

The Lincoln Republican.

"The tendency of Democracy toward the elevation of the industrious classes, the increase of their comfort, the assertion of their dignity, the establishment of their power."

BY ROBERT WILLIAMSON, JR.

LINCOLN, N. C., SEPTEMBER 1, 1841.

VOLUME V, NO. 14.

NEW TERMS OF THE LINCOLN REPUBLICAN

TERMS OF PUBLICATION.
The LINCOLN REPUBLICAN is published every Wednesday at \$2 50, if paid in advance, or \$3 if payment be delayed three months.
No subscription received for a less term than twelve months.
No paper will be discontinued but at the option of the Editor, until all arrearages are paid.
A failure to order a discontinuance, will be considered a new engagement.

TERMS OF ADVERTISING.
ADVERTISEMENTS will be inserted conspicuously for \$1 00 per square for the first insertion, and 25 cents for each continuance. Court and Judicial advertisements will be charged 25 per cent. more than the above prices. A deduction of 33 1/2 per cent. from the regular prices will be made to yearly advertisers.
The number of insertions must be noted on the manuscript, or they will be charged until a discontinuance is ordered.

TO CORRESPONDENTS.
To insure prompt attention to letters addressed to the Editor, the postage should in all cases be paid.

SPEECH OF MR. SAUNDERS, OF N. CAROLINA, ON THE FISCAL BANK BILL.

Delivered in the House of Representatives, August 2, 1841.

MR. CHAIRMAN: I might congratulate myself on my good fortune in obtaining the floor, as it had been my wish to have addressed the House on a previous occasion, but that I now feel no little embarrassment in speaking on a question of this importance, under the continued fear of your new rule for limiting debate. But, sir, I cannot suffer a measure so deeply interesting to all—so vitally important to the country—to be carried through this body, without an attempt on my part to expose its true character. The great whig measures of promised relief are all of minor importance, and can avail but little without this crowning act, which is to give life to the whole. The bill for the distribution of the proceeds of the public lands, whose improvidence is rendered the more glaring by those which have followed—the one for authorizing a loan of twelve millions of dollars, and the other for raising, by taxes, twenty-seven and a half millions of dollars; thus giving, borrowing, and taxing, at one and the same period—are all measures of deep interest to the country; yet their mischiefs may be remedied, and their effects temporary. But the bill under debate is a measure fraught with consequences which the wisest amongst us are unable to predict, much less to foresee. Viewing then, as I do, and as others do who think and act with me, as a measure of this character, it is not to be expected, and should not be asked, that we who thus think should suffer it to be saddled upon the country, without every effort on our part to arrest its progress.

If we call on the advocates of this bill for their power to impose on the country a measure of such fearful import, we are answered by being told that others who have gone before us have done the like, and that it is a settled question. If we demand to know its expediency—the benefits which are to flow from it—we are still directed to the past; and although we may find therein much of mischief and little of good, still gentlemen urge us on, and, in their wild imaginations, paint the future with promises, hopes, and expectations, which must end in disappointment, disaster, and mischief. It is to be now decided that a bank is indispensably necessary to the future operations of the Government, so must it continue to be for all time to come. And you add a new and great moneyed institution to our system, not contemplated by the framers of the constitution, but by them expressly denied. And we are told this is a settled question. How settled, and by whom?—by those who are authorized to think and to act for us, or for those to whom we are responsible? No, sir. But by past Legislatures; former Executives; by a Judiciary in the expounding of laws enacted by our predecessors; and by public opinion, as collected, understood, and moulded, as may best suit the views of those who claim to exercise the power in question. If each and all of these departments had been uniform in their decisions, without doubt or change, it would not solve the difficulty with such as are now called upon to exert a power which they do not believe rightfully to exist. But let us look into this historical record, to which the honorable gentleman from Pennsylvania (Mr. Seargeant) has invited us, and see if this power has not, over and over again, been denied and condemned.

