

# GREENSBOROUGH PATRIOT.

"THE IGNORANT AND DEGRADED OF EVERY NATION OR CLIME MUST BE ENLIGHTENED, BEFORE OUR EARTH CAN HAVE HONOR IN THE UNIVERSE."

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## UNITED STATES.

When I behold, as from the fens of heaven,  
The eagle with all her train, and them  
The tyrant deigns, or threat invasion back.

## BANK OF THE UNITED STATES.

[THE VETO.]

Message from the President of the United States, returning the Bank bill, with his objections, &c.  
(concluded.)

If Congress possesses the power to establish one bank, they had power to establish more than one, if, in their opinion, two or more banks had been "necessary" to facilitate the execution of the powers delegated to them in the Constitution. If they possess the power to establish a second bank, it was a power derived from the Constitution, to be exercised from time to time, and at any time when the interests of the country, or the emergencies of the Government might make it expedient. It was possessed by Congress as well as another, and by all Congresses alike, and alike at every session. But the Congress of 1816 have taken it away from their successors for twenty years, and the Congress of 1832 proposes to abolish it for fifty years more. It cannot be "necessary" or "proper" for Congress to barter away, or divest themselves of any of the powers vested in them by the Constitution, to be exercised for the public good. It is not "necessary" to the efficiency of the bank, nor is it "proper" in relation to themselves and their successors. They may properly use the discretion vested in them, but they may not limit the discretion of their successors. This restriction on themselves, and grant of monopoly to the bank, is therefore unconstitutional.

In another point of view, this provision is a palpable attempt to amend the Constitution by an act of legislation. The Constitution declares that "the Congress shall have power" to exercise exclusive legislation in all cases whatsoever, over the District of Columbia. Its constitutional power, therefore, to establish banks in the District of Columbia, and increase their capital at will, is unlimited and uncontrollable by any other power than that which gave authority to the Constitution. Yet this act declares, that Congress shall not increase the capital of existing banks, nor create other banks with capitals exceeding in the whole six millions of dollars. The Constitution declares, that Congress shall have power to exercise exclusive legislation over this District, "in all cases whatsoever," and this act declares they shall not. Which is the supreme law of the land? The provision cannot be "necessary," or "proper," or "constitutional," unless the absurdity be admitted, that whenever it be "necessary and proper" in the opinion of Congress, they have a right to barter a portion of the powers vested in them by the Constitution as a means of executing the rest.

On two subjects only does the Constitution recognize to Congress the power to grant exclusive privileges or monopolies. It declares that "Congress shall have power 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." Out of this express delegation of power, have grown our laws of patents and copy rights. As the Constitution expressly delegates to Congress the power to grant exclusive privileges in these cases, as the means of executing the substantive power "to promote the progress of science and useful arts," it is consistent with the true rules of construction to conclude, that such a power was not intended to be granted as a means of accomplishing any other end. On every other subject, which comes within the scope of Congressional power, there is an ever living discretion in the

use of proper means, which cannot be restricted or abolished without an amendment of the Constitution. Every act of Congress, therefore, which attempts, by grants of monopolies, or sale of exclusive privileges for a limited time, or a time without limit, to restrict or enmesh its own direction in the choice of means to execute its delegated powers, is equivalent to a legislative amendment of the Constitution, and palpably unconstitutional.

This act authorizes and encourages transfers of its stock to foreigners, and grants them an exemption from all State and national taxation. So far from being "necessary and proper" that the bank should possess this power to make it a safe and efficient agent of the Government in its fiscal operations, it is calculated to convert the Bank of the U. States into a foreign bank, to impoverish our people in time of peace, to disseminate a foreign influence through every section of the republic, and in war to endanger our independence.

