote, . . . . .	571
moves to apply bonus of bank to internal improvement of the country, . . . . .	675

	Page.
<i>Hamilton, Alexander</i> , proposes the establishment of a National Bank, and submits a plan thereof, . . . . .	15
his report to Congress on the subject of a bank, . . . . .	15-35
his argument on the constitutionality of the bill, . . . . .	95-112
his opinion upon the time the President may retain a bill before it becomes a law, . . . . .	113
<i>Hopkinson, Mr. of Pa.</i> speaks in favor of a reduction of capital, . . . . .	650
<i>Ingham, Mr. of Pa.</i> his speech on Mr. Calhoun's motion, 16th November, 1814, to amend the bill, and to allow subscriptions to be <i>one-tenth</i> in specie, and nine-tenths in Treasury notes, . . . . .	498
<i>Instructions, Legislative.</i> Quere, whether binding upon Senators— <i>Mr. Brent's</i> opinion thereon, . . . . .	394
<i>Mr. Pickering's</i> observations upon, . . . . .	420
<i>Interest</i> on notes not paid on demand, 20 per cent., proposed by <i>Mr. Randolph</i> , . . . . .	673
<i>Internal Improvement</i> , proposition for applying profits of banks, to purposes of, &c. . . . .	120, 121
motion to apply bank bonus to, . . . . .	675
<i>Jackson, Mr. of Georgia</i> , opposes the bill of 1791, . . . . .	54
<i>Jackson, (President)</i> extract from his first message in regard to bank, . . . . .	734
<i>Jefferson, Thomas</i> , gives his opinion to Washington against the constitutionality of the bank bill, . . . . .	91
<i>Johnson, Mr. of Ken.</i> opposes the renewal of the charter in 1811; his speech, . . . . .	226
<i>Johnson, Mr. of Va.</i> moves a resolution for the repeal of the bank charter, . . . . .	734
<i>Judicial Decisions.</i> . . . . .	781
<i>Jurisdiction</i> , whether Congress can give, to State courts, . . . . .	675
<i>Key, Philip Barton, of Md.</i> his speech in favor of a renewal of charter in 1811, . . . . .	193
his remarks on power to incorporate a bank, . . . . .	469-470
<i>Kilbourn, Mr. of Ohio</i> , proposes a plan of a bank, . . . . .	538
<i>King, Mr. of N. Y.</i> reports, in Senate, a bill to incorporate a Bank of United States, 2d December, 1814, . . . . .	539
proposes sundry amendments to bill, . . . . .	548-549
his remarks on payments of specie, . . . . .	664
<i>Lawrence, Mr.</i> his remarks in favor of the bill of 1791, . . . . .	53
<i>Legislative Instructions</i> , various opinions upon, . . . . .	394, 343, 420
<i>Leib, Mr. of Pa.</i> opposed to renewal of charter, . . . . .	315
<i>Loans</i> , clause in bill requiring bank to make loans to Government struck out, . . . . .	529
motion in Senate, to strike out clause requiring forced loans, . . . . .	605
<i>Location of Bank</i> , motion to substitute Washington in place of Philadelphia, for parent bank, . . . . .	659
New York proposed, and carried, . . . . .	676
vote in favor of New York reconsidered, and reversed, . . . . .	677
<i>Lloyd, Mr. of Mass.</i> in favor of renewal of charter; his speech on motion to strike out first section of the bill to renew, . . . . .	317
<i>Love, Mr. of Va.</i> introduces resolutions that the Secretary of the Treasury furnish the names and titles of stockholders of the bank, the number of shares voted on, &c. and also his data for the statement of the dividends in 1809, with other information, . . . . .	132
for a statement of the debts and concerns of the bank, 19th Dec. 1810, . . . . .	135
his speech on bill to renew the charter, . . . . .	451
<i>Lowndes, Mr. of S. C.</i> his views of bill reported in 1814, by Committee of Ways and Means, . . . . .	516, 518, 526, 532
moves to reduce capital of bank, . . . . .	533
<i>Madison, Mr.</i> his speech in opposition to the first bank bill; denies its constitutionality and expediency, . . . . .	39
his second speech on same subject, . . . . .	82
his veto on bill passed by both Houses, . . . . .	594
extract from his message, 5th December, 1815, . . . . .	609
his letters to Mr. Ingersoll, . . . . .	778

	Page.