1. *The Legislature.*—I shall not, at present, go further back than to examine the first act which transpired on the subject, after the adoption of the constitution; and that was the bill which passed for chartering a bank, in the year 1791. It is admitted the constitutional question was then raised, and that several members of that

Congress had been members of the Federal convention. But if we examine and consider all the facts and circumstances attending the granting of this charter, it will be found not to constitute such an imposing precedent as some would seem to imagine. In the Senate, the measure was carried through, without eliciting much debate, or even producing a call for the yeas and nays on the final passage of the bill. In the House of Representatives, the matter was more seriously contested. In that body were nine members who had been in the convention for framing the constitution.—Five of them voted for, and four against, the bank. Amongst the number was James Madison, who had taken a more active part in the formation and adoption of the constitution than any man living. His speech against the power of Congress to charter a bank, will be read and admired so long as the constitution itself shall command respect;—its argument sound; its reasoning clear; its deductions irresistible. His mind was free then to act according to the dictates of a sound and discriminating judgment. Fully informed of all that had transpired both in the formation and adoption of the constitution, and uninfluenced by any considerations of necessity, policy, or precedent, he was left free to consult and to follow the force of reason and the lights of the truth. The suggestion of the Secretary of the Treasury (Alexander Hamilton) that a bank was necessary to a proper administration of the Government, however it may have influenced others, had no influence with this great and virtuous man. He well understood the history of this question to charter incorporations, and chose to interpret the constitution in the spirit in which he knew it had been adopted. And most truly did he remark in that speech,—"With all this evidence of the sense in which the constitution was understood and adopted, will it not be said, if this bill should pass, that its adoption was brought about by one set of arguments, and that it is now administered under the influence of another? And this reproach will have a severer sting, because it is applicable to so many individuals concerned in both the adoption and administration." If this language was true then, as to the arguments used for administering the constitution, how much truer now, as to those urged in its interpretation? Now, it is said, the constitution is settled; and whatever may be its real sense, we have not the right even to think for ourselves. I cannot subscribe to this loyal doctrine of unconditional submission to the will of any power. The bill for chartering the bank became a law, notwithstanding the earnest opposition to it. It was allowed to have its full term of twenty years, when came the great contest for its renewal. The bank had been correctly administered, and its affairs successfully managed. The objections on that score had but little weight in deciding the question. The debates show the great point in issue was—the power to grant the charter. The period was favorable to an impartial decision of the question.—The country, though much embarrassed by our difficulties with England—difficulties which soon led to a war—still was not so greatly indebted to the bank as to have any improper influence. Bank accommodations to members of Congress and to editors of the press did not at that day constitute its business transactions. The administration had been for ten years in the hands of the republican party. The principles of that party were extensively diffused, and greatly influenced the public mind. It was under the influence of these principles, that a majority of the Representatives of the people had been returned to Congress. It was natural therefore, that they should not merely reflect the popular will, but sustain that creed which constituted a cardinal point in their political faith—a strict adherence to the spirit and letter of the constitution. Under these advantages, the decision was made, and, I need not say, the power denied—the charter rejected.—& the republican banner again waved triumph. Passing this important decision, we next have that of 1816 in favor of a bank. The country had just passed through a severe war with a powerful enemy, and with a domestic opposition as violent as it had been unremitting. The banking system was greatly deranged, and called loudly for a remedy. Unfortunately for the country, the President gave way, and the republican party yielded to the necessity of the times. Mr. Madison, at first, vetoed the bill; but in his message said he considered the constitutional question as waived; and the result was, the incorporation of the late Bank of the United States. Many of those who voted for that bank, soon after repeated acts; and a still greater number now are amongst its most strenuous opponents. In 1832 the bill for renewing the charter of that bank was carried through Congress, under circumstances not entailing its decision under any great respect. It was arrested by the veto of President Jackson; and the people sanctioned the act in his re-election, and by returning a majority to Congress opposed to the measure. In 1837, a resolution passed the House of Representatives, by a vote of 133 to 81, declaring it inexpedient to charter a bank. Such has been the

legislative action of Congress on this question; from which it will be seen, if the power has been three times asserted, so it has been twice denied;—once decisively against the constitutional power; the other against its expediency; and both clearly responsive to the public will.

