

Hon. Benj. C. Howard

REVIEW

OF THE REPORT

OF 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,

WHICH REPORT WAS, IN THE HOUSE OF REPRESENTATIVES OF

THE UNITED STATES, READ AND LAID ON THE

TABLE, APRIL 13, 1830.

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JUDGE CLAYTON'S REVIEW.

NO. I.

There is nothing so attractive as a masterly effort of the mind; and, whether exerted in the strength of argument, or the lustre of oratory, it alike claims our homage or commands our admiration. Error is often consecrated by genius, and, as in the natural, so in the moral world, the beams of intellectual light may be too intense for the purposes of vision, and that object is as effectually obscured while in a flood of dazzling light, as it would be in the gloom of midnight darkness. Without intending a fulsome compliment to the committee, such we conceive to be the nature of their Report. Upon it have been exhausted all the subtleties of ingenuity, allied to the no less winning grace of moderation; and, affecting to be animated by the ardent spirit of patriotism, it has kindled around it an *ignis fatuus* that diverts the mind from the naked truths it proposes to discuss, to the splendor of the drapery with which it is adorned. Looking away from our own strength, and alone to the ability of the debate, we feel our courage shrinking from the contest and almost disposed to yield the question. This should not, nay, must not be.

Never, again, perhaps, will the States have it in their power to put down doctrines, the exercise of which has spread wider & sunk deeper into their vitals than any which have agitated their councils since the foundation of the government. Every friend to the Constitution, and every lover of State prosperity, profiting by the slavish bondage to which they have been subjected by the worst of despotisms, a monied domination, should exceedingly rejoice in the prospect of a long-looked for deliverance from such a remorseless tyrant. And if now, by an artful and sly policy, on the part of the Bank, aided by the crafty and menacing forebodings of its friends, they should be driven from the firm purpose of self redress, away with all future complaints, and let the States be prepared to receive and endure the deep degradation they so richly merit. But if fired with a just sense of their wrongs and fixed in the firmer resolution to be free, they feel disposed to rise in their strength; "now's the day and now's the hour," to strike for liberty.—That portion of the Press, not bound in golden fetters, and which is to battle for the States, should wake up & sound the cry,—to arms! The Bank is already in the field, headed by a State paper of no puny arm, clothed in Legislative armour, bidding defiance to the States with the President's Message in their front. If there is firmness and virtue in any degree proportioned to the intelligence of the country,

and the suffering experience of its people, the contest will be neither difficult nor doubtful.

It is proposed to review some of the principles and opinions advocated by the Report, and it is intended to evince no departure from that decorum due to so able an argument.

The Report presents the question under three aspects.

1st. The Constitutional power to charter the Bank.

2d. Its expediency, and

3d. The expediency of establishing "a National Bank" founded upon the credit of the Government alone.

It is not designed to say any thing on this last head, because we believe it has nothing to do with the other question, and the discussion of it in connection with that subject, is only intended to profit the former, by the contrast, which an exhibition of its pretended weakness is calculated to produce. Let the United States Bank stand or fall upon its own strength.

Upon the 1st point, the Report commences with that argument, never failed to be used by all ill-gotten power, the force of precedent, which as infallibly supports the *Alien and Sedition* law as it does that of the Bank. The odious law I have mentioned, in the language of the report, had the "concurrence of all the departments of the government," and though it had not the sanction of "President Washington's" approval, it had that of another revolutionary patriot, who stood next to him in the confidence of the nation, not only in the great struggle that ended in our independence, but in the first office of the government after it had passed from the former. Nay more, "to this imposing array of authorities" there was added "the solemn decision of the Supreme Court," as the cases of the much injured Callender and Cooper will "distinctly" attest. And yet will any one contend that all this can or ought to change fundamental principles?—The committee do not believe it, and so they afterwards express themselves. Why then do they employ such an argument? Because, presuming much upon the weakness of the people, and more upon the weight of great names, they plant its influence upon their minds and it is for them to get rid of it, if they can. Their qualification of the argument is only intended to save their own reputation, and while it enables them to pass the centinels, the intelligent of the community, it most insidiously disquiets the camps, the main strength of all contending powers. After first mentioning the precious fact that "most of the distinguished members of the Federal Convention were either in the Executive or Legislative councils, and that President Washington had then recently presided over the deliberations of the convention," the Report proceeds to state that "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 will the committee consent that this kind of reasoning shall be valid? We strike hands with them, at once, and are perfectly willing to have the question decided upon this sort of evidence, the authority of contemporaneous construction. Perhaps they are not aware of their predicament, and while they so safely rely upon the testimony of MEN, we have the opposing and more stubborn sanction of RECORDS. We have always believed, and to us it is matter of astonishment,

that it has been so much neglected, that the best test of the intention of the convention is its JOURNAL, and why it has been so disregarded, as authority, cannot be accounted for upon any of the usual principles of human conduct.—While the sayings and votes of great men, the letters and essays of that day, have been greedily seized as expressive of the motives of a great political body, the cautious, well considered and better expressed acts of that same body, as deliberately recorded in their daily register, have been totally rejected and raised in the grade of weakest evidence explanatory of the views of the convention.—But we have now a right, we think, to array it against the uncertain testimony of human recollection, imbued, as it always is, with the agitating emotions of party, or the still stronger passion of interest. Before however we proceed to the employment of this, as we consider, most fearful weapon, we would wish to avail ourselves of all the force its use is calculated to impart, and if we can shew that it has been wielded by "President Washington" himself, on a similar occasion, we have a right to expect, if it do not exact implicit deference, it will command, at least, no mean respect.

In the memorable debate of Congress, in which the House of Representatives claimed the right of deliberating on the expediency of carrying treaties into effect, where appropriations were to be made, they called upon the President to transmit the papers in relation to the British treaty to that house, but that distinguished officer promptly refused compliance, and among other reasons for his course replied "if other proofs than these be necessary to ascertain the point under consideration, they may be found in the JOURNAL of the convention. It will there appear, that a proposition was made 'that no treaty should be binding on the United States which was not ratified by a law,' and that the proposition was explicitly rejected."

We will not stop to contend for the entire reasonableness of the principle, that a discarded proposition between contracting parties can never after be received among the plain and acknowledged stipulations of their agreement, as finally consummated. It is too plain for argument. Now how stands the facts in relation to the power contended for by the Report? On the 18th day of August, 1787, about a month before the adoption of the Constitution the following additional powers were proposed to be vested in the Legislature of the United States.

"To grant charters of incorporation.

To grant charters of incorporation, in cases where the public good may require them, and the authority of a single State, may be incompetent.

To establish a UNIVERSITY.

To encourage, by proper premiums and provisions, the advancement of useful knowledge and discoveries.

To establish Seminaries for the promotion of literature and the arts and sciences.

To establish public institutions, rewards and immunities for the promotion of Agriculture, Commerce, Trades and Manufactures."

vid. Journal Federal Convention, 259. 60. 61.
These amendments were all proposed at once, and that too after

they had been previously and separately tried in the progress of the work. We quote them all, as well for our present purpose, as for another, in relation to assumed powers, which at some more convenient season may be discussed. Now where are any of these powers to be found in the Constitution? And if in the language of "President Washington" these propositions were "explicitly rejected," what entitles them to a place in the Constitution? If the British Constitution rests in the *Omnipotence* of Parliament, in what does it differ from ours, if dependent upon the *discretion* of Congress, and if too they can act upon as many powers *out of* the Constitution as are to be found *in it*, especially after these very powers *by name*, have been distinctly denied? Will any one point out the difference between *omnipotence* and *discretion*, and will they not lead precisely to the same result, to spread the Constitution, in process of time, through a thousand volumes of laws, exactly where the English Constitution is to be found? They once had their written instruments, their *Magna Charta*, their *Bill of rights*: but where are they now? Swallowed up in the *discretion* of Parliament. And our written Constitution is hastening with the same malady to the same untimely grave.

But, to return, this is not all. On the 14th of September, only three days before the final adoption of the Constitution, when it was reported by the Committee of revision, with, as they supposed, its last finish, another dying struggle was made to force into it these long sought and warmly urged powers: "The report as corrected and amended yesterday being taken up and read—*Question*, and amended yesterday being taken up and read—*Question*, to grant letters of incorporation for Canals, &c. A clause proposed to be added to the 8th Section of the first Article—*Passed in the negative*. *Question*: To establish a University. An additional clause proposed to the 8th Section of the first Article—*Passed in the negative*. (Jour. 375. 6.)

What more is wanting, and who yet lingers over this question in doubt? If any, let him listen to the following proposition—"To assist the President in conducting the public affairs, there shall be a Council of State of the following officers, (among others) the Secretary of domestic affairs. It shall be his duty to attend to matters of general police, the State of Agriculture and Manufactures, the opening of Roads and Navigations, and the FACILITATING COMMUNICATIONS THROUGH THE UNITED STATES; and he shall from time to time, recommend such measures & ESTABLISHMENTS as may tend to promote those objects." Jour. 265. 6.

What establishment to facilitate communications through the U. States is here meant? Did it relate to Military matters? This had already been specially granted and would, of course, belong to the War Department. Did it refer to letters and papers? The power of establishing Post Offices and Post Roads had also been provided and these would necessarily fall to the head of that Department. What other possible communications of a public nature, can occur to the mind of man but the transmission of the public funds through the United States, and as the Secretary of the Treasury was mentioned in the same clause, to whom this matter would appropriately belong, if a bank, or any other establishment, was necessary for that purpose, where in the name of every thing that is reasonable, could

a better opportunity have happened, for its provision, than when this proposition was under reflection? Had the convention never heard of a Bank? Did none of those great men, composing that wonderful body, the very extract of the talents of the Union, foresee the advantages, now discovered to be so immensely important, that the government cannot do without it, of an establishment to "facilitate the communication" of the public funds.—Impossible!

But let us refer again to the powers first quoted, proposed as amendments to the Constitution, and it will be found that the power to grant charters of incorporation, was repeated twice in the same list, first generally and then specially, to wit, "to grant charters of incorporation" and then to "grant charters of incorporation, in cases where the public good may require them, and the authority of a single State may be incompetent." Now what is to be inferred from all this? We beg the serious attention of the reader to this part of the subject. In the first place can any thing so totally exclude the power as the manner in which it was proposed and rejected? It would have settled the question to have refused the right generally, because the major always contains the minor, but here it shall not be exercised in any way, though the "public good" require it and the "authority" of a single State be incompetent. Could no one think of a Bank corporation, when the very subject of corporations was proposed and discussed and when the "public good" was not only considered, in connection with that subject, but actually mentioned? Does any one believe, and the question is put to honest men, for an honest answer is not expected from any other, that the Bank of England, that political monster that has been surfeiting upon the bowels of its own government for ages, never once crossed the minds of our great men of the convention? Does any one believe the South Sea Company, that other vulture, which has been so long hanging upon the remaining vitals of its country, and now nearly gorged to suffocation, entirely escaped their recollection? No; if the truth were known, these cormorants, with hearts as cold and withering as death, haunted them like spectres and constantly beckoned them away from the dangerous subject of CORPORATIONS.

NO. II.

But says the Report, "the earliest and the principal objection urged against the Constitutionality of the 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: 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."

Congress and their Committees have lately set up many things which they assert cannot be denied, and, unfortunately for the people, they seem to carry the matter one step further. They are de-

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termined they shall not be denied. But if they would waive their power, in the naked sense of that word, and submit to reason and facts, many a 'proposition' against their doctrines, may not only be 'maintained' but the doctrines themselves be proven gross & wicked usurpations.

We shall not attempt to 'maintain' that Congress cannot carry into effect, by the agency of a Corporation, at least, any of the powers 'expressly conferred' upon it, which is said to call for the aid of a Bank. The argument is now narrowed down to this point, by the concession of the Committee, where we intend to hold them, that the Corporation must be in aid of a power 'expressly conferred' upon Congress. Now let us have the *express powers* that the Bank is intended to serve. We say boldly there is none. That the Bank never has been used to carry into effect an *express power*, but that it is itself an *implied power* employed solely to carry into effect another *implied power*, a doctrine that even the Committee will not contend for: But this will be called mere assertion, we will therefore proceed to the proof, and to this end it will be necessary to enumerate every power conferred upon Congress.

