

If the reader of the common version find passages which convey no meaning to his mind, and if in this he find the place of these passages supplied by others, which, beside being clear, are harmoniously consistent with the spirit and sentiment of the rest of the Psalm, he has reason to believe, that the translator has faithfully discharged his duty. Let this test be applied to the work before us, and we believe it will be approved. There are one or two alterations, which we regretted to see ; but they are not very important, and we are confident that its solid merits will secure the favor of all, whose good opinion the author desires to gain.

ART. VIII.—*Bank of the United States.*

1. *Report of the Majority of the Committee of the House of Representatives, appointed on the 14th March, 1832, to inspect the Books, and examine into the Proceedings of the Bank of the United States.*
2. *Report of the Minority of the Select Committee, appointed to examine the Books and Proceedings of the Bank of the United States.*
3. *Report of MR. ADAMS, of the Committee appointed to examine and report on the Books and Proceedings of the Bank of the United States.*
4. *Message from the President of the United States, returning to the Senate, with his Objections, a Bill to modify and continue an Act, entitled an Act to incorporate the Subscribers to the Bank of the United States.*

The question, which involves the fate of the Bank of the United States, is now before the country ; and no man can say, that the means of forming a just opinion of its merits are withheld from those by whom it is to be decided. The closest scrutiny into the affairs of that institution, which suspicion ought to dictate or prejudice demand, has been already made ; none of the instruments, by which public sentiment could be excited against it, have been overlooked, or employed in the spirit of lenity ; the counsel on both sides have been fully heard ; and the people of the United States, the good men and true, are about to declare their verdict. We hold it to be a great error to maintain, that it is of little consequence at what determina-

tion they may arrive. Be that determination what it may, it will seriously affect the interests of the country, for good or evil, for many years to come. It is, therefore, to be regarded as a great public question, in comparison with which the interests of this party, or that individual, sink into insignificance; and which must be considered, by those who would view it aright, solely in reference to the general welfare. In this light, we have on some former occasions attempted to examine it; and in resuming our observations, we propose to take up the history of the Bank where we left it, and to give as large an account as our limits will allow, of whatever proceedings have been since instituted in relation to it, together with some remarks on the message of the President, in which he refuses his assent to the bill passed by both Houses of Congress, modifying and renewing its charter.

It is well known that the Executive has deemed it expedient, in his communications to Congress at the opening of their several sessions since his induction into office, regularly to express his objections to the Bank, and his hostility to its continued existence, as it is at present constituted. In his introductory message at the last session, after remarking that he had previously, on more than one occasion, felt it his duty to declare his sentiments upon the subject, he added that he thought proper, 'without a more particular reference to the views of the subject then expressed, to leave it for the present to the investigation of an enlightened people, and their representatives.' A remarkable difference of opinion, however, appeared at this time to exist between the President, and one of his official advisers. The report of the Secretary of the Treasury, on the state of the finances, bears date on the day following that of the message. There was no intimation in the latter, that the sentiments of the President had undergone a change; on the contrary, the reference to his former communications indicated, that they remained the same as before; while those of the Secretary of the Treasury were expressed with frankness and decision in favor of the existing Bank. He regarded its constitutionality as clearly and definitively settled; and the experience of the Government had, in his judgment, demonstrated with equal clearness, the indispensable necessity of such an institution to the fiscal operations of the country, the security of commercial transactions, and the safety and utility of the local banks. Without asserting

that the organization of the existing Bank was wholly free from objection, he insisted, that the judicious manner in which its affairs had been conducted, the accommodation which the Government and people had derived from it, and the knowledge it had acquired of the business and wants of the various sections of the country, a knowledge, which could be gained only by time and experience, together with the danger of withdrawing the facilities afforded by it, even for the purpose of transferring them to another institution, gave it strong claims upon the consideration of Congress, in any future legislation on the subject. These considerations induced him 'to recommend the expediency of re-chartering the Bank at the present time, and with such modifications as, without impairing its usefulness to the Government and the community, may be calculated to recommend it to the approbation of the Executive, and,—what is vitally important,—to the confidence of the people.'

So early as December, 1829, the President had recommended this matter to the consideration of Congress, as being, at that time, a proper subject for legislation; and though he has since declared that he considers 'present action premature,' it is not surprising that this circumstance, combined with the energetic exhortation of the Secretary of the Treasury, independently of the fact, that their application had been delayed as long as it could be when there was any hazard of an unfavorable decision, should have induced the officers of the Bank to present a petition for the continuance of their charter. The memorial of the President, Directors and Company of the Bank was accordingly presented early in January last, to the Senate by Mr. Dallas, and to the House of Representatives by Mr. McDuffie. In the Senate, it was referred to a select Committee. Various modes of reference were proposed in the House, but, after some debate, it was referred to the Committee of Ways and Means; who, on the 10th of February, reported a bill, the particular provisions of which it is unnecessary to notice here. Before this bill had been considered by the House, a resolution was offered by Mr. Clayton, of Georgia, providing for the appointment of a select committee to examine into the affairs of the Bank, and report thereon, and investing them with power to send for persons and papers. In the speech with which that gentleman introduced this proposition, he presented to the House certain

allegations of misconduct on the part of the officers of the institution, seven of which he considered as involving violations of its charter; while the residue, fifteen in number, were designated by him as 'abuses worthy of inquiring into, not amounting to forfeiture, but going, if true, clearly to show the inexpediency of renewing it.'

Whatever might be the merits of these singular specifications, precision was not among the number. They were designated by Mr. Clayton as an indictment; and among the counts was set forth 'a strong suspicion of secret understanding between the banks and brokers, to job in stocks, contrary to the charter;' a charge, on which none but a flinty attorney-general would put either fellow-being or corporation upon trial. These accusations were represented by Mr. Clayton as demanding an instant and rigorous investigation, which the proposed committee were to institute. On this resolution, a debate arose, which was continued about a fortnight, in the course of which various amendments were offered and successively rejected. It was at length proposed by Mr. Adams to amend the resolution, by striking out all that portion which followed the words providing for the appointment of a committee, and inserting the words 'to inspect the books, and to examine into the proceedings of the Bank of the United States, to report thereon, and to report whether the provisions of its charter have been violated or not.' The amendment also empowered the committee to meet in the city of Philadelphia, invested them with authority to send for persons and papers, and instructed them to make a final report on or before the 21st day of April following. As was intended by the mover, it wholly changed the character of the resolution. The mode of investigation contemplated by that resolution was one, which was regarded by Mr. Adams as neither authorized by the charter of the Bank, nor within the legitimate powers of the House. It would have affected not only the officers of that institution, but the rights, interests and characters of persons not responsible for their proceedings, and over whom the House had no control; and was, therefore, in violation of the security to individual rights, given alike by the charter and the law. His views upon this point are presented in his separate Report with great clearness and strength. It would seem that his reasoning was acquiesced in by the House; a motion, which was made to amend his amendment, so as to authorize the committee to inquire whether the

provisions of the charter had been abused as well as violated, was withdrawn, and the amendment of Mr. Adams was adopted without alteration. In this form, the resolution passed; thus limiting the inquiries of the committee to those objects, the right of investigating which was reserved to Congress, in the charter of the Bank. It was then proposed by Mr. Everett, that the committee should consist of nine members, to be appointed by ballot; but, at the request of others his motion was withdrawn, and the result which he obviously anticipated, took place. A majority of the committee were appointed by the speaker, from the number of those members who had voted in opposition to the amendment of Mr. Adams, and in favor of the resolution, in the form in which it originally stood, and in which it had been rejected by the House.