2. *The Executive.*—The advocates of this power place great reliance on the fact that General Washington approved of the first charter incorporating a bank. But the hesitation and reluctance, the doubt and embarrassment, under which he lent his great name to the measure, greatly detract from the weight of its influence. He not only retained the bill to the very latest moment, and called for the opinion of his cabinet, in writing; but, as it now appears, actually consulted with Mr. Madison about the grounds of a veto. Mr. Jefferson was a member of his cabinet, and gave a written and able opinion against the power of Congress to grant charters of incorporation. Mr. Monroe, as a member of the Senate, & Mr. Madison, of the House, had both voted against the bill. So that, of these four distinguished individuals, three had denied the power, and the one yielded it with great difficulty. It is true that Mr. Madison in an after day sanctioned a bank; but there is no declaration of his that he ever changed his opinion on the constitutional question. If he did change, his arguments remain a living monument against the power, unanswered and unanswerable. The attempt now made by the friends of the power to draw to their support the name of Thomas Jefferson, evinces on their part a willingness to rob the dead of their fame, to carry this measure. The written opinion of Mr. Jefferson, as a member of President Washington's cabinet, as well as every other act of his illustrious life, in favor of the most rigid construction of the constitution, ought to satisfy every liberal mind that his opinion underwent no change. That both the elder and younger Adams were in favor of this power, is not to be questioned. So it is equally certain that General Jackson and Mr. Van Buren were opposed to it. Gen. Jackson not only vetoed the bill, but in his parting address to the people of the U. States, cautioned them in the most emphatic terms never to revive it. Mr. Van Buren announced himself as the uncompromising opponent of a bank, & with this avowal of his opinion, was elected President.—General Harrison declared the bank unconstitutional, and in 1819 voted, as a member of the House of Representatives, for the following resolution: "Resolved, That the Committee on the Judiciary be instructed to report a bill to REPEAL the act entitled 'An act to incorporate the subscribers to the Bank of the United States,' approved April 10, 1816." After this vote by the great whig leader, we should hear nothing more about this revolutionary doctrine of repeal. It cannot be said the bank had been badly managed, and had incurred thereby a forfeiture of its charter. If so, it was entitled to a notice by *sci. fa.*, a hearing, and a trial. I say nothing as to the opinions of President Tyler; they have already been read; and, if he shall adhere to them, there can be no danger of a bank for the present. Thus it is found that, of ten Presidents, six, if not seven, have declared against the constitutional power of Congress to charter a bank.

3. *The Judiciary.*—The decision of the Supreme Court in favor of the constitutionality of the late bank, is with some gentlemen not only conclusive of the question, but, as they say, closes the mouths of all, whatever may be our individual opinions. If we were in a court of justice, and the law were still in force, I can well imagine and admit the strength of this reasoning.—But we are not in Westminster Hall, but in the House of Representatives. The law is not now in force, but we are called on to revive it in a still more objectionable form. I say, then, not only we, but even the present judges of that court, have the right to review and dissent from that opinion, should it be considered as wrong. The court might feel under great obligations to follow and respect it, for the sake of uniformity; and because, there, a judge is hardly allowed to question a previous decision, without subjecting himself to the charge of going against the settled law of the land. There may be considerations operating with us, which the judge might not allow to operate with him. *Fiat justitia, ruat cælum*, is their boasted maxim. And, without intending to say any thing that shall detract from the high character of the court by which that judgment was pronounced, or the ability of the opinion as given by it,—it is a little remarkable, whilst the Chief Justice does advert to the fact of the action of the Legislature and the Executive in favor of the power, as well as to the law being supported by those who had been members of the federal convention, he passes by in silence the contrary opinion as expressed by those departments, and fails to notice the important fact, as disclosed by Mr. Madison in his speech—"that a power to grant charters of incorporation had been proposed in the general convention, and rejected." Under these circumstances, however great my respect for the court, and however disposed to bow to its decision during the existence of the law, I now feel

at liberty to consult what I consider even higher authority, and that is—the constitution itself. To revive a law pronounced by your courts unconstitutional, would bring the Legislative directly in contact with the Judiciary department; but not so in going against the opinion of the court of a law on a question of its renewal. I proceed, then, to the last point.