They are contained in seventeen distinct heads, under the 8th Section of the 1st Article of the Federal Constitution. The 17th and last clause of this section must be mentioned first, because it is exclusively by the force of this, that the power is claimed and attempted to be used. It is as follows. "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." It is peculiarly necessary to mark that the clause just quoted, in language that cannot be misunderstood, has reference to powers expressly mentioned, viz. 'the foregoing powers' such as had just been enumerated, and all other vested powers. And it must be borne constantly in recollection that the right to incorporate a Bank is not pretended to be an express grant, but an incidental power to carry into effect some one or more of the said "foregoing powers" expressly conferred. And that to effect even this object it must be necessary and proper in the sober popular sense of those words, for they were addressed by a sober popular assembly, to an equally sober and intelligent people. We will now give the other powers preceding the one first above mentioned.

"1st. 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.

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 the Indian tribes.

4th. To establish an uniform rule of Naturalization, and uniform laws on the subject of Bankruptcies, throughout the U. States.

5th. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

6th. To provide for the punishment of counterfeiting the securities and current coin of the United States.

7th. To establish Post Offices and Post Roads.

8th. 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.

9th. To constitute tribunals inferior to the Supreme Court, &c.

10th. To declare war, grant letters of marque and reprisal, &c.

11th. To raise and support armies.

12th. To provide and maintain a navy.

13th. To make rules for the government and regulation of the land and naval forces.

14th. To provide for calling forth the militia to execute the laws, &c.

15th. To provide for organizing the militia, &c.

16th. To exercise exclusive Legislation," &c. (in the district of Columbia.)

Now here are all the "foregoing powers" to the 17th clause first quoted; and they are absolutely, for we speak with due caution, all the powers granted to Congress, with which the subject under discussion has the remotest connection, we call upon our antagonist to point out the "express power," not an implied power, which a Bank is necessary and proper to execute. We say, without any hesitation, not one of the foregoing express powers is contained in the Bank charter, on the contrary every one of them has been, or attempted to be, executed by other well known laws. But let us analyze this subject a little further---By stripping a question of all unnecessary matter, we sometimes bring the point right up to full view, and there is no getting away from its broad open gaze. Without any fear of opposition, we affirm with great confidence that the 4th, 6th, 7th, 8th, 9th, 10th 13th, 14th, 15th, and 16th, of the 'foregoing powers' have nothing to do with the question, either expressly or impliedly, and may therefore be dismissed from the debate. The 11th and 12th, are included in the 1st, under the power "to provide for the common defence" and (according to our construction of that much disputed phrase) "the general welfare."

And while on this subject we will take occasion barely to say, that so far as an army and navy, and their necessary support by the means placed within the powers of Congress can promote the general welfare of the United States, in the "common defence" and support of the legitimate powers of the General Government, they were intended to be the appropriate instruments, and that no other general welfare was meant, but that which was within the expressly granted powers. For if any other secret power lying out of the conferred powers was designed to lurk within that expression, it was not only a most wicked act, on the part of the Convention, but it was treacherous to the last degree, for a limited government was alone the object of their trust, and so the framers of the Constitution distinctly declared, when they delivered it over to their constituents.

Then, to return to the subject, the 1st, 2d, 3d, and 5th, clauses, only remain from which to extract the right. They alone are the express powers that the stock-holders of the Bank are to carry into

effect for the Government. The Government virtually acknowledges that it is not able to execute the 1st, 2d, 3d, and 5th, powers of said 5th section of the Constitution, and therefore, thinks it *proper and necessary* to vest these powers in a Bank Corporation for that purpose.

Before we proceed any further in this investigation, we must insist upon the following principles to which we must request a constant reference of our future arguments.

1st. That all acts of the Legislature are either *general* or *special*, *public* or *private*, the first being, as Mr. Blackstone states, an universal rule, that regards the *whole* community: the second respecting only *particular persons* and *private* concerns.

2d. That all acts passed for the purpose of carrying into effect any of the powers of the Constitution must be *general*, because they regard the *whole* community and no one citizen can have greater rights or advantages from the law than another.

3d. That a *general* and *special* act cannot be blended together, because it would produce this most unjust and therefore wicked consequence, that while the *whole* community were under either the burthens or blessings of the law, in its *general* operation, some one or more of the same community would, under its *special* provisions, share or suffer more than his due.

4th. That no Legislative body, having, itself nothing more than a delegated power, can confer that power upon any other body.

5th. That all offices of government must be executed for the *sole* benefit of the people, the officer receiving a stated emolument for his services, and that any office or agency created for the purpose of executing a general power, in which the officer is permitted to make what he pleases off the community for his services, or of which the officer and government agree to share the profits, is not only unjust but, in a republic, is infamous.

6th. That the powers conferred upon the General Government were never intended to be the subjects of speculation, or transfer but must always abide within the *immediate* reach and control of the constituted authorities to be executed by well known laws subject to alteration and repeal, as the public exigencies may require, and to be executed by public functionaries with well defined duties, and duties, that relate directly to the power to be executed and entirely unconnected with any concern, over which the government has no jurisdiction.

7th. That the public functionary cannot draw to *himself* a separate interest from the power confided to his trust, over and above what belongs equally to all the rest of the citizens, and if he does, it is a gross perversion of every fair principle of free and equal government and a corrupt traffic of the people's rights: and lastly -- That the *incidental power*, as has already been claimed and conceded, must be to carry into effect an *express power*, and that one *incidental* power cannot be exercised to carry into effect another that is itself merely *incidental*.

With these principles always present upon the recollection, let us proceed. The Bank charter is either a *general* act or it is a *special* act. If it is a general act, it ought particularly to specify the power intended to be executed. It ought to regard *exclusively* the in-

terest of the *whole* community. It ought to be executed by a well known public officer, directly amenable to the government. It ought at all times to be within the control of the Legislature to be altered or repealed at pleasure, for something might arise that would make it extremely dangerous to have the powers of the Constitution out of the reach of that body. And lastly, no private persons should profit individually by the exercise of the power. Now, we ask, are these the features of the Bank charter? *Who could man* answer in the negative and consequently it is no *general* act. We think no one will be disposed to deny this position, that all powers are made for the benefit of the whole and no favored few should have more than their share. But what is the consequence of the Bank law? The stockholders get not only the full advantage of the power or they are made the instruments of executing, in common with the rest of their fellow citizens, but they derive a separate and distinct advantage, to a more dangerous extent, in a *private manner*, from the operation of the law—not in salary—not as officers for well ascertained services, but in whatever they can make, in sheer, rank, licensed, speculation, from the losses and misfortunes of that very community, the powers of whose government they are pretending to execute. This is sharing the benefits of government with a vengeance! Can any one be brought to believe that a community, of even tolerable understanding, in organizing their government, left a power within that government so circumstanced, that it could not be executed, without conferring another power on a set of private sharpers to speculate on, nay to rob, *when at pleasure*?

If it is a *special* act, then every one must perceive it is clearly unconstitutional, according to the Committee's own admission "that Congress has no distinct and substantive power to create Corporations out of the objects of their jurisdiction."

The above reasoning applies to the case, if it should be considered a *general and special* act united. If it is unconstitutional to pass a *special* act, solely for the benefit of individuals, and no one can doubt this point, it is not the less so from being joined with another object. If mingled with one or a thousand other subjects, it can never lose its unconstitutional cast. So much, at least, of its private and special infirmity must stick to it through all its changes, and if it should not infect and taint its associates, it must itself remain fatally impure. And see what would be the consequence if a contrary principle prevailed. A corrupt Congress, has nothing to do, if it wishes to pass an unconstitutional act, but to unite it with some simple constitutional power, even though it should be an implied one, and it goes down like the poison that is smothered in a sugared sweet-meat. For instance, no one doubts the jurisdiction of the several States over the roads, rivers, bridges and ferries, within their respective limits. Now suppose a company, like the Bank stockholders, should petition Congress to incorporate them with exclusive privileges to open all the rivers, turnpike the roads, erect bridges, and establish ferries throughout the United States, for which they agree and pledge themselves to transport all the military stores of the government, collect and transmit its funds from place to place, carry the mail, give great facilities to commerce, and *all for nothing*, and, "in the opinion" of

a committee of Congress, the privilege is considered *necessary and proper* to carry into effect the important powers just mentioned. Does any man, not hardened and abandoned to the "American System," believe that such an unconstitutional measure could be sanctioned by the mere suggestion that "a proposition cannot be maintained" that denies to Congress, "the agency of a corporation" to carry into effect "powers expressly conferred" on that body? Where would be the difference between this case and the Bank question? We will shew hereafter that the States have as much right to the regulation of their "monetary" concerns, for they can no more do without money than the General Government, as they have to that of their roads and rivers, and Congress can with equal right *vest* the one as the other in *private individuals*.

If the principle were not sanctioned by sound reason, which we are free to confess would be a fatal support to it with some modern politicians, yet we have the decision of the Supreme Court that the Legislature cannot delegate its authority to any other person. (*See the case of Wayman & Clark, vs. Southard & Starr.*)

If Congress have the right to carry into effect any *expressed power*, they, themselves, must do it by an express act of their own body, stating particularly the power intended to be executed. It cannot be executed by the legislation of any one else for them, or by any method tantamount to legislation, nor can they do it *jointly* with any other body. We do not intend to say that laws cannot be executed by officers, by courts, or by agents. Let us not be misunderstood; we admit if the power is necessary to be executed, persons may be appointed to do so; but then the power must be expressed and his authority distinctly defined. The officer or agent must be as distinctly appointed and his agency as clearly described. He must not have a *carte blanche* to execute the power, and we challenge an instance of any other kind of legislation, in any other well regulated representative government in the known world. Now let any one look at the charter of the Bank, and find in that instrument if he can, the general and "*express power*" intended to be carried into effect. Let him find, if he can, the officer and his duties defined who is to execute that power. Is it not very remarkable, indeed passing strange, that an act should be passed to carry into effect an "*express power*," and upon consulting that act it no where appears; nay it turns out to be a private act privileging a set of great capitalists to enter into speculations co-extensive with the Union, to the utter ruin of all the other monied establishments of twenty-four sovereign States. If a stranger were told that we had an act to carry into effect the 1st, 2d, 3d, and 5th, powers of the 8th section of the Constitution, does any one imagine he would go to the bank charter to find that act? And if he did, what would be his astonishment when told, that true, the powers are not expressed in that instrument but the directors and the government understand each other. They are licensed to make what money they can, but in the mean time they must, by their regulations, see that the above powers are executed. Is not this delegating power, especially when it is known, as will be shewn hereafter, that these powers cannot be resumed by the government for and during the limit of the charter? Besides, are the bank officers known as officers of the general

government? Are they amenable like the other officers? Nay, are they appointed by the government, except, in part, as another stockholder? Where are they responsible for misconduct? Is it any thing more than a simple contract between the government and an individual? Every Tyro knows that a corporation is nothing but a person in law. And the Supreme Court has determined, in the celebrated "Dartmouth College" case, that charters of incorporation are nothing but contracts, which to legislate concerning, is a violation of the Constitution, because it "impairs the obligation of contracts." Who believes the Convention ever, in the remotest degree, supposed that some of the most formidable powers conferred on Congress were to be executed by a mere simple contract?

NO. III.