The severalties reserved the power at the formation of the institution, to regulate and control all sales and transfers of real property, and almost, if not all of them, the laws disqualifying aliens from acquiring, or being made within their limits. But this act, in disregard of the manifest right of the States to preserve such regulations, gives to a new stockholder in this bank, an interest and title, as members of the corporation, to all the real property it may acquire within any of the States of this Union. This average grant of title is not "necessary," to enable the bank to perform its public duties, nor is it "proper," because it is vitally subversive of the rights of the States.

The Government of the U. States have no constitutional power, to purchase lands within the States, except "for the erection of forts, magazines, arsenals, dock yards and other needful buildings," and even for these objects only "by the consent of the Legislature of the State in which the same shall be," by making themselves stockholders in the bank, and granting to the corporation the power to purchase lands for other uses, they assume a power not granted in the Constitution, and grant to others what they do not themselves possess. It is not necessary to the receiving, keeping, or transmission of the funds of the Government, that the bank should possess this power. It is not "proper" that Congress should thus delegate powers delegated to them in the Constitution.

The old Bank of U. States possessed a capital of only eleven millions of dollars, which was formerly sufficient to execute it, with dispatch and safety, to perform all the actions required of it by the Government. The plan of the present bank is thirty five millions of dollars, at least twenty four more, than experience proved to be necessary to enable a bank to perform its public duties. The public debt which it is during the period of the old bank and on the assumption of the new has been nearly paid off, and the revenue will soon be reduced. This is not of capital, therefore, not for public but for private purposes.

The Government is, in any "proper" judge when its agents should be kept from office, because it best knows why their presence will be "necessary." It is therefore, not "necessary," or "proper," to confer the right to locate branches where it pleases, to perform the public service, without consulting the Government, and contrary to its will. The principle laid down by the Supreme Court declares that Congress cannot establish a bank for purposes of private speculation and gain, but only as a means of executing delegated powers of the General Government. The same principle, a branch bank cannot constitutionally be established for other than public uses. The power which this act gives to establish branches in any State, without the sanction or consent of the Government, and for other than public purposes, is not "necessary" to the due execution of the powers delegated to Congress.

The bonus which is exact from the bank, is a confession, upon the face of the act, that the powers granted by it are greater than "necessary" to its character as a fiscal agent of the Government, it does not tax its officers and agents the privileges of serving it. The bonus of a million and a half, required by the original chart, and that of three millions proposed by this act, are exacted for the privilege of giving "the necessary facilities for transferring the public funds from one place, within the U. States or the Territories thereof, and for distributing the same in payment of the public creditors, without charging interest or charging advance on account of the delay of exchange," as required by the act of incorporating on for something more beneficial to the shareholders. The original act declares that if the bank is "not deemed necessary" by this act upon the old bank, and the act before me declares it to be "not deemed necessary" to the exclusive benefits and privileges conferred by this act to the said corporation, it is a confession, that it is not "necessary," or "proper," to confer the right to locate branches where it pleases, to perform the public service, without consulting the Government, and contrary to its will. The principle laid down by the Supreme Court declares that Congress cannot establish a bank for purposes of private speculation and gain, but only as a means of executing delegated powers of the General Government. The same principle, a branch bank cannot constitutionally be established for other than public uses. The power which this act gives to establish branches in any State, without the sanction or consent of the Government, and for other than public purposes, is not "necessary" to the due execution of the powers delegated to Congress.

It is manifest, by some that the act is a means of executing the constitutional power "to coin money, and regulate the value thereof," which have

established a mint to coin money, and passed laws to regulate the value thereof. The money so coined, with its value so regulated, and such foreign coins as Congress may adopt, are the only currency known to the Constitution. But if they have other power to regulate the currency, it was conferred to be exercised by themselves and not to be transferred to a corporation. If the bank be established for that purpose, with a charter unalterable without its consent, Congress have parted with their power for a term of years, during which the Constitution is a dead letter. It is neither necessary nor proper to transfer its legislative power to such a bank, and therefore unconstitutional.