Under these circumstances, the committee proceeded to Philadelphia, to accomplish the object of their mission. Scarcely had they begun their operations, when a majority of their number thought proper to give a different construction to the resolution, from that which was intended by the House; and determined to inquire, not merely whether the charter of the Bank had been violated, but whether there had been any circumstances of mismanagement in its affairs, from the time of its foundation to that very hour; according to the schedule of abuses and suspicions, which their chairman, Mr. Clayton, had incorporated into the indictment of which we have already spoken. No objection was made to this proceeding on the part of the Bank; its President only reminded the committee of the confidential character of its accounts with its customers; a circumstance, which appeared to be of small moment in the estimation of the majority of their number. Such was the spirit in which the investigation was begun. As if to leave no doubt in regard to its character, the chairman entered a statement on the minutes of the committee, in which he declares that he had sought privately from one of the witnesses under examination, and from every one else likely to furnish it, information respecting the misconduct of the Bank. Far from indicating a bias in favor of the institution on the part of the committee, this proceeding served rather to betray a spirit unfavorable to the proper execution of their duty. The character of such a committee is or ought to be of a judicial, quite as much as an inquisitorial nature; and this determination to find abuses by private research shows very little of the

temper of the judge. At all events, it led the committee into a field of investigation, quite too broad for the limit of any human commission; but as if it were still too contracted, it was resolved, on motion of one of the members, Mr. Cambreleng, 'to proceed to examine the President and Directors of the Bank of the United States, on the question of loans, exchanges, funded debt, banking, specie and paper circulations, and on the general effect of the operations of the Bank and its branches upon the trade, industry, currency, foreign and domestic exchanges and revenue of the United States.' This investigation appears to have been confided to Mr. Cambreleng himself, who executed it in an interminable series of questions, which it cost the President of the Bank as much trouble to correct, as to answer. Our limits will not permit us to follow the committee in their flight through all the circles of earthly knowledge; a task, which belongs rather to the schoolmen of less illuminated ages, than to our humble capacities. All that we can do is very briefly to examine some of the fruits with which the committee were laden, on their descent from these sublime excursions; and we do this principally for the purpose of showing the material, out of which those violations of the charter were fabricated, of which the chairman had in the outset declared the officers of the institution guilty. It was naturally to have been expected, that in preparing his report, that gentleman would have availed himself of the opportunity of declaring their innocence, if the charges should be unsupported by the expected testimony, or if otherwise, of publishing their guilt. He did neither the one thing nor the other; he simply stated, on the part of the majority of the committee, that they would submit to the House, without expressing any opinion, such cases, as had been subjects of imputation against the Bank; or in other words, the alleged violations of its charter. They thus conveyed the impression, that they were persuaded of the validity of these allegations; a fact, which is hardly to be credited. If it were so, it indicates a facility in believing, which they will find very few to share.

The first on the list of supposed violations of the charter was a charge of *usury*, founded on a transaction which occurred ten years ago, since which time more than one generation of presidents and directors have passed away. The branch at Lexington discounted a promissory note, subscribed by William Owens and others, for four thousand dollars,

payable in three years in specie; and this amount was received by him in notes of the Bank of Kentucky, then at a discount of fifty-four per cent., at their nominal value. They were paid to him at his urgent solicitation. He declared, that they would answer his purpose as well as specie, and so in fact they did; being applied by him to the payment of debts at their nominal value. At their nominal value, had the branch at Lexington received them; they recovered that value six months after this transaction; so that, had the branch retained them, it would have received the full amount of them with interest. Under the agreement with Owens, the Bank received nothing more than the nominal value, and he received nothing less. When a suit was instituted on the note, the defendants offered a special plea, in which they averred, that at the time of the loan, the notes of the Bank of Kentucky were generally depreciated, so that one hundred dollars of the nominal value thereof were of the current value of only fifty-four dollars. To this plea, the attorney for the Bank demurred, relying rather on the presumed legal invalidity of the plea, than upon the real merits of the case. The plea was, however, sustained by the Supreme Court of the United States, and the Bank was thus made to suffer the penalties of usury, without its guilt. One would think, that the committee need hardly have referred it to Congress to decide, whether there was any violation of the charter here.

The committee next submit the question, whether the issuing of branch drafts can be justified under the provisions of the charter. The notes of the Bank, according to that instrument, are to be signed by the president and cashier; but the labor of preparing the required number, was greater than the physical strength of any two persons could endure. Application was therefore made to Congress in 1823, for authority to issue notes signed by other persons than these officers; and a committee, of whom Mr. Cambreleng was one, reported that the request was reasonable and ought to be granted. This report was made in February, 1823, within a week of the close of the session, and was not acted on. In 1827, a new petition was presented, and referred to the Committee of Ways and Means, who made no report upon it. The opinion of eminent counsel was then taken, as to the power of the branches to issue drafts, or bills of exchange, drawn by those branches on the parent Bank; and it was unani-

mous in favor of that power. They were accordingly issued, in a uniform style, resembling that of the notes of the Bank, and signed by the presidents and cashiers of the respective branches. Though payable only at the parent Bank, the credit of the institution gave them universal circulation. They were in fact an accommodation to the public, who thus effected many of their exchanges without expense, rather than to the Bank, to which, under certain circumstances, they might prove very inconvenient. The only wonder is, that the power of issuing such drafts, in the manner proposed, should ever have been questioned. Except in the fact of their uniformity, they differed in no respect from the drafts which the bank had been, and must have been, in the habit of employing. If they involved a violation of the charter, it might have been suggested by the committee, that it was one, by which the public, rather than the institution, was the gainer. It might at least have been remembered, that an opinion had been pronounced in favor of their legality, by one of the judges of the Supreme Court of the United States.

The two next charges against the Bank are, that it has sold coin, particularly American coin, and that it has sold stock obtained from Government under special acts of Congress. Of these transactions, the first is supposed to be unauthorized by any provision of the charter, and the second expressly prohibited by the injunction against any dealing of the Bank in stocks. Foreign coins, in the opinion of a majority of the committee, are not bullion; in that of the world at large, they unquestionably are; but the committee argue, that if foreign coins should be considered as bullion, American coins should not, so that in one way or another, the Bank has gone beyond its powers. The right of dealing in bullion, or foreign coins, was expressly given, in order to remove any doubt that might exist respecting the power of the Bank in this particular; while that of dealing in current coin is incident to the very nature of such an institution. These coins are bought by the Bank at their intrinsic value, and sold by it in the same manner; nor could it well be otherwise; for if the Bank were forbidden to allow an advance in purchasing, or to receive any advance in the sale of them, it would be a simple prohibition against paying out, or importing, or purchasing specie, in any case whatever. With respect to the sale of stock, the argument of the majority of the committee appears to be founded on a misconception of the provisions

of the charter. The Bank is prohibited from buying any portion of the public debt, but it is not forbidden to sell any evidences of that debt which it may lawfully possess, and it is expressly authorized to subscribe for government stock ; over which it has the same control and the same rights, which appertain to every other owner of all other property. The majority of the committee would not have anticipated much danger from the exercise of the right of selling, if they had adverted to the fact, that the purposes of speculation in stock are poorly answered by the mere privilege of selling, without that of buying also. At all events, it requires more than common sagacity to detect in either of the above operations, any violation of the charter of the Bank. Indeed, the right of selling public stock has been employed by it in seasons of peril, very much for the security of commercial credit, and the general welfare of the country.