Perhaps this doctrine of contract may be denied. Let us therefore exhibit our authority for this position: an authority which the advocates of the Bank and those who go for sweeping away all the rights of States will never presume to dispute. It is none other than that mammoth power, the Federal Judiciary, that stands prepared to clinch whatever the Federal Legislature dare to drive.—What says the Supreme Court in the case we have just cited? "An aggregate corporation is a collection of individuals united in one collected body, under a special name, and possessing certain immunities, privileges and capacities, in its collective character, which do not belong to the natural persons composing it. It is in short an *artificial person*, existing in contemplation of law and endowed with certain powers and franchises which, though they must be exercised through the medium of its natural members, are yet considered as subsisting in the corporation itself, as distinctly as if it were a *real person*." We have now got the legal certainty, which must be kept constantly in mind, that a corporation is nothing more nor less than a *person*, an *individual* in law, and of course whatever power can be vested in them by the government, can be vested in a private person. Let us see how they are divided. The same authority proceeds—"another division of corporations is into *public* and *private*. Public corporations are generally esteemed such as exist for public political purposes only, such as towns, cities, parishes and counties; and in many respects they are so, although they involve some private interests; but strictly speaking public corporations are such only as are founded by the government for public purposes, where the *whole interests* belong also to the government. If, therefore, the *foundation* be private, though under the charter of the government, the corporation is private, however extensive the uses may be to which it is devoted, either by the bounty of the founder, or nature and objects of the institution. For instance, a bank created by the government for its own use, whose stock is *exclusively owned* by the government, is, in the strictest sense, a public corporation. So a hospital created and endowed by the government for general charity. But a bank, whose stock is owned by private persons, is a *private corporation*, although it is created by the government, and its

objects and operations partake of a public nature. The same doctrine may be affirmed of insurance, canal, bridge, and turnpike companies. In all these cases, the uses may, in a certain sense, be called public, but the corporations are *private*, as much so, indeed, as if the franchises were vested in a *single person*." We have again gone one step further in the process, (and we wish to keep what we fairly get,) and settled the point that a bank corporation, whose stock is not owned exclusively by the Government, but whose stock is owned by private persons, is a *private corporation*, and consequently that the Bank of the United States is a private corporation. Now let us see what is the character of a private corporation, and what the government may or may not do with it. And first what they *may not* do; says the same authority, "when a private corporation is thus created by the charter of the crown, it is subject to no other control on the part of the crown, than what is expressly or implicitly reserved by the charter itself. Unless a power be reserved for this purpose, the crown cannot, in virtue of its prerogative, without the consent of the corporation, alter or amend the charter or divest the corporation of any of its franchises, or add to them, or add to or diminish the number of the Trustees, or remove any of the members, or change or control the administration of the charity, or compel the corporation to receive a new charter. This is the uniform language of the authorities, & forms one of the *most stubborn & well settled* doctrines of the common law." Again our authority declares in answer to an argument which was urged in the case decided, "when the corporation is said, at the bar, to be public, it is not merely meant, that the whole community may be the proper objects of the grant, but that the government have the sole right, as trustees of the public interest, to regulate, control, and direct the corporation, and its funds and its franchises, at its own good will and pleasure. Now, such an authority *does not exist* in the government, except where the corporation is in the strictest sense public; that is, where its *whole interest and franchises* are the *exclusive property* and domain of the government itself." Again, "in respect to corporate franchises, they are, properly speaking, legal estates *vested* in the corporation itself as soon as it is *in esse*. They are not mere naked powers granted to the corporation; but powers *coupled* with an interest.—The property of the corporation vests upon the possession of its franchises." And lastly "it is perfectly clear that any act of a Legislature which takes away any powers or franchises vested by its charter in a private corporation or its corporate officers, or which restrains or controls the legitimate exercise of them, or transfers them to other persons, without its assent, is a violation of the obligations of that charter."

Now, as to what the government *may do* with a private corporation, our authority continues "the grant of incorporation (quoting the English law) is a *compact* between the crown and a number of persons, the latter of whom undertake, in consideration of the privileges bestowed, to exert themselves for the good government of the franchise. If they fail to perform their part of it, there is an end of the *compact*. The charter of a corporation, says Mr. Justice Blackstone, may be forfeited through negligence, or abuse of its franchises, in which cases the law judges, the body politic has

broken the condition upon which it was incorporated, and thereupon the corporation is void." But this is not done by a mere act of the Legislature but by the courts of justice, in virtue of the pre-existing laws which govern *all contracts*. What is the conclusion from all these doctrines? What have we been aiming at?—Listen to it in words that can, nay, must not be mistaken, for according to Mr. Webster, it is the language of *fate* to this country. It is none other than the Supreme court! "In the case of *Titcher vs. Peck*, this court laid down its exposition of the word "contract" in this clause (the clause of the Constitution which forbids the impairing the obligation of contracts) in the following manner: "A contract is a *compact* between two or more persons, and is either executory or executed. An executory contract is one, in which a party binds himself to do or not to do a particular thing. A contract executed is one in which the object of the contract is performed; and this says Mr. Blackstone, differs in *nothing* from a *grant*. A contract executed, as well as one that is executory, contains obligations binding on the parties. A *grant* in its own nature amounts to an *extinguishment* of the right of the grantor, and implies a contract not to *re-assert that right*. A party is always *estopped* by his *own grant*." This language (continues the court) is perfectly unambiguous, and was used in reference to a grant of land by the Governor of a State under a legislative act. It determines in the most *unequivocal* manner, that the grant of a State is a contract within the clause of the Constitution now in question, and that it *applies a contract* not to *re-assume the rights* granted. *A fortiori*, the doctrine applies to a charter or grant from the King." And we humbly presume to add, with all its growing powers, from CONGRESS.

The question is now placed in a shape where very many important reflections cannot possibly escape the inquisitive mind: If, as the Report contends, "the agency of a corporation may be employed to carry into effect any *one* of the powers expressly conferred upon Congress," then it follows that *all* those powers may be made the subject of contract, may be transferred to an "individual" *coupled* with a privilege on his part that must incontrovertibly divest the government of those powers for and during the life of the corporation, be it long or short: nay more, it amounts to an "extinguishment of the right" of the "grantor" and implies a contract not to "re-assert that right," nor to use it themselves or confer it upon others throughout the legal existence of that corporation. Suppose a State of things should occur rendering the exercise of these powers on the part of the corporation highly improper, perhaps, dangerous to the public liberties, they, in the mean time, complying strictly with their charter, or suppose, which is by no means improbable, a better, safer and more expeditious method of executing them presented itself to the government, what control would it have over them? Not the least, if any reliance can be placed upon the decision of the highest tribunal, because it has jurisdiction of sovereigns, that is, at this day, upon the face of the globe. Can any candid man believe the convention ever intended to place the powers of the government in such a situation? Does not every one suppose that the "express powers" of the government must always rest within the government, subject to its control and direction as

circumstances may require, for the good of that community they were intended to govern? Can they do this if Congress have the power to part with them, even for an hour, and if for that time, they can forever? Are not the powers parted with when vested in a *private corporation*? Under the authority produced can they be "*re-assumed*"—can "powers coupled with an interest," made the subject of a fair contract, and by virtue thereof becoming a "*legal estate vested*" in the corporation," be controlled or restrained afterwards by the *grantor* until the time has expired for which they were granted? Even according to the civil law, *nemo potest mutare consilium suum in alterius injuriam*, the lawgiver cannot alter his mind to the prejudice of a vested right. Is it not readily perceived that for the time the power is *in* the corporation it is *out* of the government, and what would be the consequence if all its powers, (for, if *one can all can*) were coupled with some private immunity or interest and bartered away to corporations? There is no difference in the powers conferred on the government, if *one* is subject to traffic all are, and every function of the Constitution may be farmed out, even the heads of department, the collectors, nay, every office may be linked to a charter, and under the broad, indeed, boundless DISCRETION of Congress, to judge what is *necessary* and *proper* the whole fabric of the Federal Government may be quietly lodged in the kind and tender arms of corporations to be nursed as they, in their loving and parental fondness, may think proper, and Congress may retire to rest and doze away the holiday season for which its powers may have been *let*. Such principles are odious, nay, shocking! It is no argument to say this will not be done; the power remains, there has been, at least, one fatal case; and that is sufficient, not only for our argument, but for all the purposes of an awful warning.

But to put this question in a point of view that even the most fettered intellect, whether in sense or selfishness, can lay hold of, we beg leave to put a case entirely illustrative of the principles that must grow out of the doctrine above submitted. Suppose the great Banker, Rothchild of Europe, a *foreigner*, should come to America and boldly approach the Congress of the United States, and, in a language something like this, should say, if you will incorporate and vest in me the 1st, 2d, 3d, and 5th, *expressed powers* of the 5th section of the 1st article of your Constitution for one hundred years, (and if they can for twenty they can for that, nay forever) and let me establish Banks wherever I please in the twenty-four Sovereign States of the Union, and thereby break up their banks, and the facilities which they afford to their people, either in commerce or revenue; (for they too have commerce and revenue) raise up cities *here* and put down cities *there*, just as I may, with my immense capital, choose to favor particular States and their rival commerce; (for money is the life and soul of commerce) acquire as much property as I please, both real and personal, though it amount to the lands of a whole State; execute real property and imprison citizens for debt, even in those States where such remedy is denied to their own people, (as in the case of Kentucky) I will furnish deposits for your revenue and transmit all your money from one end of the Union to the other, free of expense,

I will lend you money at the interest prescribed in my charter, by the by, a thing you can do as well any where else, but which I shall always be glad to do: *My Bills* shall be called "coin," names are nothing; and thereby the whole currency of the Union shall be properly regulated, reserving however to myself the right to ask what per cent. I please for paying the bills of one branch at another. My God! is there a man in this world, much less in this Union, that would call such a bargain a necessary and proper contract, not to say LAW, for carrying into effect any power belonging to a free government? Can the people of this country believe that there is such a monstrous principle in the boasted Constitution of united America? If they do, we can only say to such credulity, sleep on in your false security. The day is coming when you will awake to the reality of your ill-fated delusion, but it will be too late either for the arm of relief or even the consolation of hope.

Will it be denied that this case differs from that of the Bank? Every dollar of the Stock of that institution *may* pass into the hands of but a single foreigner to-morrow. In the exercise of the powers, there is no difference in the Constitution between one and one thousand, between a citizen and a foreigner, and it is trifling with common experience to say Congress would not vest such a power in a single foreigner. Once admit the right, and the limits to *discretion* are shoreless. All history proves there is no protection from the excesses of unlimited power, nor no guaranty against its exercise, either in the wisdom or honesty of any of its depositaries. The moment they decide that the measure is *necessary* or *proper* to carry an express power of the Constitution into effect, the decree b comes destiny to the nation, though it should contain fifteen millions of intelligent freemen.

We may here be indulged in a remark, which may serve as a passing sigh over the perverted use of the power of corporations. In their first institution, in Italy, at the close of the crusades, they were notoriously intended as a relief against feudal oppression, and it is remarkable that they are considered the dawn of what little liberty exists in Europe. They were designed to check the arbitrary sway of larger rulers and the still more unfeeling despotism of petty tyrants. They spread from Italy to France and from France to the rest of Europe in the 12th century, and are justly esteemed the efficient instrument of the downfall of baronial tyranny and the not less vexatious dominion of their unbounded wealth. It remains for the free and enlightened Republic of America to use them for the very objects they were designed to overthrow, and by such introduction to bring back, in all its odium, the oppressions and rigorous exactions of a monied Aristocracy. From their origin to the present day, with but the one and memorable exception of the American experiment, history may be safely challenged for the production of an instance where a *private corporation* has ever been employed by government for the execution of any of its fundamental principles.

NO. IV.

We are aware that the express rejection, by the convention, of the proposition to vest Congress with the power of "granting charters of incorporation," is evaded by the disingenuous suggestion that such a power was unnecessary, inasmuch as they had conferred the right to make all laws *necessary and proper* to carry the other powers into effect. This argument is as artful as it is unsound and highly reproachful to the intelligence if not the integrity of the convention. It is now confessed, by the report itself, that corporations may have a two-fold agency, that when the effect is "without reference to the objects entrusted to the jurisdiction of the government," then Congress has no power to create them, but when it has, they may. Can it be for one moment supposed that this distinction never occurred to such men as Madison, Hamilton, Adams, Franklin and the other profound sages of the convention? Was it a keen stroke of discernment reserved for the more discriminating sagacity of after Statesmen? If the worthies of the Convention did not perceive it, they are not entitled to that boasted fame that has so wonderfully brightened and exalted their names. If they did, they were faithless to their trust, because every consideration of honor, justice and fidelity, admonished them to leave nothing in doubt. They were erecting a government of specified and limited powers, and all the feelings of the nation, warmed by an ardent and mercenary jealousy, continually cried aloud to take nothing more than was absolutely necessary, and to let *that* be expressed in a language so plain "that a way-faring man, though a fool, might not err therein."