<i>Marshall, Chief Justice</i> , his opinion in the case of <i>M'Culloch vs. The State of Maryland</i> , . . . . .	782
<i>Mason, Mr. of N. H.</i> moves, in Senate, that the specie payment on shares of stock be <i>ten</i> instead of <i>five</i> dollars, . . . . .	683
debate on this motion, . . . . .	683, 692
moves the reservation of a power to repeal the act in case of suspension of specie payments, &c. . . . .	705
<i>Memorial of Bank</i> , for renewal of charter, presented in House, 26th Mar. 1808, . . . . .	115
same in Senate, 20th April, 1808, . . . . .	115
to the Senate, presented 18th December, 1810, . . . . .	300
referred to a Select Committee, . . . . .	450, 451
petition of inhabitants of New York for a national bank, . . . . .	472-480
of citizens of New York for a bank, . . . . .	539
<i>McBaffle, Mr. of S. C.</i> his report on subject of bank made in 1830, . . . . .	735
<i>McKee, Mr. of Ken.</i> in favor of renewing the old charter—his speech, . . . . .	206
his second speech on same subject, . . . . .	295
<i>McKim, Mr. of Md.</i> opposes the renewal of the charter in 1811—his speech, . . . . .	219
<i>McLean, Mr. of Ken.</i> moves a proviso, that no branch shall be established in a State without the consent thereof, . . . . .	678
<i>Morris, Robert</i> , submits plan of a bank, . . . . .	11
<i>Morris, Gouverneur</i> , agency in forming Bank of North America, . . . . .	14
<i>Motions</i> —of Mr. Burwell, to strike out first section of bill to renew charter, . . . . .	138
by Mr. Newton, to postpone indefinitely the bill to renew the old charter, . . . . .	196
of Mr. Grundy, for appointment of a committee to inquire into the expediency of establishing a bank, and debate on said motion, . . . . .	475-480
to locate bank at Washington, negatived, . . . . .	489
by Mr. Calhoun, to deprive the Government of all stock in bank, and respecting payment in specie, . . . . .	496
Mr. Ingham's speech on that motion, . . . . .	498
to reduce capital from 50 to 20 millions, . . . . .	531
same motion by Mr. Mason, in Senate, . . . . .	548
to amend, so as to give Congress the power to declare the charter void, in certain cases, . . . . .	530
by Mr. Webster, to recommit bill, with certain instructions to committee, . . . . .	562
motion negatived, . . . . .	570
by Mr. Sergeant, to reduce capital, . . . . .	635
negatived, . . . . .	653
to strike out clause allowing Government to subscribe seven millions, . . . . .	653
to exclude the Government from the appointment of directors of bank, . . . . .	661
motion negatived, . . . . .	666
by Mr. Randolph, to impose an interest of 20 per cent. upon notes not paid on demand, . . . . .	673
motion negatived, . . . . .	674
Mr. Mason's on specie payments, . . . . .	683
for a repeal of charter, in certain cases, . . . . .	693
<i>New York</i> , motion to locate the bank at . . . . .	675
“ “ “ “ carried, . . . . .	676
vote for, reconsidered, and reversed, . . . . .	677
<i>Nicholson, Mr. of N. Y.</i> speaks in favor of the bill for a renewal of the charter of 1791, . . . . .	257
<i>North America, Bank of</i> , instituted . . . . .	10-14
utility of this bank, . . . . .	25
<i>Opinion of E. Randolph</i> , Attorney General, given to Washington, on the constitutionality of the first act of incorporation, . . . . .	86-89
of Th. Jefferson, Secretary of State, against the bank, . . . . .	91
of A. Hamilton, in support of bill, . . . . .	95-112
of A. Gallatin, of the advantages of a bank. . . . .	118
of President Jackson, in regard to bank, . . . . .	734
of Chief Justice Marshall, . . . . .	782



	Page.