The two last supposed violations of the charter, as suggested by the majority of the committee, are the making of donations for roads, canals, and other purposes, and the building of houses to rent or sell, and the erection of other structures in aid of that object. In their statement of these, as in other instances, their Report forgets to state any explanatory circumstances, which might detract something from the guilt of this offending corporation. Express authority is given it by its charter, to purchase real estate, which it may hold in mortgage as security for the payment of debts previously contracted, as well as such as may be sold under executions in its own favor. By the failure of many of its debtors in the Western States, it was some years ago compelled to become the owner of a large amount of real property. The donations here alluded to were small subscriptions made for the improvement of such estate in the vicinity of its own, with the view of enhancing the value of the latter, and small sums contributed to fire insurance companies for its security ; and the building in question was executed, in order to put the property of the Bank in a more eligible condition for sale. No persons except the majority of the committee can believe, that the Bank would voluntarily become the purchaser of real estate at all ; and it is difficult to conceive, why those gentlemen should have supposed, that it would intermit for a moment its mighty speculations, to lay out a road or build a warehouse for the public detriment. The right of placing property in a

situation to be profitably held, or advantageously sold, is incident to the right of ownership; for it would be strange indeed, if the Bank were only authorized to hold this property on such terms, as may render it entirely worthless.

Such is a cursory survey of the charges, which a majority of a select committee of the House of Representatives have presented to that body, as violations of the charter of the Bank of the United States; in regard to which they do no more than intimate their own opinion, but leave it to the House to appreciate their enormity. It seems almost like ridicule, to bring them forward with the solemnity of criminal accusations. Indeed, if the character of those legislators were not at war with such a supposition, one might imagine them to be indulging themselves in a jest, designed to be at the expense of the Bank, but in reality at their own. We have dwelt upon them thus lightly, because they are examined in the Report of the minority of the committee briefly, but with much ability, and in that of Mr. Adams, with his characteristic force and directness. No stronger evidence could be desired of the correct and judicious manner in which the affairs of the Bank have been conducted, than is afforded by the fact, that these are the foremost offences in the dark catalogue of its crimes. Other accusations there certainly were, but they were not urged as violations of the charter; they came under the head of abuses worth inquiring into, and into which the committee did accordingly inquire with abundant alacrity and zeal. The officers of the bank were charged, among other things, with having loaned large sums to the editors of public journals, with the view of securing the press in aid of their nefarious purposes; and the private affairs of these individuals were accordingly investigated and made public, in order to excite against them some odious suspicions of corruption. It was of no avail, that the loans had been indiscriminately made, as well to those editors whose sentiments were hostile, as to those whose opinions were favorable to the Bank; it was to no purpose, that a case of suspicion, at the worst, was all that could possibly be proved; it was to no purpose, that the minority of the committee remonstrated against this exposure of the private affairs of individuals;—the majority of the committee went triumphantly on in their brilliant career, and at last left it to the better judgment of the House to decide, on the facts which they had collected and spread on the face of their Report, whether such

cases of corruption had any actual existence or not. We do not propose to enter upon the examination of these details; we could add nothing to the considerations which are set forth by Mr. Adams, in his stern and indignant commentary on the examination, and its results. We will only observe, that there is no censor so rigid, as a political partisan. In his list of the virtues, charity has no place; every action is uniformly attributed to the worst imaginable motive, and the possibility of the existence of a good motive, or of the absence of an evil one, is never for a moment admitted. If the Bank loan money to an editor who is opposed to it, it is bribery; if it advance money on competent security to a friendly one, it is the wages of iniquity. Let its officers adopt whatever course they may, they are sure to furnish conclusive evidence of their own guilt. Now there is obviously no reason, why those who happen to pursue the calling of editors of public journals, should be deprived of the facilities for the conduct of their business which they require, and which all other persons possess. It is just as reasonable to suppose that every editor, who opposes the Bank of the United States, is the slave of the State Banks, as to assume that all who support it are bought by its accommodations. Indeed, the mere loaning of money, on adequate security, is not so overpowering a favor, as of necessity to call for the sacrifice of principle and independence in requital. In the particular instance which is dwelt upon with much emphasis by the majority of the committee, we understand that the loan was made on good security, though for a longer term than usual; but when the officers of the Bank, men of unquestioned honor and integrity, whose assertions are not lightly esteemed in the community of which they are members, promptly and indignantly disclaim the motive thus imputed to them, of 'insinuating themselves' in this way into the management of the press, there seems to be no propriety in charging them with falsehood and hypocrisy. We may, perhaps, doubt their prudence; but it is going a little too far, to magnify imprudence into fraud and corruption. There is one fact, relating to this and the other investigations of the committee, which is worthy of remark. So far as we are informed, no argument was founded on their Report, either by friend or foe, in the subsequent debate upon the bill for re-chartering the Bank, in the body of which they were members.

After these Reports had been severally presented to the

House, the Senate resumed the consideration of a bill to modify and continue the charter of the Bank, which had been previously reported by the select committee, to whom the memorial of the President and Directors was referred. It was adopted by that body, after a deliberate and ample discussion. The following is a cursory account of its provisions. It proposed to continue the charter for the term of fifteen years following the third day of March, 1836. Authority was given to the Directors to appoint two or more officers to sign notes for a smaller sum than one hundred dollars, which were to be of the same validity as if signed in the usual manner. No notes, checks or drafts, which were not declared upon their face to be payable at the Bank where they should be issued, were to be put in circulation. The Bank and its branches were required to receive all notes of the Bank, wherever they might be declared payable on their face, in payment of balances due to them from the State Banks. No real estate, except the Bank buildings and lands mortgaged, was to be held by the Bank for a longer term than five years. Two offices only were to be established or continued in any one State. The sum of \$200,000 was to be paid annually to the Government, during the period of fifteen years, as a consideration for the benefits resulting from the charter. Congress was to retain the power of preventing the Bank from issuing or keeping in circulation notes of a smaller denomination than twenty dollars. A list of the names of all stockholders, together with a statement of the number of shares held by them respectively, was to be furnished annually to the Secretary of the Treasury, and to the Treasurer of any State, who should apply for it. This bill was also passed by the House of Representatives, with an amendment, allowing the continuance of more than two branches, where they are already established, in any State. The Senate concurred in the amendment; and in this form the bill was sent to the President for his signature. It was shortly afterwards returned by him to the Senate, accompanied with a Message, in which he assigns at length the reasons which induce him to refuse it his assent.