Would these men, under such an obligation to be vigilant, suffer such an instrument as a *corporation*, one that stood so intimately connected with some of the most momentous, not to say disastrous events of Europe, pass away from their explicit mention, to be used as an *incidental* power, possessing too a doubtful, because a double character, one innocent and the other not? The thing is impossible! But we have shewn, if records prove any thing, that they did not. That they did understand what they were about. What more could they do? The question is proposed to give to Congress the power of granting charters *generally*. It is thoroughly weighed, as every thing in that body was, and *positively* rejected. For this obvious reason, that such an unlimited power would have taken away from the States the jurisdiction of all the objects, and they are, as every one knows, very numerous, in which corporations are employed. Does not every one perceive this? And why do we know that this was the reason that actuated the Convention? Listen to the next proposition on the same subject, to wit. "to grant charters of incorporation, *in cases* where the PUBLIC GOOD may require them, and the *authority* of a single State may be incompetent." Who does not see the reasoning on this last proposition as connected with the first? If, said the advocates of large powers, you are afraid that the grant of the power *generally*, will take from the States the right to incorporate cities, towns, seminaries of learning, navigation and

turnpike companies, and many other objects peculiarly belonging to municipal regulation, you can have no possible objection to grant to Congress the power *specially* in such cases as the public good may require, and where a single State is unable to do it. No! was the reply, we will not grant it *even in this shape*. There is more in it than meets the eye. Corporations are dangerous things, at least, so says the warning voice of our mother country! And this peculiar, and we will add, wise caution manifested itself on all the subjects connected with corporations. Did they not thrice refuse to charter a University; to "establish seminaries for the promotion of literature and the arts and sciences;" to "grant letters of incorporation for canals, &c.?" They surely did not reject *these propositions* because they might be used as *incidental* powers, and in what do they differ from the other, but in the fact that they were much more useful to the *public*, because *exclusively* of a public nature? We are well apprised that it is becoming very fashionable, to consider *these as implied* powers, and it requires no prophetic vision to shadow out the uses to which, in that character, they will, sooner or later, be applied. Under the head-long tendencies of the government, they and every thing else that Congress chooses; will be held and taken as *incidental* powers.

But much reliance is placed upon the opinion of men, *great men!* (by the by a bad sentiment for republics.) As we intimated before, if the evidence of men is good, records are better, and we have fully supplied them. But we have men, *great men!* also.

Who were more conspicuous in the Convention than Edmund Randolph and James Madison? The former proposed, among three others, the basis of the Constitution that was accepted, and yet he and Mr. Jefferson, who composed part of the Cabinet of President Washington, declared in their opinion, the charter of the Bank of '91 was unconstitutional. That was also Mr. Madison's opinion until unfortunately yielding to the force of *great names*, he seems, either in diffidence of himself, or respect for the better judgment of others, to have surrendered *all* his early opinions at discretion. And this proves, among very many other wholesome truths, how dangerous it is to take *great names* for argument. Besides the illustrious personages above cited, we have the no small weight of the names of Mr. Giles and the venerable Clinton, the last of whom immortalized himself by his vote on this very question, and as an act of moral heroism, has proudly elevated it far above all others in the political history of this country, where it must forever stand, an enduring trophy of firmness, to the admiration, if not the envy of the world.

No one is entitled to more real confidence for the soundness of his judgment and the still higher purity of his motives than General Washington; but General Washington was a man and not exempt from his liability to err, as he himself most affectingly declared in his farewell address. And an additional fact, remarkable as it may appear, establishes this truth. In a few years after the adoption of the Constitution he recommended the establishment of a *University!* Now with the evidence submitted, does any one wonder at his opinion on the Bank question, especially as that is said by the committee to be "doubtful."

As to Mr. Clay's change of opinion, there are some curious facts connected with his political career that every body should know, because every body is concerned in it, if they have any concern for the duration of the Union. When the Federal Constitution was under discussion, there was an unusual, nay fearful excitement throughout the Union.—The great and absorbing dread was that the States would be swallowed up by the confederacy, and after the instrument was adopted, some of the most devoted patriots, at the head of whom were Samuel Adams of the North, and Patrick Henry and Richard Henry Lee of the South, conscientiously believed that the powers conferred on the General Government were subversive of the best interests of the States, and so they warned the people with all the powers of their great minds. Their warnings (how prophetic) created a spirit of unwinking watchfulness, over the new government, which went into operation under the most torturing apprehension, that it would reach out its vigorous and withering arm to blight the then growing but tender prospects of the States. All professed to be, and perhaps were, friends to the Union, some however were greater to the States, because those were governments with which they were well acquainted, the other was untried, and they well knew a man must do well *at home*, or he may fare ill *abroad*. It was well known that the Union could do no good if the States were laid in chains. These last were styled *Republicans*, and those who were, not so much for the Union, as they were for larger powers to the Union, were called *Federalists*. The first bank was wholly a creature of the latter, and so continued from that day down, with some honorable exceptions. This measure Messrs. Jefferson, Randolph, Madison, Giles, Clinton, and a number of others, who belonged to the centinels of State rights, helieved to be the entering wedge of a construction of the constitution that would eventually let in such a host of powers, as must finally lay waste the trembling hopes of the States. If the doctrine of *incidental* powers would authorise such an institution, they conceived that this *first* would be the *last*, because mortal blow to the liberties of the country, for if this was a rightful exercise of power *any* could be, and the field of opposition from that day, might be considered as conquered and cleared by the weakest antagonist on the roll of constructive combatants. And such has been awfully the fact. Every day realizes some fresh instance of this growing encroachment. This very bank has been the opening of a sluice that is uprooting all the flourishing growth of State prosperity, and, leaving a putrescent deposit, sends forth a pestilence that blasts the remaining verdure spared from the ravages of the flood. Through this opening has entered the "American System," and in this system, with all its out-stretchings after high office, may be found the reason for the boasted change of Mr. Clay, and, *it might be added*, of Mr. Calhoun.

After having long postponed it, we come now to the examination of those remaining clauses of the Constitution, from which it is affirmed the power to charter a bank is clearly drawn; and we hope our readers have kept in remembrance the position of the committee, that Congress have the right to employ the agency of a corporation to carry into effect "powers expressly conferred."—And it

will also be recollected that we left the question pent up within the narrow limits of the 1st, 2d, 3d and 5th clauses of the said 8th section. Now, what is the first? "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," &c. The most obvious question that presents itself is this, if Congress were for the first time to legislate upon this "express power," what kind of a law would they pass? Would it be a bank law? And if it would, would they not mention somewhere in the law the manner in which the taxes, duties, imposts and excises were to be raised and collected, the debts to be paid, the kind of provision for the common defence and general welfare? Does any of this appear in the bank charter? Have they not made provision for all these *expressed objects* in other well known laws? Now, here is the "express power," and we will admit the charter is the *incidental power* to carry it into effect, how is it to be done? Recollect, all that is claimed for the *implied power* is to execute an *express power*. Suppose we grant all that is wanting in this argument, that a charter is an *incidental power* and may be legitimately used to carry into effect the above mentioned *express power*, will it then be contended that it can do *more*? Will it be pretended that the *incidental power* shall reach beyond the execution of the *express power*? Surely that would be strange doctrine. In view of such a principle, incidental powers can do more than express powers, and loosens the constitution from all its bands. Let it but include the express power, and then it is without limits as to its further range. Take an example, the power of taxation is a sovereign power, and belongs alike to the State and General Governments.—Neither can exist without it. The General Government cannot *directly* deprive the State Governments of this right. It has no *express power* to authorise such a procedure. But by the use of a charter, called an incidental power, they maintain that they can execute an express power and couple with it a privilege which shall exempt thirty-five millions of private property from taxation, by the States. To be better understood, if an individual were to come from Philadelphia, with thirty-five millions of dollars, either in cash or merchandize, to Georgia, for the purposes of trade, the State would have an undoubted right to tax that capital to any amount she pleases, and Congress could, by no act, *directly* prevent it. But the bank corporation, only a person in law, sends the same capital from Philadelphia to the same place, to trade on their own private account, behold, it has become a government instrument, and cannot be taxed. Though Congress could not by an express law do this act, it has by an indirect act accomplished the object. Is it not perceived by the use of corporations the whole of the power of taxation may be swept from the States. If it can be done to one extent, it may to another, and ingenuity will not be wanting to apply such instruments whenever it becomes desirable to destroy the right. Can it be *necessary* and *proper* to deprive States of sovereign rights merely to carry into effect such a clause as the one above mentioned, much less to execute an inferred power, barely derived from it? And is it believed that such a clause, adhering strict-

ly to its objects may not be executed, without the aid of a privileged order of men, and without conferring upon private persons the most extraordinary rights? What right has Congress in using its own powers to take away the powers of others? We understand that the powers not conferred on the General Government, were "*reserved to the States*," but of what consequence is such a reservation, if all their rights can be taken away by the use of incidental powers. We have shewn one case where a State may lose, indeed has lost, an unquestionable sovereign right, under the pretext that it was necessary and proper for carrying into effect a power of the General Government! Now we put this serious question, and it ought to be well pondered, is it contended, under the right to employ incidental powers, that the General Government may divest the States of all their rightful powers if it be *necessary and proper*, in the opinion of Congress, to carry its own into effect? People of the U. States, this is the doctrine of the Federal Government, as solemnly expressed by its Legislative and Judicial departments, in this very Bank question—And carried out and fully sustained in the odious doctrines of Internal Improvement and the protective system. The man who does not shudder over such an idea, is well prepared for any state of things which may happen to this country and the worst condition that may befall it, can never come too soon for such cold blooded indifference.

Congress dare not violate a private right in executing any of its powers and yet, strange to tell, it may violate the rights of that very being from whom it has derived its own being! It can violate the rights of the States.

If we were asked how we would carry the above clause into execution we would reply, precisely in the way Congress has already done, by other well known laws, always with the exception of its doctrines on the subject of the general welfare, and its still later usurpations on the Tariff, a cousin german of this famous Bank. We would clearly designate the "express power" in the law, make all its provisions correspond with that law, stick close to the letter of the Constitution and follow its obvious dictates. Appoint officers, where officers were necessary, and give them stated and suitable salaries. We would not say here, Stock-holders, take this clause of the Constitution and carry it into effect, and you may speculate upon the community and make all the mobby you can. We would have no *undefined* something or nothing on the subject, no secret understandings, no written instrument declaring one thing and meaning another. But say the advocates of the Bank, true, the express power is not mentioned in the Charter, in so many words, but the bills of the Bank, are "Coin" and you know we can regulate coin! are so handy to be collected and transferred from place to place, so little liable to depreciation, will regulate the currency of the whole country, these are incidental to the collection and disbursement of the public funds, nay, if you think this connection a little far fetched, they will help us to borrow money and that is another express power contained in our 2d clause, and if this wont do they will surely aid in the regulation of Commerce and that is another express power to be found in the 3d clause. In some one or all of these, and we mix them all together, not exactly choosing to re-

ly on either alone, we think you will find enough to concede that the Charter is *necessary and proper* to carry the clause into effect. Now who does not understand in all this, that instead of the Charter's carrying into effect the "powers expressly conferred," to wit, the power "to levy a tax, &c." it is only executing the *inferred* power from this particular grant, viz. the power to transmit money and to regulate the currency, consequently making a corporation *itself*, nothing but an *incidental power*, carry into effect another incidental power. All that was claimed was to suffer an *inferred* power to execute an express power. But to transmit money from place to place, and to regulate the paper currency of the country is not an express power, therefore, an incidental power cannot be employed for that purpose. If this were Constitutional where would be the boundary to legislation in the infinite series of incidental powers, if one incidental power can be used to carry into effect another, it can be equally employed to execute one, inferred from this second, and so on *ad infinitum*. If so, away with the ridiculous idea of a limited government. As we hinted before, in the million of inferred powers, which such a doctrine would produce, corporations could and would be used to the utter subversion of all the powers of the States.

NO. V.