4. *Public opinion.*—I am at all times and on all occasions disposed to treat this authority with the highest respect. In matters of expediency, the avowed opinion of those I may represent will, on all occasions, be obligatory with me; and on constitutional questions I should differ from them with reluctance. And I am free here to declare on a question of constitutional construction involving neither legal research nor technical or metaphysical distinctions, which often bewilder and mislead rather than enlighten the judgment, I should feel as much disposed to take a free and decisive expression of the public sentiment as that of any court. But, I ask, where is this demonstration of the public sentiment in favor of a bank? It is not to be found in the result of your late presidential election. The President, in his opening message, declares that both the sub-treasury and the bank had been condemned by the voice of the people. It was expressly condemned in the re-election of General Jackson and in the election of Mr. Van Buren. No issue of the kind was made in the election of General Harrison. The convention by which he was nominated made no declaration in favor of a bank, but left each delegate to pursue his own course and to make his own issues in his own State. I undertake to speak for my State, and say, with all becoming respect, that the course of the whig party in North Carolina, in the canvass of 1840, on the question of a national bank, was marked by *equivoque* and a want of candor. I do not say what was, or what might have been, the opinion of a majority of the freemen of the State; but that no issue of the kind was made or tendered by the whig party, either in the State or national elections. The State convention proceeded that of the Harrisburg; but neither made any avowal in favor of a bank. And I challenge any gentleman to produce a single document intended for general circulation in our State before the election, in which a declaration was made of an intention by the whigs to establish a national bank. On the contrary, I hold in my hand the speech of a gentleman of high character, now a member of the cabinet, and amongst if not the very first delivered in the State after the nomination of General Harrison, in which he distinctly denies that General Harrison ever favored, much less that he was for a bank. In this speech Mr. Badger says: "Next, it is said that General Harrison favors a Bank of the United States. The charge is false. His opinions, on the contrary, are against a bank. He has declared it an institution which, as President, he would not recommend." This speech was made to give tone to the public feeling, and material for the whig party to operate upon. It was published, circulated, and recommended by the "Whig Central Committee;" and in their address accompanying it, they say—"It presents a forcible exposition of the dangerous tendencies of the policy by which the present administration is guided—its efforts to force upon the people the sub-treasury; its extravagant expenditures; its exertions to fix on the nation the curses and dangers of a large standing army; to deprive the old State of their just portion of the public lands." So that the issues made in the speech and presented in the address were, 1st. Sub-treasury; 2d.—Extravagant expenditures; 3d. A standing army; 4th. The public lands. Nothing as to a bank. And as to the discussions, although a bank may have occasionally been alluded to, the great burden of the whig speeches turned more upon negro testimony, gold spoons, soap and towels, and such miserable slang as I should now blush to repeat.

The elections having been thus decided, the public passions excited, false prejudices created, and the public mind deluded and misled, the candidates for Congress at the spring elections may have avowed themselves for a bank. But the shortness of the call, and the small vote, cannot be taken as expressive of the public opinion as to any thing. Besides, at the last session of the Legislature, with whig majorities in both branches, they declined to act on resolutions in favor of a bank, although resolutions were passed on the subject of the public lands;—the more uncalculated, as they had been adopted at a previous session.