Before we proceed to offer any remarks upon this document, it may be proper to look for a moment at the early history of the institution, the merits of which the President has never yet been able to perceive. Neither in this Message, nor in any allusion which he has heretofore made, is there a single

ray of light, to relieve the dark shadows of the picture he has drawn. It was in 1811, that the charter of the first Bank of the United States expired. The paper of the State Banks was poured out in a deluge, to fill the vacancy occasioned by the loss of its circulation. In two or three years after, every bank, to the South and West of New England, discontinued the payment of its notes in specie. No man needs to be informed of the effects of the depreciation of the currency which followed. In addition to the destruction of business, the interruption of confidence, the loss of credit, and the reckless and fatal spirit of speculation, there was a deep and real distress in some portions of the country, which seemed hardly to admit of any relief. In the midst of the complicated mischiefs growing out of this state of things, and for the purpose, as far as might be, of remedying them, the existing Bank of the United States was established. The renewal of the charter of the former one would probably have prevented their occurrence; but it was not so clear, that the creation of the new one would remove the evil, by restoring the currency from its state of alarming and unprecedented depreciation. Other experiments had been tried, and tried in vain. Peace had returned, but no return of specie payments came with it. Public opinion called loudly for their resumption, but its voice was unheard; the Secretary of the Treasury exhorted, entreated, prayed, but all in vain. Some of the State Banks were willing to adopt the measure; others could not be persuaded to relinquish the golden harvest, which they alone were gathering; nor is there any reason to believe that the object could have been accomplished, without the intervention of the Bank of the United States. The course of that institution was prompt and resolute. Instead of retiring, as it might have done with profit to itself, from a difficult and ungrateful task, it manfully and readily met the exigency; it proposed a compact, by which on the one hand the State Banks pledged themselves to resume specie payments, while the Bank of the United States, on the other, pledged its resources to sustain them in the operation. It did sustain them; it did effect its purpose. We have the testimony of Mr. Dallas, no undistinguished name, and of Mr. Lowndes, a man not apt to be mistaken, and not likely to deceive, in favor of the liberality and good faith with which its engagement was fulfilled. It has ever since preserved the currency of the country in as sound a condition as one which consists in a large proportion of paper can ever be maintained.

Yet the President of the United States was so little impressed by these facts, that he declared the Bank to have failed in the great end of establishing a sound and uniform currency; and in the Message which is now before us, has taken other very unfavorable views of its tendency and operation, which might induce the uninformed to suppose, that it is nothing better than the source of accumulated evils.

Of this paper, we would speak with the respect due to the official station of the President of the United States; but we deem it neither unbecoming nor unjust to say, that his name must have been attached to it under the influence of feelings of stern and unchangeable aversion to the Bank. There is hardly a paragraph, in which these feelings are not betrayed; there is not one, in which its merits are admitted. Throughout, the term monopoly is applied to its privileges, as if they could be designated by no other word, than an unpopular and odious one. But what is this monopoly? Not the privilege of loaning money; that is possessed by every individual in the land. Not a monopoly of the right of issuing notes for circulation; that it enjoys in common with some three or four hundred other institutions, existing under the authority of the several States. The power of issuing notes is one, which is every where, by the policy of our laws, taken from individuals, and conferred on corporations, subject to the supervision and control of the public authorities; and, moreover, paying largely for the privileges thus accorded to them. The Government of the United States, in consideration of a large amount directly paid, and of services rendered of great moment to the public welfare, confers this privilege on a single institution. It employs no more, because no more are needed for the purpose. Beyond this, there is no justice in the application of the term monopoly to the exclusive privileges of the Bank, which are exclusive only, because it could not otherwise exist. The Bank enjoys no monopoly of the foreign and domestic exchanges. Every individual has the same right of dealing in these, that he possessed before it was established; and if he cannot profitably pursue the business, it only proves, that the premium has been reduced by the Bank to the lowest rate, and that the funds of individuals are transferred at the least possible expense. Before it was instituted, the premium of exchange, paid in general at the West for bills on the large commercial cities, as we are assured on competent authority, was $2\frac{1}{4}$ per

cent., and in many instances, much larger: now, at the highest, it is one half of one per cent.; and in a great number of cases, where drafts or notes are used, no premium on the transfer of funds is paid at all. So with respect to foreign exchanges, the operations of the Bank, as a large and constant purchaser of bills, prevent fluctuation in the demand, and, as a seller of them, in the supply; and it purchases and sells upon the most favorable terms, because if it did not, the business would pass into other hands. There is obviously no monopoly here; nothing but an extensive, but not exclusive dealing on the part of the Bank, of great advantage to the community. In various other portions of this document, expressions are used which, if they proceeded from any other source, would seem to have been intended merely to excite unmerited prejudice against the institution. Its stockholders are mentioned as a privileged class, enjoying favors and gratuities, from which the mechanic and the laborer are excluded; as if the same reproach were not just as applicable to those of every local bank. The erection of such an institution is denounced, as an alarming encroachment on the rights of the States; when, if there be any encroachment in the case, the regulation of the currency, which has so long been exercised by the States, might with more justice be termed an encroachment on the rights of the Union; and the constitutional prohibition of the power of directly taxing the Bank by the States is lamented, without any apparent admission of the fact, that such a power to tax is nothing less than a power to annihilate. But we have no room to dwell upon these subjects, and can only express our regret that topics of this sort are introduced into a state-paper, where one would not naturally look for aught resembling an appeal to prejudice.

The first and immediate effect of renewing the charter of the bank, in the manner contemplated by the bill, would, in the judgment of the Executive, be to raise the value of the stock to nearly fifty per cent. above its par value. This advance, equal to seventeen millions, would be, he says, a mere donation to the stockholders; whereas, on the contrary, it should be paid into the treasury of the United States; because, if these monopolies are to be sold at all, they should be sold for precisely what they are worth. It is doubtless true, that the Government, in granting any charter, must act for the benefit of the people, and not of those on whom it is bestowed; and it is universally admitted, that

a reasonable compensation should be paid by the latter, for the privileges thus conferred upon them. When their charter was originally granted, they paid to the Government a million and a half of dollars, and became bound to transfer the national funds, and to transact the business previously performed by the various loan offices, without pecuniary compensation. It is now proposed, that they shall pay the sum of two hundred thousand dollars annually, during the term of their charter. This is the amount, which both Houses of Congress, after much deliberation, have fixed upon as just and reasonable. It should not be forgotten, that the profits which the Bank can derive from the government deposits, since the reduction of the revenue, will be far less than they have been heretofore, while the sum which it pays to the Government will be considerably greater; and it must be remembered also, that if the Government is to receive all the profits of the charter, individuals can have no motive for accepting it. Now, if the suggestions of the President were adopted, it is very obvious that the stockholders, far from receiving any benefit, would experience a positive loss. Nothing but the wildest spirit of speculation could raise the price of the stock, in the manner which he supposes; and if such should be the fact, that price would be but momentary, as it would be far beyond its real value. Admitting, however, that this should be the result, and that the Bank should pay for its privileges one half the amount of its capital stock: it would then require an advance of one hundred per cent. on the remaining amount, to raise the stock even to its nominal value. Under these circumstances, the stockholders could not accept the charter without the certainty of loss. The same remark may be applied to the offers of immense payments to the Government for a new charter, which have been liberally made. If the stock of a new bank, which should be bound to pay ten millions into the treasury, could be subscribed, which we conceive to be absolutely impossible, there could result nothing but loss to those unfortunate enough to be its holders. The fallacy of the argument arises from laying out of view the fact, that the advanced value of the stock has arisen in part from the judicious management of the affairs of the institution, and the hold which it has obtained upon the public confidence; advantages, slowly gained, and not to be readily acquired by a new one. If any persons are to be benefited by the granting of the

charter, the benefit would seem to belong to those who have made the institution what it is, rather than to any other given number of individuals. The suggestion of the President is, that the whole American people should be allowed to become competitors for the purchase; but it is evident that, after all, the privileges must be conferred on a limited number of persons; and there is no reason, why they should not be possessed by the present stockholders, as well as by any other equal number. The only interest which the public at large can have is, that they should be exercised in the manner most likely to promote the general good. This security, as it appears to us, would be found in the renewed existence of the present institution, quite as certainly as in any other way.