The above reasoning will equally apply to the two next clauses, the 2d, and 3d. But we have a little more to say on the 5th, to wit, the power "to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures." And here we are almost constrained to smile, when we see the shifts to which false reasoning will resort in support of a favorite measure. Who would have ever supposed that any extremity in the progress of a fair and honest argument, could have driven a debater to the farcical idea that Bank bills, nay, the promissory notes of an individual, for Bank bills are nothing else, can, by dubbing them with the title of "currency," be made synonymous with "coining of money and fixing the value thereof?" This position is absolutely taken in the Report, and lest we may distress the faith of our readers, or subject our own truth to suspicion, we must beg to submit the exact words of the committee.

"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 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 "preserve," 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."

Particular attention is invited to this protracted extract. We were compelled to give the whole of it, for from first to last. It is a wire drawn argument, in many places not very intelligible, each part, however, feebly depending upon its immediate forerunner to carry out the much distressed and worried idea that Congress with the power to "coin money," may denominate any thing money, from "Ricardo bars," to rank bank bills, provided a credulous community will only imagine them "synonymous with currency."

It is a little remarkable that a Constitutional question settled in '91 by Congress, by President Washington, by a second charter, by the Federal Court, and what is better than all, and very conclusive, by the *change* of certain *great men's* opinions, should at this day want such a defence, and that it is reserved for the sapience of the present generation to make such a discovery, for the decision of a great question, that never once occurred to those who long since determined the point, and made it so clear that it is "forever settled and at rest." It would seem that this argument comes too late. They must stand on the ground upon which the question was originally settled, or admit that such ground was unstable, and wanted propping. If the matter was so plain before, wherefore the necessity of this new argument? Can any thing strengthen that which is as strong as it can be? What higher authorities are wanting than those just mentioned? What are we to infer from this over wrought effort to brace that which is said to be so well planted? No! the truth is, there is yet doubt. With all their weighty authorities the point is still tremulous, and wants repose. And whenever we see a reasoner risk, by a dangerous, because weak argument, a cause which he affirms is "steadfast and immovable," we have right to draw one of two conclusions, either that he is not sincere and doubts his case, or that he believes his adversary is too shallow to detect his sophistry. If the latter, the people will not thank the committee for the compliment, if the former, they are welcome to all its advantages, and in either event, it is a bad cause that requires such a support.

There was no necessity for such a tortured and laboured argument. Why not come out at once and say under the power "to coin money and fix its value," Congress have a right to create a *private corporation* and suffer their promissory notes, not one whit

better than any other individual's, to be synonymous with "coin"? Will the committee say *that*? No, they will not so risk their reputation upon such an absurdity, but yet strange to tell, if, by an artful and extended train of sophisms they can make the community believe it, they have not the least objection; this may be Congressional ethics, but belongs to a school where honest purpose of mind is at all regarded. If they can make the bills of a *private company* the same as "coin," they can and ought to make the bills of exchange, drafts, notes and due bills of *private individuals* the same, for they certainly have the same right, and though this last kind of paper may not "be believed" to represent the "precious metals," yet they often times represent very precious property, and are as readily available. Indeed, they may dispense with the precious metals altogether, and rely alone, upon a paper currency. To have claimed such a right for the Government paper would have been a little plausible, though equally untenable, but to hazard such a doctrine in favor of private corporation bills because they are bank bills, and because bank bills are generally "believed" to represent the "precious metals," is too severe a draft upon the charity of an easy, unthinking world.

But why is it, if this is one of the *express powers* intended to be effected by a corporation, that nothing of it is mentioned in the charter? Have the committee forgotten that this self same *express power*, has already been carried into effect by another well known law, which seems to have bodied out a different construction from that which they have had the honor to submit? For what purpose is the law regulating the MINT, and the statutes fixing the value of the different coins, if this clause means nothing more than that "coin" is "currency" and currency is "bank bills?"

Have we come to this, that the *express powers* of Congress mean one thing to-day and another to-morrow, that one Congress passes a law to establish a Mint, to coin precious and other metals, regulates the value thereof, and in so doing believes it has fully executed this *express power*; and all at once another version is given to it and we are gravely told it means nothing more nor less than to authorise the incorporation of a Bank, to regulate the "coining and value of money" by a paper currency! Wonderful!

Alarming doctrines are every day shooting up in rank growth around the Constitution, and we are prepared almost for any thing, but we confess this is an indication of no common portent. If the express powers of the General Government are nothing but a nose of wax, and liable to be moulded to as many forms as will suit the interest or ambition of wily Statesmen or the avarice of greedy monopolists, if after one power is amply executed and every thing which it contains is fairly yielded and acted upon for years, by well known laws. it is again subjected to the crucible of construction, for the purpose of extracting another and different principle, we confess there is great cause for humiliation and despair, or for the exercise of a *power* very decidedly stronger than the force of human reasoning.

But to put this matter out of all doubt, and to place still further in the wrong that kind of argument which seeks to subvert the constitution of a nation, let us enquire into the origin of this power,

and how it came to be vested in the General Government, and we hope to be excused, for we despise all kinds of pedantry, if we indulge in a little law learning, on this subject. The words "com & money," are common law terms, and seem with many others, to have crept into the Federal Constitution, by virtue of the habits of legal thinking and speaking, imposed by the pre-existing institutions of the country, derived from the laws of Great Britain. When that instrument was under debate, it is needless to disguise the fact, that very many of its principles were cast in the moulds of that government, and there is nothing very surprising in the circumstance, for we had been intimately connected with, indeed, born and raised under it, and knew by experience, but little of the principles or forms of any other. All our lawyers, of which the convention was chiefly composed, had drawn their stores of legal science from that source, accordingly when fixing the sovereign powers of government, it was very natural to look for the like powers in the government of their model, and it is remarkable that this clause seems to be almost a transcript of what belonged to the sovereign of Great Britain as described in his *Prerogative* by Mr. Blackstone. After speaking of weights and measures (also contained in our clause,) that author says, "as *money* is the medium of commerce, it is the King's prerogative, as the arbiter of commerce, to give it authority or make it current. Money is a *sign* which represents the respective values of all commodities. Metals are well calculated for this sign, because they are durable and are capable of many sub-divisions. And a precious metal is still better calculated for this purpose, because it is the most portable. A metal is also most proper for a common measure, because it can easily be reduced to the same standard in all nations." Here we have the definition of money and the excellent reasons why it should be metallic. Now as to *coin*. "Coin seems to come from the French *coign*, that is, *angulus*, a corner, whence it has been held that the ancientest sort of *coin* was square, with corners, and not round as it now is. It is any sort of money *coined*. *Coin* is a word collective, which contains in it all manner of the several *stamps* and species of money in any kingdom; and this is one of the royal prerogatives belonging to every sovereign prince, that he alone in his dominions may order and dispose the quantity, *value* and fashion of his *coin*. But the *coin* of one King is not current in the kingdom of another, though *one King* may make any foreign coin lawful money at his pleasure." This quotation shows what is "coin, who may regulate its value, and also that of *foreign coin*, of which our clause is a close imitation. Mr. Blackstone observes further, "with respect to *coinage* in general, there are three things to be considered therein: the materials, the impression, and the denomination. With regard to the materials, Sir Edward Coke lays it down 'that the *money* of England must either be of gold or silver, though copper coins have since been introduced,' &c. He proceeds to the mention of the impression, denomination and many other matters on this subject, not necessary to our present purpose, and we have been thus particular to shew, first, that if the Convention did not alter the meaning of terms borrowed from the common law, they must be understood in the manner they are used whence they are drawn, and secondly to shew that

paper currency was never considered, in the remotest degree, related to the coining of money or regulating its value, and still less, that it was ever used as synonymous with "coin," and such has always been the interpretation of Congress in legislating upon this power. There is not an act of theirs, in the establishment of the Mint or the regulation of "Coins or money" that is not in perfect accordance with the principles above referred to, as practised by the sovereign power of Great Britain, or, in any manner, favoring the new fangled construction set up by the Committee.

But besides this view of the subject, which would seem to be conclusive, what can be said, what tongue will not be mute, when our last argument on this subject shall be heard? And it shows how dangerous it is for Statesmen to probe and feel for powers in the Constitution, with a view to establish a favorite theory, without a proper knowledge of the organic structure of that wonderful instrument. When the question to grant the power "to borrow money" was under discussion, there was connected with it, in the reported draft, these words, "*and emit bills, on the credit of the United States.*"

A motion was made to strike out the words "*and emit bills,*" which was carried, nine States to two. Can any power be more subservient to that of raising armies, borrowing money, laying and collecting taxes, transmitting funds, regulating commerce, indeed to do every thing that can promote the public defence and general welfare, than this of *emitting bills* on the credit of the U. States, and yet the Convention would not grant it! Where, if a paper currency was thought to be *necessary* and *proper*, was there a better opportunity for the grant than at this particular juncture? Will they *incidentally* confer upon a *private corporation* what they *expressly* denied to the Government itself? But it may be supposed that the Convention struck out the power because they believed it was fairly to be inferred from those already granted. If such a delusion be not too deeply seated, we think we have for it a complete relief. In the progress of the debate, Mr. Luther Martin, a member of the Convention, and one of no common powers, contended "that it would be improper to deprive the Congress of the power to *issue paper money*; that it would be a novelty unprecedented, to establish a government, which should not have such an authority. That it was impossible to look forward to futurity, so far as to decide, that events, might not happen, that would render the exercise of such a power, absolutely necessary." These were his arguments in the Convention, and when they proved unavailing, he wrote home to his Legislature, that "a majority of the Convention being willing to risk any political evil, rather than the idea of a "*paper emission*" in any possible case, refused to trust this authority to a Government, on which they were lavishing the most unlimited powers of taxation, and to the mercy of which, they were willing to trust the liberty and property of the citizens of every State in the Union, and they erased *that clause* from the system." (Yates' Debates, p. 57.) These are the sort of arguments upon which stand the Constitutionality of the Bank Charter! For the safety of their cause and the sake of their reputations, let the committee take back this *new trial* argument, resting upon the grounds of *fresh*

discovered testimony found in the clause "to coin money," and let them be candid enough to own, that if the Convention would not trust their masters to *issuë paper money*, it would much less confide such a suspected power to the veriest "money-changers" of the nation.

We have now done with the Constitutional part of this question, and shall proceed to consider the subject in reference to its expediency.

NO. VI.

As far as can be collected from the diffuse and somewhat unmethodized argument of the Report, on this point, we collect the following objects, rendering the Bank Charter, as it is said, *necessary and proper*.

1st. To facilitate the collection of the public revenue, and to transmit the same from place to place.

2d. To regulate the "currency" of the country, and to equalize the value of money, and as *incident* to this *incident*, to promote the objects of Commerce.

3d. To enable the Government to borrow money.

These are all the objects expected from the Bank, and are affirmed to be *expedient*, not, it must be recollected, for what Congress may be pleased to consider as general, wholesome regulations, but to carry into effect certain well defined powers of the Constitution. We must be very careful to draw the proper distinction between the reasoning, upon which it would be expedient to found a law, & that which seeks to find the proper construction of the law, after it is established. We must take the rule as *it is*, and not as it ought to be. We are not now making a Constitution, we are expounding one, and much of the reasoning of the Report, proceeds upon grounds and facts, that have transpired long since the instrument was sent forth to the world, and consequently could not have entered into the views of the Convention when deliberating upon the expediency of this measure, unless they were prophets, and this will hardly be claimed for them, any where, out of the pious land of New England. It may not be amiss, to give a few of the *assumptions* of the Committee to justify the Convention, for granting this power to Congress. On the score of expediency, for instance, they say the Government lost forty-six millions of dollars during the late war with Great Britain, just a quarter of a century after the adoption of the Constitution; "which would in *all probability* have been saved, if there had been a Bank." And again, much reliance is placed upon the *experience* of that war, as well as the *corruption* of State Legislatures in their partiality for State Banks, all of which, would do well for the creation of a new Constitution, but which certainly constituted no part of the reasons for any feature of the old. With this caution let us proceed.

All details must refer to general principles. We reason from gen-

erals to particulars, and it is always well to point to the former, before we can be well satisfied as to the correctness of the latter. It is a good general principle, then, that it is a bad rule that does not work both ways, under precisely similar circumstances.