I think, then, Mr. Chairman, I may assume it as established, that the legislative, the executive, and the judicial action on the subject, does not forbid our examining into the power of chartering a bank; nor has there been such an expression of public opinion in favor of the measure, in the late general election, as to preclude us from a free and untrammelled exercise of our own judgment on the question. It is not my purpose at present to go into a discussion of the general question of constitutional power; because, under our your arbitrary

rule for limiting debate, I have not time to do so. I must content myself with merely stating the argument as briefly as possible, leaving to others the task of amplifying and extending it. That ours is a Government of enumerated powers, none of which this day will be hardly enough to deny.—That Congress can only exercise the granted powers, and such as are directly and clearly auxiliary thereto, is, with me, a proposition equally clear. What may be necessary and proper for carrying out the granted powers, may be, and, as I admit, is, a matter of dispute. We say the right of passing all such laws as are authorized by the concluding clause of the 8th section of the 1st article of the constitution, confers no original grant of power, but limits the right to the mere execution of the powers already enumerated. That the rule as laid down by Mr. Madison in his speech of 1791 is the true and safe rule for interpreting the constitution; and that was—"That, according to the natural and obvious force of the terms and the context, the means must be limited to what is necessary to the end, and incident to the nature of the specified powers." That, in carrying out the expressly granted powers, you are confined to the bona-fide execution of the grant; and without which, the grant itself would be nugatory. That, in deciding on what is necessary and proper, you are limited to the necessity, and not to the utility, to the convenience, or to the expediency of the measure. If you depart from this rule, and say a bank would aid the Government in its collection of the revenue, or its regulation of commerce, either as to the currency or exchanges, you are off on the wide sea of uncertainty, and remove at once the great landmarks of the constitution. You are "puzzled with mazes and perplexed with doubts" as to the policy or impolicy of measures; and the constitution is made to depend on what you may happen to adopt. Measures of primary importance to day, may be odious and improper to-morrow. And you thus make the constitution depend on the popularity, or want of popularity, of what you may happen to do;—a standard which no lover of his country can ever wish to see resorted to, for interpreting the great charter of its liberties.—The alien and sedition laws were held as necessary to command a proper respect for those then in power; and under this decision of necessity, your courts of that day sustained their constitutionality. But now, no one is so humble as to do them reverence; although their spirit has been revived in the star-chamber commissions issued from your executive departments, to try men for their political sentiments, and to carry out the great whig system of reform of "no proscription for opinion's sake," as well as to the arbitrary and uncalled for rule which you have adopted at the present session, of saying not only how long a man may speak, but when all debate shall end; and thus, under the pretext of saving time and expediting the public business; but, as I say, in violation of the freedom of speech, and to cover your deeds in darkness. In answer to our call for your power to pass this bill, you refer us back to the powers as contended for in 1791:

1. The power to lay and collect taxes.
2. To borrow money.
3. To the power of passing all such laws as may be necessary; to the additional power, as pressed in the argument in 1811.—the power to regulate commerce. To these you add the necessity of a bank, as proved in 1816; and now, if all other arguments fail, then to precedent, and to what you consider as expedient, which accommodates itself to every man's will, as do the necessities of life to the human appetite. Things once considered as luxuries, are now held not merely as desirable, but as indispensable to human existence. This seeking for power everywhere, and finding it nowhere but in names—certainly not in the constitution—reminds me of the graphic description given by a distinguished gentleman in 1811, then denying the very thing which he now considers as existing beyond all question. Mr. Clay said:—"This vagrant power to erect a bank, after having wandered throughout the whole constitution in quest of some congenial spot whereon to fasten, has been at length located to that provision which authorizes Congress to lay and collect taxes, &c. In 1791 the power is referred to one part of the instrument; in 1811 to another. Sometimes it is alleged to be deducible from the power to regulate commerce. Hard pressed here, it disappears, and shows itself under the grant to coin money. The sagacious Secretary of the Treasury, in 1791, pursued the wisest course. He has taken shelter behind general high-sounding and imposing terms."

The shelter is now mere protection; not behind high-sounding and imposing terms, but under the great shield of precedent.—What has once been done, may be repeated; and that which was wrong and unconstitutional in 1811, is now right, as a matter of convenience and propriety.