Another objection, which stands in the van of the President's long array of objections to the bill, is the danger of allowing foreigners to become proprietors of the stock. Eight millions of it in amount are already in their hands, and, owing to the mode of taxation to which its American holders are subject, he apprehends that nearly the whole will sooner or later be concentrated in the hands of foreigners, and employed by them to effect the ruin of our institutions. In this way, an event, which would not under any circumstances be likely to occur, and which, as the Bank is constituted, never can occur, is represented as an impending and unavoidable evil. Every one knows, that foreigners are prevented, by the charter of the institution itself, from exercising any influence in the management of its affairs; and if they had power to do this, a sufficient motive for undertaking it would still be wanting. Why should they purchase the stock, in order to exercise a control which the purchase of the stock will not give them, and which, in a season of exigency, supposed in the very statement of the objection, would, if they obtained it, be much more likely to expose their property to peril, than the institutions of this country? The foreign holders of American bank stock are not very likely to become conspirators and incendiaries: they would not be ambitious of breaking down the pillars of any temple of Dagon, under whose ruins they would be the first to perish. It would be no sport to these engineers to 'hoist with their own petard;' indeed, of all earthly probabilities, we hold that to be the remotest, which represents a company of merchants and bankers as anxious to spring a mine for the destruction of nations, at their own personal expense. We

have, however, some instructive experience upon this point. Of the twenty-five thousand shares, into which the stock of the first Bank of the United States was divided, eighteen thousand were held by foreigners in the year 1809. Then was the time, if ever, for these enemies of freedom and good order to accomplish their wicked purposes. The cry of foreign influence was ringing from one extremity of the Union to the other; the signs of the times were dark and ominous, and the charter was about to expire; but we have never heard among the rumors of that eventful period, either that this stock was purchased by the secret service money of Great Britain, or that its real owners exhibited any ambition to sacrifice the Government, which gave their property protection. If any danger of the sort existed, it would be quite as likely to arise from the accumulation of the stock of local banks, canal or rail-road stock, or that of any State in the hands of foreigners, as from their possessing that of the Bank of the United States; but we have never heard of objections on the part of any State, that they should become the owners of this species of property. There appears in fact to be some mistake in the premises, which are to lead to so disastrous a conclusion. It is the taxation of stockholders here, while foreigners are believed to be exempted from the burden, which the President thinks likely to accumulate the stock in the hands of the latter. He supposes that the bill concedes to the States the right of taxing the interest of resident stockholders, while that of foreigners, being free from any such exaction, will be the more valuable of the two. But the bill in truth concedes nothing of this kind. If the States did not possess this right of taxation before, no act of Congress can give it to them, because it cannot annul the operation of the constitution of the United States. They always have possessed, and do still possess it, and we know no reason to doubt that it has been exercised. All that the bill proposed to do, was to render it more easy than it is now, to ascertain the precise amount of the interest of resident stockholders; by requiring that a list of their names, with the number of shares held by them respectively, should be furnished on application to the treasurer of any State. But without any such provision, the tax would be no more likely to be evaded, than a tax on money at interest, or various other kinds of property. In the same manner may the foreign stockholder be made liable to similar taxation at home; and

his tax would in all probability not be lighter, than that of the native owner of the stock. The only effect of subjecting the foreign stockholder to taxation here, would be, to render the stock less valuable abroad than it is at home; and in that event, there would be no necessity for adopting the proposition of the President to prohibit its sale to aliens, 'under penalty of absolute forfeiture.' The truth is, that much of this stock is sent abroad in the way of remittance, thus answering the purposes, and saving the exportation of specie, and not simply because it is desired as a means of permanent investment; but if it were sold only to those who wish to retain it, it must be obvious, that they would be interested in the preservation, rather than the destruction of our Government, precisely in proportion to the extent of their interest in the stock.

The error of the Message arises from a supposition, at variance, as we believe, with the observation and experience of practical men, that there is in our country at this moment a superabundance of capital. The increase of capital, however great it may be, is not equal to that of the demands of industry and enterprise. In the absence of our own, that of foreigners comes in to supply the deficiency, which would not be the fact, if it were not wanted and could not be advantageously employed. A nation that neither wants nor requires it, would no more think of procuring it abroad, than he who has money which he wishes to loan, would think of borrowing of his neighbor. Within a few months, a loan to the amount of several millions has been negotiated abroad. The capital, thus introduced, animates and quickens industry in all its branches; sets the cars of our rail-roads in motion; impels the boats that crowd our navigable canals; and pours itself through a thousand channels, to swell the broad tide of our national prosperity. We cannot but regret that the President should have thought proper to utter a denunciation, which must, so far as it has any effect at all, diminish the value of American stock in every market in the world.

By one of the provisions of the bill, the notes of the Bank and of its branches, though declared on their faces to be payable at one place only, were required to be every where received in payment of balances due from the State Banks. This provision, in the opinion of the President, though sufficiently just as far as respects those Banks, is yet most odious,

because it confers on these institutions a privilege which is denied to individuals ; and because it tends to unite the local Banks and that of the United States in the consummation of any measures, which may conduce to the common benefit of all. From this language it would naturally be inferred, that the people were about to be deprived of some right which the Bank might well be required to allow, and which they may properly claim. But what is this supposed right? Simply, that all the notes issued by the Bank and all its offices, shall be made payable at every office ; or, in other words, that each office shall be constantly provided with funds to redeem, not only its own notes, but the notes of all the rest. This would be merely to ordain, that no branches shall be established at all. It would be just as reasonable to require, that each State Bank should redeem the notes of every other. So far as this can be done with safety, it is already done by the Bank of the United States, from a regard to its own interest, and to extend the circulation of its notes ; and its extensive dealings in exchange afford it greater facilities for so doing, than any other institution could possess. Its five dollar notes are already paid in this manner ; and the instances are rare, in which similar payment has been refused in regard to notes of any denomination. But if it were under an imperative and indispensable obligation to redeem its notes, not merely at the offices whence they are issued, but at every other, the expense and burden of such a requisition, if the thing were practicable, would be too great for any institution to bear. On the occurrence of a pressure in the money-market of any commercial city where a branch may chance to be established, the bills of every branch which could possibly be procured, would be instantly sent to that particular branch for redemption, in addition to its own. These notes are now as valuable as specie ; that is, wherever they may be issued, they are any where convertible into it, at a premium which is no greater than the expense of transporting specie ; and to require any thing farther, would be to compel the Bank gratuitously to perform the exchanges of every individual in every section of the country. We know not that there is any complaint against its present course in this respect ; reasonable complaint, we think, there can be none. Even as respects State Banks, the provision would be wholly nugatory. It is designed to guard against the exercise of a power, which the Bank has never used ; that of effecting

a combination among several branches, to send the notes of a particular bank to a branch in its vicinity for collection, while the bank, thus called upon, can offer only in exchange the notes of the branch which demands the payment. The dealings of the Bank of the United States with the State Banks have not been such, as to call for the application of any remedy like this.