All reasoning is fallacious that has any of its parts dependent upon unsupported assertion, for if any part be defective, exactly from that point all the after reasoning must be uncertain, and therefore unsound.

That the States can no more do without money for their support, than the General Government, and the latter ought to be entirely dependent upon the prosperity of the former, for its own well being. Any measure that counteracts this principle, must be wrong, for it cannot be presumed that the *Creator* left himself in a worse condition than the *creature*, who was expressly brought into being, for the good of the first.

That there was a point of time when this Union did not exist, and at that particular moment, they were as free and independent of each other, as the States of Europe are. Among all the rights of self-government which they were at liberty to manage and controul, they certainly had the power to impose what regulations they pleased, in relation to their own finances, and the monied concerns of their community. No Government can do without taxes: they vitally enter into the support of all civil rule. And it cannot be denied, if the preservation of life, liberty, reputation and property be the end and object of all Governments; the States have much more to do than the General Government, which really was formed for no other purpose than to aid in these great municipal objects. No man is so foolish as to impose two Governments upon himself, if one will do. The first Government all will admit, is the nearest to his interest, and of course, should be the dearest to his heart. In conferring power then upon the second, he will not give away from the first, what is essentially necessary to effect the great objects confided to its trust. In the States and under their wholesome laws, commence all the operations that set both Government's in motion. Stop them and all stop. Agriculture commences there, Commerce commences there, Manufactures commence there, and these are the great springs from which flow all the intercourse and dependencies of men, and the great urgency of laws competent to protect the infinite and varied relations, thence resulting. Money, as has been shown, being the great measure by which every thing is valued, must be essential to these expanded interests, and the very soul of Government for their protection. But these interests are not alike in the different States, they vary according to various circumstances, and hence the great diversity of municipal regulations in the several States. In conferring powers then upon the second Government, (and the General Government ought always to be considered secondary) the States said, and said no more, take the regulation of "coining money, and regulating its value," because, as the "sign of value," and made of the precious metals, it "can easily be reduced to the same standard in all nations," & consequently among us. But as to the business growing out of mutual intercourse at home and depending upon *paper credit*, such as bills of exchange, promissory notes, and the like, we can no more do without them, than

we can do without money, and, as its representative, they are peculiarly requisite to our local and particular situation, and the confidence resulting from the remedial character of our laws. With this business it is not expedient you shall interfere, because you are not presumed to know, either our wants, or the wants of our people, as connected with their private pursuits. Yours shall be general protective powers, relating to the whole, as against foreign or domestic enemies; be ours to direct the social habitudes, and regulate what concerns the civil and moral obligations belonging to the parts. This is the language of the Constitution. The precious metals being made the standard, and regulated in value by the General Government, so as to be uniform throughout the Union, who does not perceive that this is sufficient for all the purposes of that Government? And if they can again substitute a representative, for that which is itself nothing but a sign, where can they be made to stop in this substituting agency, and what security has the paper credit of the States, if the General Government is not closely confined to its metallic currency. Now if it is necessary for that Government to employ paper credit for its operations, it is equally so for the States, for they too, have precisely the same uses for it as relates to their Government, and a much greater as concerns the People. But it may be said that the States can make use of the Federal paper. This is impossible, because, as the Report has well said, the use of it by the Federal Government is not the same, nor alike, in all the States. For instance, what would be the situation of Georgia, if she had no other circulating medium but United States Bills? And Georgia is much better off than many of the States, being a large Atlantic State, and producing some of the most valuable staples known to the Union. In some of the States, to their great prosperity, the Government uses millions of Federal money, while in others, so far as employed for *public purposes*, it is scarcely known, and whatever is circulated there, over and above the uses of Government, is done by the *private corporation*, and to their private emolument, and what is infinitely worse, by wealthy persons and *BROKERS*, who procure it for the express purpose of speculating upon the wants and necessities of the people. But the most intolerable idea is, that they withdraw their bills from circulation by reason of their power over State Banks, and then do all their own business with State paper, at the same time miserably scandalizing that currency. Does the Report dare say any thing about *Brokers* speculating in State Bills, with a knowledge of the extensive and profitable traffic carried on by those persons in United States money? The Bank of the United States is not content with executing the Government powers itself, but forsooth it employs *Brokers* to assist in this holy work, and they have been actually furnished with funds to complete the ruin, which has slipt through their deadly gripe. These deputy bloodsuckers have been fastened like leeches, upon the States, upheld by the Bank, to the utter prostration of the paper credit of the States. Will it be contended that *foreign capital*, contributing nothing to the support of the State Government, perfectly independent of its laws, shall monopolize that very business, which rightfully belongs to its own capital, its own enterprise, better suited to the interests and convenience of its own soci-

ety, because more intimately connected with its resources. The General Government can command the paper credit of the States, by means of its controul of the Metallic currency, to any extent which its revenues may require, but the States can never command the paper credit of the Union, because by reason of the immense indirect tax, which they pay in one quarter, and the purchase of public lands, in another, they are the constant debtors of that Government, and without a paper credit of their own, they must suffer, both in the receipt and disbursement of their public funds, and in the inability of their citizens to meet their public and private engagements. Besides the United States Bank cannot more than furnish one third of the demands of all the States; upwards of one hundred millions being required for that purpose.

The General Government, after the public debt is paid, will have a use for only twelve millions of dollars, and notwithstanding it has the exclusive power of coining money and regulating its value, and of imposing taxes to any amount it pleases, it alleges the surprising fact that it cannot perform its operations without the aid of private capitalists, without applying to *individual credit*. And in order to obtain this aid, it confers the privilege on these individuals of employing at least a capital of thirty-five millions of dollars, and another enormous sum, as will be shewn hereafter, throughout the Union, in almost the exclusive operations of bank credit, producing a profit to themselves, and drawing from the bosom of the community a sum that would be amply sufficient to discharge the civil list of the government, and which would certainly enable it, if it went into the public treasury, to pay five times over, the collection and transmission of its funds, by private agents, even if carried in gold and silver from one end of the Union to the other. What! the government not able to collect any pay out twelve millions without the aid of bankers? Is its credit so low as that? There are many single individuals who wield as large a capital, and with very great ease, with but half the advantages of the government. But say the committee "it is facilities" we want! We know we have the *credit*, the *capacity*, but our officers want someone to do their business for them! Ah! this is the great secret! Now here is all the advantage at last. The collectors receive bills and pay them into the banks, and then their trouble ceases. They are exempt from the labor of counting gold and silver, which the government could certainly require, and it would as certainly be paid, and they are rid of the risk of keeping it. The banks are more than willing to keep it for the purposes of speculation, and thereby are well paid for what little they do in keeping and transmitting it from place to place. The collectors report to the higher treasury officers where they have deposited the public money, and these last, by the easy and safe process of simple checks, transact the rest of the business, by which they are eased of a world of trouble, though they receive for it a world of money.

As to the collection of the revenue, the bank has nothing to do with it; this is done, or ought to be done, by the officers of government, who are well paid for it; it is generally deposited in bank, but we apprehend it would or could be made just as safe any where else, and it could be brought to the public treasury or such other places

of deposit as it might choose to establish, for the thousandth part of the profits made by the bank. And as to its future disbursement we shall speak hereafter. This brings us to the second object of chartering the bank.

The committee say the "question 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 and adequate control whatever."—Now this is a sheer assumption, and subjects all the after reasoning to the charge of doubtful if not false conclusions. The committee assume that there is obliged to be a paper currency on the part of the General Government, and that Congress, through the bank, is alone competent to its regulation, and to make it of uniform value, and that the States, through their banks, with Congress to help them, cannot do the same thing. Now, we say this is not the question, that there is no necessity for a paper currency, a metallic one being, as we have already shewn, provided by the Constitution, it totally excludes a paper currency; if there is any difference between the two, and that the committee have admitted, as we shall presently see. And we farther say the bank has not, whatever it may hereafter do, in the language of the President, "established an uniform and sound currency," and that the State banks can do it, with like advantages, to the same extent of the federal institution.

The committee had just before intimated, if it was "submitted to them as an original question," and they were left to choose between the manifold facilities of bank credit and bank paper, and 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," (a metallic currency, and here they admit the distinction between the two.) Now, this is a concession made under that head of their Report which relates to the expediency of establishing the bank. If there was any thing which would "give a decided preference to the more costly and cumbersome medium," this was the very season for yielding it, when the expediency of the measure was immediately under debate. They surely forgot that they had just finished the constitutional point, and though they decided it in their own favor, yet it by no means settled its expediency. It does not follow that because it is constitutional it is therefore expedient; with all deference to their better judgment, they had a right when examining the utility of the measure, to choose between the "manifold facilities" and "the distressing vicissitudes," and they might well have said in the better language of the poet,

"Trade it may help, society extend;
But lures the pirate, and corrupts the friend,
It raises armies in a nation's aid,
But bribes a SENATE, and the land's betray'd."

The proper question is not to choose between two kinds of paper currency, but whether they can choose paper currency at all. We

say they cannot go the breadth of a hair beyond what is expressly given in the Constitution. We have already shown that two kinds of currency are not given in that instrument, and if they can use more than the one actually given, they can twenty, nay, any number they please. We presume every one will admit the inexpediency of any measure that violates the Constitution, and that there are no considerations which will justify it. To "coin money and regulate its value." is all, and the only currency with which the General Government has any thing to do, and the Committee have conceded that it is a very distinct one from a paper currency. Every new power claimed for Congress, is at the expense of the wisdom of the Convention; and that body, so much the theme of eulogy, & as it was thought, of such deathless fame, are destined to be *construed* out of their common sense, or into an assemblage of knaves. Does any man believe they know nothing of a *paper credit*, and that it was the representative of the *precious metals*? Has every thing on that subject happened since the summer of '87? And can it be believed, when settling the clause of the Constitution, which conferred the money making power, if they had intended the currency should be any other than what was there expressed, and which all nations have used, they could not easily have so declared, they could not have said, when the "public good" may require it, Congress shall have power to substitute Bank bills for the *precious metals*? No, they had more true wisdom, they said to Congress, make gold and silver the foundation of your currency, and it will regulate and keep within proper bounds, all the paper fabrics that may be reared upon it, and leave these to individuals. But take the *precious metals* away, and it will be like that man who "built his house upon the sand."

NO. VII.

And this is the experience of all ages. If the thirteen Kingdoms of Europe, perfectly independent of each other, and not more sovereign and independent than the United States are of each other, in their reserved powers, can get along with a metallic currency, and their own local institutions, without the aid of a General Bank to issue a paper currency for all Europe, why may not the twenty-four Sovereign States, do the same thing? If they had remained independent of each other, every body sees they would have done it, and what produces the necessity of taking that right from them? If it be answered, for the purpose of borrowing money for the benefit of that Union, of facilitating its commerce, of collecting, transmitting, and disbursing its funds, then we reply, you are provided with the only means of effecting these objects, in the metallic currency, prescribed to you in the Constitution. And as a further proof of this, we ask you, do your Bank bills circulate in Europe, as they do here? Are they there employed to facilitate your foreign commerce, more important on the score of revenue than your domes-

tic? Do they answer to pay your Ambassadors, Consuls, Navy, and many other purposes, for which you have a use for money abroad? Do they assist you to borrow money in Europe, where you can certainly get it upon better terms than at home? Ah! as to foreign countries, our worthy and esteemed corporation has as little credit or control, as the State Banks! It can only grind the twenty-four States. And pray, why do you not extend its Charter over all the world, at least where you have any business? You certainly have the right, you have a great foreign commerce, you have much money to disburse abroad, you may sometimes want to borrow money from thence, and this Corporation being a necessary and proper instrument to effect those objects, no foreign State would dare dispute your authority, and if they did, you could tell them that the point is settled, that the Federal Court has determined that the twenty-four States, as Sovereign as they are, on this subject, have been compelled to submit to it! But perhaps you will say, rather than have any disturbance about the matter, though we have no doubt of our right, yet as Mr. Blackstone says, "money (made of metal) is an universal medium, and can easily be reduced to the same common standard in all nations," we will transact our business abroad with that currency, through the usual substitute employed by individuals, commonly called bills of exchange, and drafts, and sometimes the valuable productions of the country. These though they answer every purpose abroad, will not do at home. It will not give to a favorite corporation, a monopoly of all the monied transactions of the country. Will the time never come, when the people will open their eyes to this glaring usurpation!