<i>Pickering, Mr. of Mass.</i> in Senate, urges a renewal of the old charter,	420
<i>Pickman, Mr. of Mass.</i> , speaks in favor of a renewal of charter in 1811,	186
<i>Pitkin, Mr. of Conn.</i> , in committee of the whole, moves to strike out the clause allowing the Government to appoint directors,	661
renews his motion in the House.	678
<i>Plan of Bank of North America,</i>	11
of old Bank of United States, embraced in Hamilton's report,	31
Mr. Calhoun's, in 1814,	495
by Mr. Kilbourn, of Ohio,	538
Outline of Mr. King's bill, in 1814,	549-558
by Secretary Dallas, with letter,	613-619
<i>Pope, Mr. of Ken.</i> urges a renewal of charter—his speech,	360
in explanation, after Mr. Smith, of Md.	393
<i>Porter, P. B. of N. Y.</i> his speech against renewal of charter in 1811,	166
<i>Postponement.</i> Mr. Wells moves postponement of bill to next session—his speech,	694
<i>President of United States, (Madison)</i> his veto message on bank bill, 30th January, 1815,	594
Extract from his message, (Mr. Madison's) in 1815,	609
"    from General Jackson's to 21st Congress,	734
<i>Proceedings, in the old Congress, on the incorporation of the Bank of North America,</i>	10
in Senate, on the first Bank of United States,	35, 36
in the House and Senate, in 1808, on memorial for renewal of charter,	115
in Senate, on motion to strike out the 1st section of bill to renew the old charter,	302
in Senate, on Mr. King's bill,	539-585
<i>Randolph, Attorney General.</i> His argument against the constitutionality of the first bank bill,	86-89
<i>Randolph, Mr., of Va.</i> his opinion of the currency,	634
His speech upon striking out clause allowing the Government to hold stock,	654
On penalty for non-payment of notes,	674
Moves the indefinite postponement of bill,	707
<i>Reconsideration of vote on Mr. King's bill, moved,</i>	571
debate on said motion,	572-574
motion carried,	574
<i>Reference:</i> Debate on reference of bill to establish a bank to be located in Washington,	473
Motion to refer bill to select committee—negatived,	604
<i>Renewal of charter, solicited in 1808,</i>	115
Proceedings thereon in House and Senate,	115
Petition of stockholders for, 18th December, 1810,	135
Bill for, presented by Mr. Taylor,	132
Do. do. Mr. Burwell,	137
Bill for, in House, postponed,	274
in Senate,	446
<i>Repeal of charter:</i> Motion that, in case of non-payment of bills and notes, Congress may effect a,	693
This motion renewed and negatived,	705
Moved by Mr. Johnson, of Va., February 9, 1819,	734
<i>Report of Alexander Hamilton, Secretary of the Treasury, recommending the establishment of a bank,</i>	15
of Secretary of the Treasury (Gallatin) on the subject of a bank, made to Senate, 3d March, 1809,	116
of Select Committee on the memorial of bank for a renewal of charter, 29th January, 1810,	121
<i>Report, of committee on Mr. Love's resolution declaring it expedient to establish a bank,</i>	122
Gallatin's, of affairs of bank, 3d January, 1811,	136

	Page.
<i>Report</i> of Committee of Ways and Means, denying power of Congress to establish a bank, . . . . .	472
of committee under Mr. Spencer's resolution, . . . . .	714
of Committee of Ways and Means, (McDuffie's) . . . . .	735
in Senate, of Mr. Smith, of Md., . . . . .	772
<i>Resolutions</i> in old Congress, approving of the plan of a bank, . . . . .	10, 11
of Mr. Nicholas for a "general national establishment of banks throughout the United States," . . . . .	120
Love's, of 4th April, 1810, asking names and titles of stockholders, &c. . . . .	132
for a list of directors of bank and stock held by foreigners, by Mr. Wright, . . . . .	138
by Mr. Love, to repeal an act directing deposits to be made in the United States' Bank, . . . . .	180
of the State of Virginia, instructing members to oppose renewal of the charter, . . . . .	299
by Mr. Webster, to recommit bill with certain instructions, . . . . .	562
<i>Rhea, Mr. of Ten.</i> , his speech in opposition to the renewal of the charter, in 1811, . . . . .	275
<i>Roel, Mr. of N. Y.</i> , moves that six per cent. United States' stock be subscribable at ninety per cent. . . . .	660-675
<i>Sedgwick, Mr.</i> , of Mass. his speech in favor of bill of 1791, . . . . .	50
<i>Sergeant, Mr.</i> , of Pa., moves to reduce capital of the proposed bank from thirty-five to twenty millions, . . . . .	635
His speech in support of the motion, . . . . .	638
<i>Seybert, Mr.</i> , of Pa., his speech in 1811, on motion to strike out the first section of bill to renew charter, . . . . .	160
<i>Scire facias</i> : Provision for issuing of, against bank, . . . . .	589-9
Resolution submitted ordering a, . . . . .	732
<i>Sharpe, Mr.</i> , of Ken., moves to refer bill to a select committee, with certain instructions, 13th February, 1815, . . . . .	606
opposed to a reduction of capital—his speech, . . . . .	651
<i>Shares, Bank</i> : Motion to make them one instead of five hundred dollars, . . . . .	492
of the specie to be paid on each, . . . . .	683
<i>Sheffey, Mr.</i> , of Va., urged the renewal of the charter in 1811—his speech, . . . . .	235
<i>Smith, Mr.</i> , of S. C., speech in favor of the old bank, . . . . .	63
<i>Smith, Mr.</i> , of Md., opposes the renewal of the charter—his speech on motion to strike out first section, . . . . .	374
Speech on Sergeant's motion to reduce capital, . . . . .	636
His report in 1830, on bank, . . . . .	772
<i>Smilie, Mr.</i> , of Pa., presented a resolution of the Legislature of that State instructing her members to vote against renewal of charter of 1791, . . . . .	247
<i>Specie</i> : Motion to make notes payable in, at branches, . . . . .	561
payments—propositions for suspension of, . . . . .	581-2
Senate refuse to allow suspension of, . . . . .	585
Motion to strike out clause dispensing with payments of, . . . . .	605
to pay ten instead of five dollars per share, . . . . .	650
Clause allowing suspension of payments of, struck out, . . . . .	668
Motion that ten dollars of, be paid on each share, . . . . .	683
<i>Spencer, Mr.</i> , of N. Y., moves the appointment of a committee to inspect the books of bank, and report whether the provisions of the charter had been violated, &c. . . . .	714
His report made in 1819, . . . . .	714
<i>Speeches</i> : See "Debates."	