It has been urged, says the President, as an argument in favor of re-chartering the Bank, that the calling in of its loans will produce general embarrassment and distress; and he replies to this argument by maintaining, that this cannot be the case, unless its management has been bad; in which event the fault will be its own. The argument, if well founded, will in his opinion never be less powerful than it is now; so that, if it have any force, the Bank must be permitted to endure forever. If, however, the facilities which it gives are required by the industry and commerce of the country; if, as we shall presently attempt to show, they are of indispensable necessity to some particular sections, it by no means follows, that any distress, which might result from the sudden withdrawal of those facilities, would be ascribed with justice to mismanagement on the part of the Bank itself. It would be just as reasonable to prohibit agriculture, and hold the farmer responsible for the injuries of the famine. Some parts of the country are rich in industry and enterprise, but poor in capital; in obedience to one of the purposes of its institution, the Bank pours out its capital there; it cannot be suffered to depart, because there is nothing to supply its place. Undoubtedly, if there be any imperious necessity for destroying it, the evil must be encountered. But shall we destroy it, simply because it must at some time perish, like all things earthly, and because we may chance to think that it can be no more easily destroyed at any future day? A proposition of this kind can only be supported on the ground, that the institution is dangerous as well as useless. The doctrine of the Message in fact is, that it is full of evil in all its tendency and operations.

‘The amount of stock held in the nine Western States,’ observes the President, is ‘\$140,200, and in the four Southern States is 5,623,100 dollars, and in the Eastern and Middle states about 13,522,000 dollars. The profits of the Bank in 1831, as shown in a statement to Congress, were about 3,455,598 dollars; of this there accrued in the nine Western States about 1,640,048, in

the four Southern States about 352,507 dollars, and in the Middle and Eastern States about 1,463,041 dollars. As little stock is held in the West, it is obvious that the debt of the people in those States is principally a debt to the Eastern and foreign stockholders; that the interest they pay upon it is carried into the Eastern States and into Europe; and that it is a burden upon their industry, and a drain of their currency, which no country can bear without inconvenience and occasional distress.'

If we were called upon to point out the most obvious and striking example of the beneficial operations of the Bank, we hardly know to what quarter we should more readily turn, than to the section thus exhausted and oppressed; or from what facts we should draw a more conclusive argument in its favor, than from those which are here arrayed in testimony of its evils. What was the condition of the Western States a few years ago, and what is it now? Before the operations of the Bank were conducted on their present scale, the people of these States had all the natural advantages, of which they are in possession at present;—the same magical fertility of soil, which hardly asks the aid of patient industry, to yield its golden harvest; the same bold spirit of enterprise, which laughs at danger and privation; the same magnificent rivers, to bear the produce of their labor to the sea. But all these availed them comparatively little, so long as the capital procured by their industry was absorbed in new improvements, and enough could not be afforded, to circulate the productions of their labor. In order to supply this deficiency, banks were established, without any of those salutary restrictions, which experience has shown to be essential to guard the public against the multiplied calamities of failure. Far from being founded upon capital, they were established for the very reason that capital was wanting. For a time, the expedient appeared to answer its intended purpose; but the interest of their proprietors combined with the demands of the public to induce unlimited issues of paper, and the inevitable consequences were soon revealed. It was impossible for the banks to redeem their notes, and their value sunk at once in the hands of the holders. Creditors, however, were compelled to receive them or not be paid at all; for the fatal remedy of stop and relief laws, which always aggravate the evil they are meant to cure, was instantly applied to prevent the utter ruin of the debtor. These measures produced no other effect, than that of taking the

property of one man and giving it to another, of enriching the speculator, and destroying all that confidence, without which the elements of society are feebly held together. Those who would gladly have removed from this scene of ruin found it impossible, because the paper, which was so depreciated in their own State, was absolutely worthless in another. Nothing could be imagined more fatal to industry, than such a state of things as this; and we are confident, that we do not attribute too much to the operation of the Bank of the United States, when we say that it did more than any other cause, to rescue the Western States from these accumulated evils; not indeed in the outset of its operations, but since it has been conducted on its present extensive and judicious plan. But the depreciation of the local currency, though by far the greatest, was not the only evil. The merchant, who carried this depreciated paper beyond the limits of his own State to purchase supplies, was of course compelled to exchange it for such funds as might serve his purpose; and the rate of discount was graduated according to the risk and difficulty of obtaining payment of the notes he carried with him. It is needless to explain the consequences resulting from a necessity of estimating the solvency of banks in establishing that rate, and from conducting the operations of exchange on the basis of an unsound currency.

Under the present system, the mischiefs arising from a depreciated and fluctuating currency are not likely to return. The paper of the Bank of the United States is every where received in payments to the Government, and every where equivalent to specie, and the depreciated currency of other banks cannot be kept for any length of time in circulation. Their issues are thus limited by their ability to redeem them. At present, the beneficial influence of that institution is more distinctly visible in the operations of exchange; and from these, individuals in all sections of the country derive real, if not equal benefit. For all commercial purposes, they are brought into the immediate vicinity of each other. The merchant in New York, who sells goods to the dealer in Cincinnati, draws on the latter for the amount; the Bank purchases his bill on the most favorable terms, and provides him with funds for further operations without hazard or delay. The facilities given to the Western merchant are greater, because he can less easily dispense with them. His trade is in the first instance carried on with the Western and South-

western States, and with the drafts received in return for his produce, he may purchase his supplies in the Atlantic cities. If he send it to New Orleans, his bills, drawn on the proceeds, are bought by the branch in his neighborhood, and remitted to that city. 'When,' says the President of the Bank, 'the notes issued by the several branches find their way in the course of trade to the Atlantic branches, the Western branches pay the Atlantic branches by drafts on their funds accumulated at the branch in New Orleans, which there pay the Atlantic branches by bills growing out of the purchases made in New Orleans on account of the Northern merchants or manufacturers; thus completing the circle of the operations.' The Western dealer is thus enabled immediately to pay to the cultivator the price of his crop, while he himself receives the amount for which he sells it at New Orleans. The influence of these facilities is felt in all departments of the industry of the West. The merchant of the seaboard might obtain less complete accommodation elsewhere; but the people of the West must obtain it from the Bank, or obtain it as they did several years ago, for a price, at the very lowest, five times greater than it is at present. Yet even this, important as it is, is not the only benefit which the Western States derive from the Bank. Their demand for capital, to keep the ponderous wheels of their ever-active industry in motion, is supplied by loans to the amount of many millions of dollars, apart from the acceptances of bills drawn on other parts of the country. The capital, thus furnished by the Bank, cannot be drawn to the same extent from other sources. On the very statement of the President of the United States, the West would obviously not be able to supply its place. It is provided for them by the Bank, at the interest of six per cent., a rate far lower than individuals could easily obtain, far lower than they would readily give; and the lowest portion of the profits upon it is remitted to those by whom it is provided, while its substantial benefits remain, and animate and brighten the prosperity of that singularly favored portion of our land. Such is the picture, in which the President can see nothing but darkness and gloomy shades;—such is the drain upon the currency, and the burden upon the industry of the West!