The Committee proceed to give a dreadful picture of the paper currency of the country, during the late war, and the very great obstacles which it threw in the way of the Government, in the prosecution of that contest. And by way of giving a melancholy case, they state that, in the sum of eighty millions of dollars, borrowed by the Government, it lost forty-six, more than half, for the want of a Bank. Before we answer this argument, we must solemnly enter our protest against reasoning away any of the provisions of the Constitution, by events happening subsequent to its adoption, and not foreseen by its framers. Such arguments will sooner or later, prestrate every principle within that instrument. For nothing short of inspiration, can provide for all the inconveniences which lie in the path-way of every human regulation. Now let us see how they establish the loss above mentioned. In the first place, they say, the Government had to give its paper for eighty millions to the persons from whom they borrowed, and received, in return, but sixty eight millions, not in cash, but "in such Bank paper as could be obtained." This was fifteen per cent. they had to give for borrowing, "a loss (say they,) 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." Now we know several pleasant anecdotes about this very same, if, but as we expect they, or some of them, are well known to all our readers, and as we do not wish to give an air of ridicule to so grave an argument as a Congress Report, we will forego the pleasure of their mention, reserving however, to ourselves the benefit, of the princi-

ples which these humorous cases have settled, for it was therein decided that, if is no axiom, nay, not even a postulate, and consequently the loss of this twelve millions is not yet proved. But suppose the Bank had been in existence, are we to understand that it would have lent the eighty millions to the Government for nothing? Now this must have been the case, if twelve millions were lost. Who believes such a doctrine? When has it ever lent money for nothing? If there be such a case, it ought to be canonized! If then it would have charged but five per cent. this would have reduced the loss to eight millions. But we do not know what it would have done. The same state of things might have produced the same result with that institution, for the money was mostly borrowed where State Bank paper was at par, and could have actually commanded the specie as appears from the Committee's own shewing, in their table of prices current affixed to their Report. There is however, some other reason for this 15 per cent discount, independent of the depreciation of the paper currency, and we are sorry, for the want of the laws and terms regulating the loan; that we are not able to explain it. But as the Committee have acted so disingenuously in concealing it, we hope it will occur to those familiar with the circumstance. Every body knows money did not lend at 15 per cent. and that, at the time, the Government was said to have procured an advantageous loan. Now as to the other part of the loss. Listen to the Committee: "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, and therefore, there 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." This argument is enough to startle plain men, who take every thing their great men say for holy writ. But surely this Committee have very short memories, or hope their readers have, for just before this paragraph, they had referred to their price current of the relative value of Bank notes at various places, and stated particularly, that the greatest depreciation was but twenty-five per cent. and that, but at one place in the United States, to wit, at Pittsburgh. Now supposing, merely for the sake of argument, and not by any means to convict the Government of folly or fraud, that it had received its loan, at Boston, where bills were at par, or New York, where they were only about six per cent. discount, and had taken the pains to go all the way to Pittsburgh to exchange their money for her 25 per cent. depreciated bills, this would only have made the loss seventeen millions. But the truth is, if any one will take the pains to look at the Committee's price current, he will see that north of N. York, bills were nearly at par, and upon the most liberal allowance, the average discount did not exceed four per cent. Be this as it may, it was no where fifty per cent. according to their own exhibit, and this it must have been, to have produced a loss of thirty-four millions. For such an unwarrantable assertion, we at first inclined to the belief that the Committee intended to shelter themselves under another position, which they had borrowed from our worthy author Mr. Blackstone, viz: "If when the circulating medium is fifty millions,

an article should cost one dollar, it would certainly cost two, if its quantity should be increased to one hundred millions." But when they say the "loss resulted *exclusively* from the *depreciation* of the currency," and had previously admitted that an increase of circulating medium did not affect the credit of Bank bills, but only the prices of commodities, we can no longer doubt they over-reached themselves or underrated their constituents. These are some of the arguments upon which the expediency of the Bank is attempted to be supported, and we have been thus particular in analyzing them to make good one of our principles, early laid down, that all reasoning beyond the point of ascertained error is cloud, smoke, fog, or any thing you choose, but truth or faith.

But the refutation of the above argument was essential on another account. The Committee employed it for a double purpose. It was to subserve the cause of another interest, besides that of the Government. After asserting the loss of 40 millions on the part of the nation, they say, "if they shall make this apparent, the House will have something like a standard for estimating the *individual losses* of the community." Can it be possible, we are told that Congress have the right to charter a Bank to protect "individual losses?" Now this very argument shows how insidious and encroaching are the federal powers. After torturing the Constitution to make it confess the right to employ a *private corporation*, to aid the Government in effecting some of its own express powers, behold, now, it must give up the same privilege to help *individuals* to collect, transmit and disburse their funds from one end of the Union to the other! Is this also an *express power* in the Constitution? In the early part of the Report, the Committee acknowledged that the Government had no right to incorporate a Bank for any other purpose, but that of carrying into effect some of the "powers expressly entrusted to its jurisdiction," and yet it now boldly attempts to prove to Congress, that the interests of private individuals require such an institution, under the miserable pretext that it facilitates commercial regulations, whether the money conveyed by the Bank, resulted from that source or not, as if there were no other transmissions of money but such as spring from Commerce. But even if this were true, will it be contended that the Government is bound to furnish merchants with an easy and cheap method of borrowing, and transmitting their private funds, from place to place, merely because they are engaged in *Commerce*? Is the Government so uncandid, as not to admit a distinction between their *own rights* over Commerce, and the *private rights* of individuals in that business? Are they going to contend for such an expansive property in this power to regulate Commerce, that they can legislate upon every subject, however remotely or incidentally connected with it? If they do, then all merchants' contracts, all bills of exchange, drafts, promissory notes, made and given on that account will be drawn within their jurisdiction. If they feel it to be a Constitutional duty to furnish Commercial men with the facilities of exchange, why do they not give them the benefit of the Post Office Department, *free of expense*? Their mercantile letters are very important in their business, and this is a speedy method of transmitting them from one end of the Union to the other, and indeed, it is not

a very unsafe way of transmitting money. Why not allow them the *franking* privilege? Not quite so fast! this will be taking a little money out of the purse of the Treasury, whereas the other plan takes it out of the pockets of the people at large, and what is infinitely worse, puts it into the pockets of a few privileged money holders, who constitute an absolute monied tyranny over the fiscal concerns of the Sovereign States.

What right have Commercial men to these facilities, more than any other class of men? It is one thing to regulate Commerce, and another to grant monopolies or exclusive privileges to those persons engaged in it. A plain question will settle this matter. Could a Bank be chartered by Congress for the *exclusive* purpose of affording merchants the convenience of borrowing, collecting, disbursing and transmitting money? We presume the period is not yet arrived, though doubtless it is not far distant, when any man can be found so hardy as to contend for such a doctrine. Then, will it be said, by uniting with it a Government object, it can be done? This the Report most unequivocally declares.

But the same argument of the Report in favor of the Bank, is its effect in equalizing the currency, and to establish this point, it flatly, though somewhat smoothly, falsifies the position of the President, that "it has failed in the great end of establishing a uniform and sound currency." A very laboured statement is made to shew that the Bills of the Bank are better than specie, which all ends in the *surprising* fact, that though the Bank is left with the power to demand what per cent. it pleases, in paying the bills of one branch when presented at another, yet they *never have* abused this power, further than to ask, *upon an average*, "one half of one per cent." Wonderful forbearance! Now we say this admission of itself, proves the President's statement. But this is not true, it has exceeded that amount, as is well known, and what is worse, it is different at different places. According to the Committee's own shewing, the bills of some of the branches, are received at other branches at par, while others again are compelled to pay a premium. For instance, the bills of Philadelphia and New York, are received at Lexington at par, while those of Savannah, have to pay at the same branch one and a half per cent. discount; and their table exhibits many such examples. Is this "Uniformity?" And if it is not, how far is the President wrong?

We shall, however, always contend that a power *not abused*, is no evidence of its legality, or the propriety of vesting it. Let any one, just for one moment, coolly reflect that a private monied institution has in this country the right to set up, all over the Union, certain offices, furnished with bills, and though all belonging to the same persons, they are permitted to buy up in all directions, *their own money*, at any discount they may choose to ask, merely because they choose to make it *issue from different places*, and because they know from the great intercourse of the people, this very arrangement will forever meet wants that must be supplied at a sacrifice, and then ask himself, if such a system can have the sanction of a Government professing to be just and honest? To us the very idea is intolerable. So long as the Bank has the right to demand what they please, and are perhaps only restrained by their own interest from its exercise,

or in other words, are not quite so foolish as the boy who ript open his goose for all her golden eggs at once, the currency of the country is neither "uniform nor sound." We are at the mercy of a monster, whose *sagacity* is its *conscience* and regulator of its appetites, not so much by the quantity, as the constancy of its gorges. But of all the evidences selected in proof of the forbearance of the Bank, this is not only the most unfortunate, but certainly the most delusive, and but a single thought will convince the most skeptical. If this half per cent. was all the Bank got for its accommodation, is there any folly so great as to believe it would accept and exercise its Charter? Would it transact all the drawing of this immense empire for this premium alone? No one believes it. The mind naturally looks abroad for the reason of this *great* accommodation, and is the more curious on this subject, as it recollects that a Bank was never known to do a favor, even from the most sickly sentiment of liberality. But the mystery is all cleared up when it is remembered that connected with their own immense capital, by which they control all the monied transactions of this extensive country, and wielded as it is, in every manner in which an artful monopoly can employ it, to their incalculable advantage, they have the full benefit of twenty-five millions more of public money. Well may they accommodate the people with so small a discount as *one per cent.* when it is done with the people's own money, drawn into their vaults through the ever-aching passage of Government burthens. Who would not sell and buy his *own notes* at one per cent. if he were furnished with the money for nothing? Oh! Astonishing moderation! Amazing forbearance!

NO. VIII.

We have no hesitation in hazarding the declaration, that if all the profits of the Bank could be fairly known, in all its various branches of business, taking into view all its oppressions, its tyranny over the State institutions, and consequently the interests of the people of the States, as practised by their vampires, the Branches and the Brokers, it would as far exceed in point of expense and inconvenience, the good old way of transacting this kind of business by drafts and bills of exchange, as drafts and bills of exchange are now said to exceed the Bank-bill method of exchange.

But another reflection is suggested at this place. If the bills of one branch are not redeemable at any of the others, what is the difference between them and State Banks? If they do not even know each other, but by the usual temper of speculation, why are they to be preferred to the local institutions? Is there a charm in having one bank called the mother, and all the others cycled the branches? What is to hinder the State Banks from doing this bu-

* One per cent. on \$25,000,000 is a profit to the Bank of \$250,000, and this is made out of the Government money alone.

usiness, if they have the same advantages of the public deposits? It is to be hoped that all the money, credit and talents for banking, the only secrets of a bank, (unless a large share of dishonesty should be one) do not exclusively belong to the U. States Bank. There have been some State Banks that have managed as well, and supported as good credit as the Federal Bank, at least as well as the branch at Baltimore. Is there not as much wisdom in State Legislatures to regulate these institutions, as in Congress? Congress is composed of men from the States, and it is fondly to be hoped they do not quite take away all the sense belonging to those unfortunate *dependencies*. Ah! but says the Report, the State Legislatures lack integrity: they are fond of an unsound currency to "attract importations to the points of greatest depreciation:" they are afraid of their popularity: they are afraid of "distressing" their constituents, by making the Banks honest. Now what faith can be placed in reasoning like this? What kind of a cause must that be which requires such an insinuation? Upon what times have we fallen, when the very creature complains of the corruption of its maker, and claims all the public virtue of the country? The Report delights to draw upon experience for arguments. When did ever the States act thus basely? It is true they have acted ignorantly, and for the want of experience in a new business. many evils have resulted, but is this any reason why they should not profit by their misfortunes, and improve the system? If any measure of Congress has acquired any degree of successful operation, on this subject, surely the States *need* never despair. To wind up this part of the argument, we feel disposed to afford our readers a small matter of amusement, and it is well, occasionally, to stir such a feeling, in the debate of a question offering so many provocations to our highest sense of indignation. Speaking of State Banks, and their great incompetency to manage the currency, even of their own States, the Report *modestly* states that, "when BANKS have the power 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." Merciful heavens! that the Bank of the United States should hold such a language to the Banks of the States! It is like the language of the wolf, who, when rising from the repast of a lamb, and observing an innocent dove expiring in agonies, within the talons of a vulture, thanked his God he did not live by rapine and murder! We have said some where in this long discussion, that it is a bad rule that will not work both ways. We think we now afford the remarkable, and we trust no less bappy case for its application, and this case is found in an elaborate argument in favour of the *expediency* of a BANK!