<i>Stanley, Mr.</i> , of N. C., in favor of renewal of charter, . . . . .	286
<i>States</i> : Motion that books for subscription be so opened that stock should be distributed in proportion of representation of, . . . . .	693
<i>Statement</i> of affairs of United States' Bank in 1809, . . . . .	117
Do made in 1811, . . . . .	136
<i>Stock of Bank</i> : Motion by Mr. Wright, of Md., for an apportionment of it among the States, &c. . . . .	489
<i>Stock, Government</i> : Propositions as to the terms on which it might be subscribed, as part capital to the bank, . . . . .	493

	Page.
<i>Stock, Government, Motion that it be subscribed at ninety per cent.</i>	660, 675
<i>Stone, Mr. of Md., against the bill—his speech,</i>	64
<i>Supplementary acts, under the old charter,</i>	114
<i>Tallmadge, Mr. of Conn. in favor of renewal,</i>	252
<i>Taylor, Mr. of S. C. in favor of the renewal of the bank charter; his speech in the Senate thereon,</i>	410
reports a bill to renew the charter,	132
his speech, in the House, on said bill,	457
on amount to be paid in specie,	691
<i>Taylor, Mr. of N. Y. reports a bill to establish a bank,</i>	473
<i>Treasury, Secretary of, (A. Hamilton) his report upon a National Bank, with a plan thereof,</i>	15
his opinion to Washington upon the constitutionality of the bill to establish it,	95
(A. Gallatin) his report upon a bank,	116
his letter to a committee of the Senate, upon the utility of a bank,	300
Letter of Secretary Dallas, to Committee of Ways and Means, 17th October, 1814, in regard to currency and a bank,	481
Letter of Mr. Dallas to Mr. Lowndes, 27th November, 1814,	535
proposition of, relative to currency and bank,	609
Dallas's letter to Committee on currency, with plan of bank, December, 1815,	613-619
<i>Treasury Notes, subscriptions to bank, not payable in,</i>	660
<i>Trimble, Mr. of Ken. his resolution for a sciens facias against the bank,</i>	732
<i>Troup, Mr. of Georgia, moves to strike out clause requiring payment of a bonus by the bank, in 1810,</i>	135
his remarks on that motion,	467-469
his motion rejected,	471
<i>Tucker, Mr. of Va. opposes Mr. Sergeant's motion for reducing capital of bank—his speech,</i>	642
<i>United States, motion to strike out clause of bill allowing them to subscribe seven millions,</i>	653
motion negatived,	658
stocks of, at what rate subscribable,	660
<i>Veto of Mr. Madison to bank bill 30th January, 1815.</i>	694
<i>Vining, Mr. of Del. in favor of old bank—his speech,</i>	81
<i>Virginia instructs her members to oppose renewal of charter,</i>	299
<i>Washington, his note to Hamilton, requiring his opinion on bank bill,</i>	94
asks the opinion of Hamilton as to the time he may retain a bill presented for his approbation,	113
City of, motion to locate bank there,	473, 489, 659
<i>Ward, Mr. of Mass. on motion to reduce capital,</i>	641
<i>Ways and Means, report of Committee of, on part of President Jackson's message relating to the Bank, (Mr. M'Duffie, chairman)</i>	735
<i>Webster, Mr. of N. H. his views of bill reported by Committee of Ways and Means, 15th November, 1814,</i>	531
moves sundry resolutions, 29th December, 1814, by way of amendment to bill,	562
his speech in support of resolutions,	563-569
his motion to recommit bill, negatived,	570
speech on Mr. Sergeant's motion to reduce capital,	646
<i>Wells, Mr. of Del. his speech, in Senate, against the passage of bill of 1816,</i>	694
<i>Wright, Mr. of Md. speaks in opposition to a renewal of the charter of the old bank,</i>	197
in favor of a capital of forty-five millions,	677