But what consequences are to follow, when these facilities shall be withdrawn, as withdrawn they must be, so far as we have any understanding of the views of the President of the

United States,—so far, certainly, as the decision of the question rests with him? Even if another similar institution were to be created, they must still be withdrawn, because years must elapse, before the same could be afforded by the new. The term of its charter, now remaining, will hardly be sufficient to enable the present Bank to call in its debts and withdraw its circulation. But the creation of another such institution appears to form no part of the President's design. That design has been already communicated in a former message, in which he proposed to establish a Bank without power to issue notes, without power to make loans, and with authority merely to buy and sell exchange with the deposites of the Government; which, as we have seen, must in future be more limited than they have been heretofore, and derived from revenue, a small portion of which only is collected in the West. For aught, then, that appears, an incalculable amount of money is in the course of less than four years to be remitted in discharge of debts, from the Western States to the Atlantic cities and to foreign countries. The circulation of the Bank, which constitutes the only currency of several of those States and a large proportion of that of all, must disappear. In what manner this debt is to be paid, is beyond the power of the imagination to conceive; but it may safely be predicted, that it will be attended with confusion and distress, in comparison with which, all the calamities which have heretofore beset that portion of our land, would be prosperity and happiness. Nor is the place of that circulation to be supplied by the erection of State Banks, in such a crisis. The capital, on which alone those institutions could be safely founded, would be withdrawn; and they could but ill supply the want of capital, when its deficiency is the very cause of their creation. Such fabrics, 'built in the eclipse,' could show no canvass on a heavy sea. Their notes would rush at once to the branches of the Bank, in payment of the overwhelming debt. Experience is full of lessons on this subject, to which it would be madness not to listen; but eloquent as it is, it cannot adequately tell the danger. It were almost as well, that the magnificent Father of waters, rolling onward to the sea with the golden fruits of a continent upon his bosom, ploughed by a thousand keels, and spreading verdure and prosperity, bright as the sunshine he reflects, in his majestic course, were suddenly exhausted of his mighty flood.

We had ventured to entertain the opinion, that the constitutional power of Congress to incorporate a Bank was as fairly settled, as any power ever can be; but we are informed by the President, that the fact is otherwise; that it is neither settled by precedent, nor by the decision of the Supreme Court; not by precedent, because if the Congresses of 1791 and 1816 decided 'in favor of a bank,' those of 1811, and 1815, decided against it; nor by the decision of the Supreme Court, because, besides that this tribunal has no authority to control Congress or the Executive, when acting in their legislative capacities, it has never decided that 'all the features' of the present Bank are constitutional. It is obvious that the acts of Congress, by which banks have been erected, carry with them an authority, which the rejection by that body of certain bills presented to them for a similar purpose does not. Whenever they use the power, they declare plainly enough that they believe themselves to possess it; but when they decline to use it, their unwillingness may arise from an objection to the particular mode of exercising it which is offered for their consideration, as well as from a conviction that they want the power. Thus in 1815, President Madison, in the same Message in which he refused his assent to a bill for the incorporation of a bank, declared that he waived the constitutional question, as being precluded, in his judgment, 'by repeated recognitions, under varied circumstances, of the validity of such an institution, in acts of the legislative, executive, and judicial branches of the Government, accompanied by indications, in different modes, of a concurrence of the general will of the nation.' His rejection of a particular bill, under these circumstances, could not well be quoted as a proof, that he denied to the Legislature the possession of the constitutional power. The Congress of 1815 doubted it as little, or they would probably not have passed the bill, which the President rejected. In the other instance mentioned in the Message, that of the Congress of 1811, the power was, if not affirmed, at least, not denied. A bill was actually passed by the House of Representatives in that year for the incorporation of a Bank, which was rejected in the Senate by the casting vote of the Vice President; but one of the Senators who voted in opposition to it has declared, that he never at any time entertained a doubt respecting the constitutional power, and that his objection was founded on some particular provisions of the bill. The hostile

precedents therefore vanish, while the power of Congress to incorporate a bank has been affirmed in every conceivable mode, by the almost unanimous opinion of distinguished statesmen, the uniform action of the Government, and the ready acquiescence of the people. With as little justice can it be maintained, that the question is not yet settled by the authority of the judicial tribunals of the United States. The Message declares, that those tribunals have not determined that the provisions of the particular bill of the last session of Congress are constitutional. They have however affirmed the constitutionality of the existing charter, which this bill was intended to renew. We regret to perceive, that the President appears himself to entertain doubts of the constitutional power of Congress to incorporate any other institution, than such an one as he has himself recommended in a former Message; one which would certainly not come within any constitutional prohibition, if any such existed, to incorporate a Bank.

We will here allude to some other portions of the Message, which convince us, that the assent of the President to any bill for the incorporation of a bank, bearing the least resemblance to the existing one, is not to be expected. In attempting to show, that the provisions of the bill are not such as are necessary and proper to enable Congress to carry into execution any of their powers, he points to the section in which it is declared that no other bank shall be established during the continuance of the present one, as an unconstitutional restriction imposed by one Congress on the just authority of several successive future ones. The doctrine is simply this; that Congress can make no contract, which shall be binding on their successors. If this doctrine be well founded, nothing is more certain than the fact, that all certificates of public stock, all pledges of property of the Government for the payment of the public debt, all subscriptions to the stock of incorporated companies for the purposes of internal improvement, all contracts, in short, of every description whatsoever, perish with the Congresses by which they are made. We do not consider it necessary to do more than state this proposition; it is enough for our present purpose to say, that no individual, in the full possession of his senses, could ever become a subscriber to the stock of an institution, which the same power that made, could the next moment destroy. As if the doctrine were not stated with sufficient clearness, the President shortly after de-

clares, that 'every act of Congress which attempts by grants of monopolies, or sales of exclusive privileges for a limited time, or a time without limit, to restrict or extinguish its own discretion in the choice of means to execute its delegated powers, is equivalent to a legislative amendment of the constitution, and palpably unconstitutional.' Again: 'By its silence, in connexion with the decision of the Supreme Court in the case of *McCulloch against the State of Maryland*,' says the Message, 'this act takes from the States the power to tax a portion of the banking business carried on within their limits, in subversion of one of the strongest barriers which secured them against Federal encroachments;' and this supposed power is declared to be one, to which the States ought 'pertinaciously to cling,' and of which it is unconstitutional to deprive them. It is worthy of remark, that the right of taxing the parent Bank, which is here considered as a clear State right, has not before been claimed; all that has been contended for, is that of taxing its various offices. We have already remarked, that the bill concedes no right of taxation whatever to the States; if they do not possess it, it is denied them by the constitution of the United States; if they do, no act of Congress could take the right away. The right for which the Message contends is that of taxing the circulation of the Bank. The power of taxation is unlimited; it involves that of complete annihilation. There must be some singular confusion of powers, if Congress may do that, which the States may forcibly prevent; if Congress has power to erect an institution, which the States have equal power to overthrow. The argument proceeds upon the assumption, that the power over all banking business, including that of regulating the currency, belongs exclusively to the States; and if the assumption have any foundation, it shows that Congress have no jurisdiction over the subject at all. With such views, how can the assent of the President be given to any bank of circulation, at any future day? How could he approve a bill which, in his judgment, would be equivalent to a deliberate and dangerous assumption on the part of Congress of a right plainly reserved to the several States? Or, if he should consent to do this, how could individuals be induced to invest their property, where, at any moment of dissatisfaction, it could be swept at once into the treasury of any State? We hold, therefore, that on the principles of the Message, not only the days of this Bank are numbered, but

that, so far as depends on the Executive, it would be delusion to look for the creation of any other; excepting such an one, without power to make loans, without power to issue notes, without property and without credit, as he has himself already recommended.