For the obvious reason that the State Governments will exactly pursue their own true interests, as well as the General Government, that they have as much, and indeed more use for Banks than the latter, that they have, too, just as much honesty and intelligence, that their monied men have as much skill and experience as the Stockholders of the Federal Bank, will State Banks be *finally*

managed and usefully conducted as any national institution whatever, and it is no good argument to draw unfavorable conclusions from a different experience of the past. Evils of that kind will correct themselves, and the United States Bank furnishes a memorable instance of this truth, for no establishment reeled more in its commencement, and none, for a season, so dreadfully threatened a speedy exit.

Let the General Government positively require all its revenues to be paid in specie, or the bills of specie paying Banks, and let firm and well regulated State Banks be made the places of public deposits, and why may not the same consequences be expected from them, as from the branches conducted precisely upon the same plan? If, as the Committee have declared, the Bank of the United States by a "salutary agency," has "enforced specie payments on the part of numerous local Banks," and thereby secured a sound currency, why may not "salutary enactments, on the part of Congress do what the Bank has done? Does any one believe that State Banks could not make arrangements to pay off each other's bills, and to honor reciprocal drafts? Will not the deposits of the public money, in various quarters of the Union, enable them with the greatest possible facility, to effect this object? Make it their interest and you will have, to the letter, the same results that you now have from the U. States Bank, and its numerous branches. The Report remarks, "the fact that the bills of the United States Bank, and its branches, are indiscriminately receivable at the Custom-House, and Land Offices, in payment of duties, and for public lands, has an effect in giving uniformity to the value of these bills, which merits a more full and distinct explanation." Now, do precisely the same thing to specie paying State Banks, and our life for it, precisely the same effects may be expected. Have not the U States Bank and its branches, constantly received the bills of reputable State Banks? Does any one so risk his understanding as to believe, for a moment, that this old Fox and her litter did not know what they were after, or that they expected to lose any thing by such a course? As we stated before, did they not do the greatest part of their own business in State paper? And why may not the General Government do the very same thing? It timorously gives out that it is afraid to trust the State Banks, and yet its very agent takes a pleasure in doing it, as well for the profit of such a confidence, as occasionally to indulge a malicious pleasure in devouring them.

But let us listen to the argument of the Report against the position we have just advanced. "It is said (continues the Committee) that this government, by making the resumption and continuance of specie payments, the condition upon which, the 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 connection between the Federal Government & the State Banks, would be exceedingly dangerous to the purity of both." The Committee then proceed with another string of ifs; "if there

was no National Bank, and if 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 [if] not possessed of perfect purity and unbending integrity, it would be eminently dangerous to the public liberty, and the most extensive corruption brought to bear upon the elections throughout the Union. Can it be possible that the good sense of this country will be taken and led captive by such logic as this? Did ever any one witness the adroitness with which the reasonings of the Committee perform the facings and wheelings of political manœuvring? When talking of the National Bank, all is safe, all is proper and necessary! No danger to be feared from its influence! Not the least harm to be apprehended from a "connection between the Federal Government," and that institution! Can be so regulated as not to interfere with the Government! Its immense power can be so fettered and muzzled that even children, with perfect impunity, may loll upon its claws and sport with its very fangs! But the moment they turn to State institutions, they admonish in the most alarming tones to "tread with cautious step this dangerous ground!" Every thing is big with horror! When descanting upon the bills of the United States Bank, "they are more to be desired than gold, yea, than much fine gold!" But when they turn to the bills of the States, then what an uproar about the public liberties! What an effect upon the elections! What instruments in the hands of ambition! Nay, they might exclaim in the bitter strains of the poet—

"Curs'd paper credit! last and best supply!
That lends corruption lighter wings to fly!
Gold imp'd by thee, can compass hardest things,
Can pocket States, can fetch or carry Kings;
A single leaf shall waft an army o'er,
Or ship off *Senates* to some distant shore—
A leaf, like Sibyl's, scatter to and fro
Our fates and fortunes, as the wind may blow;
Pregnant with thousands flits the scrap unseen
And silent sells a King or buys a Queen."

Let us however come down from this delusion. We are only spell bound by a mere flourish. As our uncle Toby said to corporal Trim, when weeping over one of poor Yorick's Sermons: "why, man, there's not a word of truth in it, 'tis nothing but a sermon!"

The Committee commence this terrible foreboding, by saying, "they will not stop to give their reasons for believing that specie payments, (on the part of State Banks) could not restore the currency to a state of uniformity." Now they will pardon us, and we think we have the right to make the assertion, that they had no reasons to give, and it is one of those artful movements, often used by a dexterous debater to carry the question from the judgment to the imagination. It is a long settled and well known principle of evidence, that the best testimony of which the case is susceptible shall be produced, and its absence shall involve this consequence.

that it does not exist: for no man is presumed to be under the influence of such unmeaning folly, as to suffer *that* to be lost which he has it in his power to save. We claim the full benefit then of this rule, not less sound than safe, and demand of the Committee to "stop and give their reasons" on this point, for we hold it to be the most important in the whole discussion. Once admit that the State Banks can do all that is done by the Federal Bank, & the question is at an end, for there is no man of one spark of honesty or one ray of intellect, that will not find his verdict in favor of the former. We are not to be frightened out of the matter by an appeal to our fears. No man believes, that if the public liberties are safe under such a *Patagonian* as the National Bank, they have any thing to dread from such a *Lilliput* as a State institution. If there should be but one in a State, there will be no competition. If more, but one can be favored, and that will be sufficiently checked, not only by all the others, but what is better, by the good sense of the community, the Ark of all our rights. There is no more danger from that source than from any other branch of governmental patronage. The moment a State Bank, well restricted by the law of its institution and better guarded by rival interests, can overthrow the liberties of the country, depend upon it, they overthrow themselves, and this is contrary to every principle of self love. Besides, the state of that society is rotten down to its lowest foundation, and is ready to crumble, from any cause, that can be subverted, or even subjected to a tremor by a *petty corporation*.

We are admonished to bring our remarks to a close, by the fatiguing length to which they have been extended. Much more could be said: less, with any regard for the question, could not. We have ever considered this subject as fraught with wider, deeper and more impending dangers than any which stands connected with the Federal Government. We believe it has opened the way to all our present misfortunes. We believe if not arrested, it will end in the consolidation or dismemberment of the Union, either of which cannot be viewed without unspeakable solicitude. We believe the opportunity is once more presented to bring the nation to a state of sober reflection, and its Government back from a mad career, and if the public judgment is not distracted by the strifes of ambitious men, straining after high appointments, at the expense of principle and virtue, there will be a decision in favor of the Constitution. There is something so odious in uniting a great and flourishing Government, founded upon equal laws, whose principles disclaim distinctions, whose benevolence abhors oppression, whose virtue detests extortion, whose simplicity disdains extravagance, with a great stock-jobbing engine, that the good sense of this community must, sooner or later, drive their Government from such an unholy affiliation. What! the pure and boasted republic of America connected with the grinding exactions, the unfeeling avarice, the insatiable cupidty of a money making corporation! Is such a Government necessary to the distresses of its people and more particularly to the violation of State Rights, merely to uphold over-grown wealth, and to legalize its power, always sufficiently oppressive in any of its combinations and possessing more than its proper influence under all its modifications! It cannot be. The intelligence and public vir-

tue of this country must revolt against it. The over-reaching cunning of speculation, the corrupting thirst for ill-gotten lucre, the contaminating passion for hoarding wealth, the sordid desire to wield the power which fortune confers, with all its disgusting train of inflated pride, over-bearing arrogance and haughty mien, alike destitute of charity or compassion, and the legitimate progeny of the banking system, must give way to the illumination which is increasingly pouring upon the growing intellect of this rising country. The present tendencies of the Government, alas! are selfish to the last degree. There is at present a withering spirit of monopoly, operating with a singularly double purpose, which while it deadens every feeling of liberality, quickens and inflames every secret spring of avarice, and seems more than to justify the severity of the satirist.

"That Satan now is wiser than of yore
And tempts by making rich, not making poor.
The tempter saw his time, the work he ply'd;
Stocks and subscriptions pour on every side,
'Till all the demon makes his full descent
In one unbounded show'r of CENT. per CENT.
Sinks deep within them, ev'ry thought controls,
Dubs them DIRECTORS, and secures their souls."

APPENDIX.

Messrs. Editors—While my Review of the Bank Report, was publishing, I received an anonymous letter from one of our Commercial Cities, informing me, among other things, "that scarcely a particle of the Report on the Bank of the United States, was penned by Mr. McDumie, but penned by those immediately interested in, or employed by, the Bank;" and that, "the following individuals can tell who penned that document: Langdon Cheves, N. Biddle, Mr. Ingersoll, &c. &c." Now, concerning this matter, I not only know nothing, but believe nothing. I give the fact as I received it. If true, it speaks volumes. If not true, the honorable chairman of the Committee, or the gentlemen above named, should promptly disabuse the public mind as to the alarming suspicion which such a circumstance is calculated to inspire. For the sake of the purity of their deliberations, Congress ought to enquire into it, if there is the slightest foundation for such a belief. This much we do know: one hundred thousand copies of the Bank Report have been published, at the expense of the Bank; it has been republished in all the papers in the U. S. friendly to that institution, and particularly in a certain small paper, which from its great circulation charges a dollar a line for every thing given to the public in the nature of advertisements. And under all this strong and high pressure operation, the State Banks, in perfect consternation, have gazed upon the scene, as if their eyes were set in death, without a solitary struggle to parry these deadly efforts designed for their future destruction.

The United States Bank, at present, holds a most mild and conciliatory port, towards the local Banks, but just let it be again rechartered, and my word for it they will be crushed like the foolish and fatal worshippers of Jugernaut, never to rise again; for, once more re-established, and its influence is fixed beyond all futuric control, even from the General Government itself.

There is one other idea, I omitted in the Review, properly belonging to the question of expediency, and which I will take this occasion to mention. There is no Bank, whose bills are so much counterfeited as that of the United States. In the up-country of Georgia, there is an universal suspicion of every bill, of that bank, that is in circulation. And these spurious bills, and consequently the public suspicions, will be greatly increased when the counterfeiters come to learn that, if apprehended, they cannot be punished, because in ninety-nine cases in a hundred it will be impossible to procure the evidence necessary to a conviction, and therefore this currency must always be doubtful. For instance, a counterfeiter in the back parts of Georgia forges his bills on the branch of Maine, and vice versa. Now, how are witnesses to be obtained from these branches to detect the forgery? Will a clerk come from Maine to Georgia, to prove the forgery of a Five Dollar bill? And if he will, will he do it more than once? The thing is impossible? Now this evil will not, nay, cannot exist with the State Banks. We have experience on this subject, the best of instructors. It was but at the last term of Habersham Court, two men were discharged for counterfeiting or passing counterfeit money, (another very frequent occurrence) of the Branch Bank at Boston. Our penal code will not suffer the accused to be detained longer than two terms, for trial, if he appear at each, and demand his trial. This was done in the above mentioned case. The Solicitor General, in the meantime informed the Bank, by letter, of the circumstance, and at the second term receiving no answer nor witness, he was compelled to deliver over the culprits to the renewal of their dirty work. And this will be a constant and growing evil throughout the United States. I hazard nothing in saying, that half the money, of that bank, circulating in the western limits of Georgia, is spurious, and what makes it worse, among an honest people not acquainted with counterfeit money.

A. S. CLAYTON.