By its silence, considered in connexion with the decision of the Supreme Court, in the case of McCulloch against the State of Maryland, 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. Banking, like farming, mining, clearing, or any other occupation or profession, is a business, the right to follow which is not originally derived from the laws. Every citizen, and every company of citizens, in all of our States, possessed the right until the State Legislatures deemed it good policy to prohibit private banking by law. If the prohibitory State laws were now repealed, every citizen would possess the right. The State banks are a qualified restoration of the right which has been taken away by the laws against banking, guarded by such provisions and limitations as, in the opinion of the State Legislatures, the public interest requires. These corporations, unless there be an exemption in their charter, are like private bankers and banking companies, subject to State taxation. The manner in which these taxes shall be laid, depends wholly on legislative discretion. It may be upon the Bank, upon the stock, upon the profits, or in any other mode which the sovereign power shall will.

Upon the formation of the Constitution, the States surrendered their taxing power with peculiar jealousy. They surrendered it only as it regards imports and exports. In relation to every other subject within their jurisdiction, whether persons, property, business, or professions, it was secured in as ample a manner as it was before possessed. All persons, though United States officers, are liable to a poll tax by the States within which they reside; the lands of the U. States are liable to the usual land tax, except in the new States, from whom agreements that they will not tax unimproved lands, are exacted when they are admitted into the Union; horses, wagons, and boats, or vehicles, tools, or property, belonging to private citizens, though employed in the service of the U. States, are subject to State taxation. Every private business, whether carried on by an officer of the General Government or not, whether it be mixed with public concerns or not, even if it be carried on by the Government of the U. S. itself, separately or in partnership, falls within the scope of the taxing power of the State. Nothing comes more fully within it than banks and the business of banking, by whomsoever instituted and carried on. Over this whole subject matter, it is just as absolute, unlimited, and uncontrollable, as if the Constitution had never been adopted, because in the formation of that instrument it was reserved without qualification.

The principle is conceded, that the States cannot rightfully tax the operations of the General Government. They cannot tax the money of the Government deposited in the State Banks, nor the agency of those banks in receiving it; but will any man maintain that there were selection to perform this public service for the General Government, would exempt the State banks and their ordinary business from State taxation? Had the United States, instead of establishing a bank at Philadelphia, employed a private banker to keep and transmit their funds, would it have deprived Pennsylvania of the right to tax his bank and his usual banking operations? It will not be pretended. Upon what principle, then, are the banking establishments of the Bank of the U. States, and their usual banking operations, to be exempted from taxation? It is not their public agency, or the deposits of the government, which the States claim a right to tax, but their banks and their banking powers, instituted and exercised within state jurisdiction for their private emolument—those powers and privileges for which they pay a bonus, and which the States tax in their own banks. The exercise of those powers within a State, no matter by whom or under what authority, whether by private citizens in their original right, by corporate bodies created by the States, by foreigners or the agents of foreign governments, located within their limits, forms a legitimate object of State taxation. From sales and like sources from the persons, property, and business, that are found residing, located, or carried on, under their jurisdiction, must the States, to the sure order of their right to raise a revenue from imports and exports draw all the money necessary for the support of their governments, and the maintenance of their independence. There is no more appropriate subject of taxation than banks, banking, and bank stocks, and none to which the States ought more pertinaciously to cling.

It cannot be necessary to the character of the bank as a fiscal agent of the government, that its private business should be exempted from that taxation to which all the State banks are liable; nor can I conceive that the States, in the exercise of their sovereign power, shall be thus attacked and undermined as a means of executing the powers delegated to the General Government. It

may be safely assumed, that none of those persons who had an agency in forming or adopting our Constitution, ever imagined that any portion of the taxing power of the States, not prohibited to them or delegated to Congress, was to be swept away and annihilated as a means of executing certain powers delegated to Congress.