It was not without surprise, that we saw the following doctrine promulgated on the authority of the President of the United States. 'It is as much the duty of the House of Representatives, of the Senate, and of the President, to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval, as it is of the Supreme Judges, when it may be brought before them for judicial decision. The opinion of the Judges has no more authority over Congress, than the opinion of Congress has over the Judges; and on that point, the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control Congress or the Executive, when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.' If by this it be intended to assert, that the Supreme Court have no authority to interpose to prevent the passage of an unconstitutional law, the proposition is doubtless true; but it goes farther. It declares that, after the Supreme Court have declared a law to be unconstitutional, Congress may properly re-enact it, whenever they see fit. If such be its real meaning, a doctrine more fatal to the operation of our Government is not easily to be conceived. Will it be seriously maintained, that if the Supreme Court had at any time decided against the power of the Legislature to create a bank, they might the very next moment establish one, without any violation of the spirit of the constitution? The constitution is nothing more than the recorded will of the people of the Union; in all controversies respecting its intent and meaning, it is ordained by that supreme will, that the Court, and not the Legislature shall decide. By such a doctrine, a legislative body, acting under certain powers, are at liberty to do, not only what the tribunal which is commissioned by the people to decide in doubtful cases respecting the extent of those powers, declare that they do not authorize, but that they explicitly forbid. The judicial power is thus made to rest upon the arm of other authority, and may at any hour be crushed beneath it. All the restrictions by which the wisdom of our fathers would have checked the

unlimited exercise of legislative discretion, are swept away ; all the safeguards, which their providence erected as a barrier to shield our civil rights, are prostrate in the dust. The whole action of the system of our Government is converted into a mere battle between its several departments, for power and victory. Indeed, the tone of the Message throughout, as respects the Supreme Court of the United States, is not what we had hoped to see ; here, as well as elsewhere, it seems to have fallen on evil days, if not on evil tongues. It is now more than forty years, since that great and dignified tribunal was first erected. During that whole period, some of the wisest and best men of our country have filled its seats ; its moral influence, like the invisible attraction which holds the universe together, has preserved, each in its place and order, the various and mighty elements of our social system. The world affords no finer spectacle, than the tranquil but majestic operation of a power like this ; relying, not on that force which unintelligent things obey, but on the more exalted and commanding force of truth and wisdom ; no nobler example of proud and dignified self-denial, than the act, by which millions consented to do homage at the venerable shrine of reason and of law. Like all things else in the constitution of our Government, it had its birth in the united public will. It may be overthrown by violence, or it may be undermined by the slow efforts of illiberal hostility. But if it be the will of Providence, that its pillars should be shaken, the whole fabric of that Government will perish in a common ruin ; the days of our country's glory will be numbered and finished ;—her historian may shut the book ;—her star will go down in blood.

It is contended in the Message, that the Supreme Court have done no more than to decide, that Congress may incorporate a bank ; but that they have never yet decided, that the 'features' of the existing charter are constitutional. The Court, it maintains, in the case of *McCulloch* against the State of Maryland, observed, that it was the province of the Legislature to decide upon the degree of the necessity of such an institution, and thus admitted, that the details, the particular features of the act, are points with which the Judges conceive themselves to have nothing to do ; and it then proceeds to argue, that several of the provisions of the existing act are not necessary to enable the Bank to perform the duties assigned to it as a public agent, and are of course unwarranted by the constitu-

tion. Here is apparently a cold and reluctant assent to the authority of the decision, but it is only given to what we consider a very erroneous representation of it. In the case in question, the language of the Court was, that 'the act incorporating the Bank is constitutional.' This act is the charter of the existing Bank; and it would be a strange inference from these expressions, that the act itself may be constitutional, while its provisions are altogether at war with the constitution. The import of the terms is obviously, not merely that Congress may incorporate a bank, but that the act of incorporation, in its present form, is within the just limits of their authority; and not that the question, whether Congress have exercised their power in conformity with the constitution, is one with which they have nothing to do, or that the Legislature may have used a constitutional power in an unconstitutional way. Undoubtedly, the Court disclaimed all right of judging of the degree of the necessity for the exercise of this power; that is, whether Congress should or should not use their constitutional discretion. This would have been a plain assumption of legislative authority; but it is difficult to imagine, how this can be mistaken for a declaration, that, as Congress may use such means as are suitable and proper for the due execution of their rightful powers, the Court cannot interfere when they employ improper ones. Still less did the Court determine, that an act, in execution of any of the powers of Congress, in order to be 'necessary and proper' within the meaning of the constitution, must be of absolute and indispensable necessity. Were this the fact, our Government would soon be at an end. Not a single provision of the penal code of the Union is indispensably and absolutely necessary. There are, in fact, no means by which the powers of Congress are ever exercised, for which others might not be substituted. The Message admits, that such is not the opinion of the Court. 'The Court,' it observes, 'have satisfied themselves that the word "necessary," in the constitution, means "needful," "requisite," "essential," "conducive to;"' and then proceeds to maintain, that certain provisions of the existing charter, not being indispensably necessary, are unconstitutional. In its terms, therefore, the Message very unwillingly admits the authority of the Court; but the argument forgets the admission. The Court declare, that the Bank is exempt from liability to State taxation; that it may lawfully be invested with exclusive privi-

leges; that it possesses the right to establish branches where it pleases; all this the Message pronounces plainly unconstitutional, and in doing it, expresses of course the same opinion of the existing charter, as a whole.

It seems hardly necessary to enter into an argument to defend that, which the authorized expounder of constitutional law, the Supreme Court of the United States, has already vindicated with all the force of authority and reasoning. We shall not attempt to do this; but simply express our conviction, already intimated more than once, that they must greatly deceive themselves, who entertain the hope that the President can ever give his assent to any bill bearing the slightest relation, in any of its essential provisions, to the existing charter. He says, indeed, that had the Executive been called upon to furnish the project of an institution, not liable to any constitutional objections, the duty would have been cheerfully performed. That task has already been performed, and the result is not such, as to inspire Congress with any passion for soliciting the Executive further. Such is not the province of the Executive; such applications are not in the usual nor appropriate course of the proceedings of Congress. Had they, however, thought fit to adopt the intimation, and to call upon the Secretary of the Treasury, the organ of the Executive on financial subjects, for such a project, what could he have done more than to refer them to his Report at the beginning of the late session, in which he has urgently recommended the renewal of the existing charter?

We have thus adverted to those portions of the Message of the President, which appeared to us most open to objection. There are other portions, as well as other considerations which have been frequently urged elsewhere, to which our limits will not permit us even to allude. The subject is not easily comprehended within the compass of a few pages; and, in the remarks we have already made, we have found ourselves compelled to treat it more in the way of suggestion, than of ample and extended investigation.

Even if the question were simply between the continuance of the existing Bank, and some other with similar powers, there are considerations of importance which plead strongly in favor of the former. The profits of the stockholders, including the advanced value of the stock, have not been large; their affairs have been conducted with judgment,

prudence and liberality of spirit; besides the price originally paid for their charter, they have performed services for the nation, in supplying it with loans, in the transfer of its funds, and in the restoration of a sound and uniform currency, and performed them faithfully and well. But, more than this, the danger of a transfer of their privileges and duties to another institution, a danger which the Secretary of the Treasury has so clearly and strongly pointed out, ought not causelessly to be incurred. The hazards consequent upon a change of this sort would be great and numerous; what benefit the country could derive from it, it is beyond our comprehension to perceive.

If, however, it should be determined that no bank shall exist, we know not how the country is to be preserved from that wretched state of distrust, confusion and disaster, from which the efforts of years were heretofore required to redeem it. What reason is there to believe, that the long train of ills, which followed the dissolution of the last Bank, will not attend the extinction of the present one,—wild and reckless speculation, ruined confidence, worthless currency, and prostrate and broken credit? Let the people attend to the warnings of experience. If there be truth in her voice, or wisdom in her instruction, there will be nothing auspicious in the hour, which shall witness the downfall of the Bank.