And here I am reminded of the remark of the gentleman from Pennsylvania, who carried us back to the period of 1781, and gave us the ordinance of the old Congress

incorporating the Bank of North America; in the preamble of which, it is declared "that the exigencies of the United States render it indispensably necessary;" and he infers from this, that our forefathers not only decided a bank as then necessary, but that they so considered it when framing and adopting the constitution; that it was by the means of a bank they were enabled to prosecute the revolutionary war to a successful termination. These were the men who achieved our independence and established the constitution; and deeply impressed as they were as to the necessity of a bank to the future operations of the Government, they would have consented to no constitution which denied to the Legislature the power of establishing it. Such are the facts, and such the argument, for proving the existence of the power in the constitution to create a bank. Now, sir, I draw directly the contrary inference from these facts. "If the framers of the constitution had considered a bank as so indispensably necessary to the operations of the Government, is it rational to suppose they would have refused to insert in the constitution this power in express terms? Yet we look in vain amongst the enumerated powers for that to establish a bank. The fact is, the fathers of the Revolution had experienced too many of the evils, and suffered too severely in their losses, from a worthless depreciated paper system, to desire its revival, much less to see any thing incorporated in the constitution as the standard of value but that of gold and silver.—They were jealously alive to all monopolies, and particularly so to such as conferred on money corporations the exclusive privilege of regulating the value of labor. Hence is to be found in the journals of the convention this proposition to grant charters of incorporation, made over and over again, and rejected. And so jealous were the framers of the constitution against corporations, that they refused to insert even the power to establish a university for learning. To establish this fact, I call the attention of the committee to the important fact, as disclosed by the publication of the Madison Papers. In the 3d volume, page 1576, will be found the following proceedings in the convention, on the final report and adoption of the constitution: "Dr. Franklin moved to add, after the words 'post roads,' art. 1, sec. 8, a power 'to provide for cutting canals, when deemed necessary.' Mr. Wilson seconded the motion: Mr. Sherman objected. Mr. Madison suggested an enlargement of the motion into a power 'to grant charters of incorporation, where the interest of the United States might require, and the legislative provisions of individual States may be incompetent.' Mr. Randolph seconded the proposition. Mr. King objected, and said: 'The States will be prejudiced and divided into parties by it. In Philadelphia and New York it will be referred to the establishment of a bank, which has been the subject of contention in those cities.' "Mr. Wilson mentioned the importance of facilitating by canals the communication with the western settlements. As to banks, he did not think with Mr. King, that the power, in that point of view, would excite the prejudices and parties apprehended." Here we have a direct proposition to insert into the constitution a power "to grant charters of incorporation;" and it is contended at the time, as creating the right of establishing a bank, which will excite the prejudices of the people. And although this proposition was rejected, as it has been twice before, still we are now told the constitution not only gives the power to create a bank, but the framers of that instrument intended to give it. A strange conclusion, and most extraordinary inference! Yet it is by such reasoning that this power of making a bank is now claimed.

And yet we boast that ours is the most perfect system of government ever yet devised by the wit of man. In what does this great superiority consist, but in the fact that we have a written constitution? Not like the laws of the Roman tyrant, suspended so as not to be seen or read; but written, printed, accessible to all, as well to the tenant of the log-cabin as the inhabitant of the palace. But of what value is this to be defied away, and made to accommodate itself to the will of a majority; and become not what its wise framers made it, but what Congress may judge it? To be fixed, certain, immutable, its limits defined, its boundaries prescribed, "its metes and bounds" marked under known and visible lines, so that all may read and understand;—these are the great blessings of a written constitution—blessings which are blotted out and blasted forever by the breath of construction. I know, sir, these doctrines do not accord with the spirit of the times, nor keep pace with that march of intellect which knows no limits and feels no restraint—doctrines now denounced as Virginia abstractions—southern principles. But they are not the less dear to me, because they may once have been emblazoned on Kentucky's banner and Virginia's shield; and I most cheerfully content myself to follow in the footsteps of a Macon, and to be guided by the precepts of a Jefferson; though I shall not be able to find any