If our power over means is so absolute, that the Supreme Court will not call in question the constitutionality of an act of Congress, the subject of which is not prohibited and is really calculated to effect any of the objects entrusted to the Government, although, as in the case before me, it takes away powers expressly granted to Congress, and rights scrupulously reserved to the States, it becomes us to proceed in our legislation with the utmost caution. Though not directly, our own powers, and the rights of the States, may be indirectly legislated away in the use of means to execute substantive powers. We may not expect that Congress shall not have the power of exclusive legislation over the District of Columbia, but we may pledge the faith of the United States that a means of executing other powers it shall not be exercised for twenty years or forever. We may not pass an act of prohibition to the States to tax the banking business carried on within their limits, but we may, as a means of executing our powers over other objects, place that business in the hands of our agents, and then declare it exempt from State taxation in their hands. Thus, we may take away the rights of the States, which we cannot directly curtail or invade, be it by law and extinguished in the use of means and by us to execute other powers. That a Bank of the United States, competent to all duties which may be required by the Government, and which is organized as not to infringe on our own delegated powers or the reserved rights of the States, is a question a bank. Had the Executive been called upon to avow the project of such an institution, its duty would have been cheerfully performed. In the absence of such a call, it is obviously proper that he should confine himself to pointing out those prominent features in the act presented, which, in his opinion, make it incompatible with the constitution and sound policy. A general discussion, and far from an equal representation of the people according to the last census, will bear to the Central the verdict of public opinion, and I doubt not, bring this important question to a satisfactory result.

Under such circumstances, the bank comes forward and asks for a renewal of its charter for a term of fifteen years, upon conditions which cost only a separate as a gratuity to the stockholders of many millions of dollars, but will sanction abuses and legalize any encroachments.

Suspensions are entertained and charges are made of gross abuses and violation of its charter. An investigation unwillingly conceded, and so restricted in time, as necessary to make it incomplete and unsatisfactory, discloses enough to excite suspicion and alarm. In the practices of the principal banks partially unveiled, in the absence of important witnesses and in numerous charges confidently made, and as yet wholly uninvestigated, there was cause to induce a majority of the Committee of Legislation, a committee which was selected from the most able and honorable members of the House of Representatives, to recommend a suspension of further action upon the bill, and a prosecution of the inquiry. As the charter had yet four years to run, and as a renewal was not necessary to the success of its prosecution, it was to have been expected that the bank itself, conscious of its guilt, and proud of its character, would have withdrawn its application for the present, and demanded the severest scrutiny into all its transactions. In their declining to do so, there seems to be an additional reason why the functions of the Government should proceed with less haste, and more caution, in the renewal of their monopoly.

The bank is professedly established as an agent of the Executive branches of the Government, and its constitutionality is maintained on that ground. Neither upon the propriety of present action, nor upon the provisions of this act, was the Executive consulted. It has had no opportunity to say that it neither needs nor wants an agent clothed with such powers, and favored by such exemptions. There is nothing in its legitimate functions which make it necessary or proper. Whether a person or a corporation, whether public or private has grown rich by tax act, it cannot be found either in the wishes or necessities of the Executive Department, by which no action is deemed prohibited, and the powers conferred upon us agent not only unnecessary, but dangerous to the government and country.

It is to be regretted that the rich and powerful too, often bend the acts of Government to their selfish purposes. Distinctions in society will always exist under every just Government. Equality of rights, of education, or of wealth, cannot be made by human institutions. In the full enjoyment of the gifts of Heaven and the fruits of superior talents, economy, and virtue, every man is equally entitled to protect himself by law. But when the laws are so framed as to add to these natural and just advantages, artificial functions, to grant titles, honors, and exclusive privileges, to make the rich richer, and the poor more powerful, the humble members of society—the farmers, mechanics, and laborers, who are generally the true support of the nation, and who are so often the victims of the selfish and rapacious classes—have a right to complain of the injustice of their Government. Their complaint is not against the government, but against the abuses of it. If











