

ROANOKE ADVOCATE.

CONSTITUTIONAL LIBERTY.

VOL. IV.—NO 22, 177.

HALIFAX, N. C. JULY 26, 1832.

EAGLE HOTEL, HALIFAX, N. C.

THE subscriber having leased that large and commodious establishment, **The Eagle Hotel,**

situated on Maine Street, and recently occupied by Mr. Joel H. McEmore, begs leave to inform his friends and the public, that he will be prepared to accommodate them by February Court next. He promises

HIS TABLE

shall be furnished with the best the country can afford.

HIS BAR

will be constantly supplied with superior WINES and LIQUORS, and having procured excellent Hostlers,

HIS STABLES

will be faithfully attended to. The subscriber having had some years experience as keeper of a

PUBLIC HOUSE

feels a confidence that he can give general satisfaction, and respectfully solicits a share of the public patronage.

WILLIAM H. POPE.

February 1832. 49—tf

State of North Carolina.

NORTHAMPTON COUNTY.

Court of Pleas and Quarter Sessions, June Term A. D. 1832.

Rea and Camp vs Oig. Attachment levied on a Tract of Land adjoining the Lands of Willie Lewter et al.

IT appearing to the satisfaction of the Court that Anthony Deberry, the Defendant in this Case, is not at this time an inhabitant of this State: On motion it is therefore ordered by the Court, that publication be made in the ROANOKE ADVOCATE for six weeks, giving the said Anthony Deberry notice to appear at the Court of Pleas and Quarter Sessions to be held for the county of Northampton, at the Court House in Jackson, on the first Monday in September next, then and there to enter into a replevin Bond according to Law or final Judgment will be entered up against him and the property levied on, condemned liable to the plaintiffs recovery.

Teste RICHARD H. WEAVER, Ck.

Price Adv. \$3 50 19—6w

\$10 REWARD FOR ELAN.

RANAWAY, on the 28th ultimo, from my plantation on Stone House Creek, about three miles South of Mr. William Eaton's Ferry, negro ELAN, formerly the property of Doct. John T. Clanton, of Halifax county, N. C. He is about 5 feet 10 inches high, no particular marks recollected, and is between 19 and 21 years of age. I purchased him at public sale, in the town of Halifax, at last November Court, and have no doubt he is lurking about Dr. Clanton's plantation or neighborhood.—I will give the above reward, if delivered to my overseer at the above mentioned plantation or at my plantation Reedy Creek; or five dollars if lodged in any jail so that I get him again.

PETER MITCHELL.

Warrenton June 11. 16—tf

State of North Carolina.

NASH COUNTY.

Superior Court of Law, March Term 1832.

Matilda Durham vs Josiah Durham } Petition for Divorce.

WHEREAS it appears to the satisfaction of the Court that the defendant Josiah Durham is not an inhabitant of this State: It is therefore ordered that publication be made in the ROANOKE ADVOCATE for six weeks, giving the said Thomas Brown notice to appear at the Court of Pleas and Quarter Sessions to be held for the County of Northampton, at the Court House in Jackson, on the first Monday in September next, then and there to enter into a replevin bond according to law or final judgment will be entered up against him and the property levied on, condemned liable to the Plaintiffs recovery.

Teste RICHARD H. WEAVER, Ck.

Price Adv. \$3.05 19—w

FOR SALE,

1000 ACRES of valuable LAND, in one body, in the upper part of Halifax County, N. C. No healthier land in this country. Three plantations upon it, a good DWELLING HOUSE and other useful houses on each place. On the home Tract a good Cotton Gin, Double Screw Pack, ORCHAR, a never failing STONE CELLAR for Sweet Potatoes, to hold 500 Bushels. Land Buyers on wet Slashy Land, will do well to buy mine, and can have the Crop, Stock and Furniture at a low price, and good title, and possession in October next, apply to the owner.

GOODMAN NEVILL.

July 14th 1832. 13—3t

BANK OF THE U. STATES.

MESSAGE

(Continued.)

By documents submitted to Congress, at the present session, it appears that on 1st of January 1832, of the twenty-eight millions of private stock in the corporation \$3,405,500 were held by foreigners, mostly of Great Britain. The amount of stock held in the nine western States is \$140,200, and in the four southern States is \$5,623,100; and in the eastern and middle States about \$13,522,000.—The profits of the bank in 1831, as shown in a statement to Congress, were about \$3,455,598; of this there accrued in the nine western States about \$1,640,048, in the four southern States about 352,507, and in the middle and eastern States, about \$1,493,041. As little stock is held in the west, it is obvious that the debt of the people in that section to the bank 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 burthen upon their industry, and a drain of their currency, which no country can bear without inconvenience, and occasional distress. To meet this burden, and equalize the exchange operations of the bank, the amount of specie drawn from those States, through its branches, within the last two years, as shown by its official reports, was about \$5,000,000. More than half a million of this amount does not stop in the eastern States, but passes on to Europe, to pay the dividends to the foreign stockholders. In the principle of taxation recognized by this act, the western States find no adequate compensation for this perpetual burden on their industry, and drain upon their currency. The branch bank at Mobile, made last year, 95,140; yet, under the provisions of this act, the State of Alabama can raise no revenue from these profitable operations, because not a share of the stock is held by any of her citizens. Mississippi and Missouri are in the same condition in relation to the branches at Natchez and St. Louis; and such, in a greater or less degree, is the condition of every western State.—The tendency of the plan of taxation, which this act proposes, will be to place the whole U. States in the same relation to foreign countries which the western States bear to the eastern.—When, by a tax on resident stockholders, the stock of this bank is made worth ten or fifteen per cent, more to foreigners than to residents, most of it will inevitably leave the country. Thus will this provision, in its practical effect, deprive the eastern as well as the southern and western States, of the means of raising a revenue from the extension of business and the great profits of this institution. It will make the American people debtors to aliens in nearly the whole amount due to this bank, and send across the Atlantic from two to five millions of specie every year, to pay the bank dividends.

In another of its bearings this provision is fraught with danger. Of the twenty five directors of this bank, five are chosen by the government, and twenty by the citizen stockholders.—From all voice in these elections the foreign stockholders are excluded by the charter. In proportion, therefore as the stock is transferred to foreign holders, the extent of suffrage in the choice of directors is curtailed. Already is almost a third of the stock in foreign hands, and not represented in elections. It is constantly passing out of the country, and this act will accelerate its departure. The entire control of the institution would necessarily fall into the hands of a few citizen stockholders, and the ease with which the object would be accomplished, would be a temptation to designing men to secure that control in their own hands by monopolising the remaining stock. There is danger that a president and directors would then be able to elect themselves from year to year, and without responsibility or control manage the whole concerns of the bank during the existence of its charter. It is easy to conceive that great evils to our country and its institutions might flow from such a concentration of power in the hands of a few men irresponsible to the people.

Is there no danger to our liberty and independence in a bank that, in its nature has so little to bind it to our country? The president of the bank has told us, that most of the state banks exist by its forbearance. Should its influence become concentrated, as it may under the operations of such an act as this in the hands of a self elected directory, whose interests are identified with those of the foreign stockholder, will there not be cause to tremble for the purity of our elections in peace, and for the independence of our country in war? Their power would be great whenever they

might choose to exert it; but if this monopoly were regularly renewed every fifteen or twenty years, on terms proposed by themselves, they might seldom in peace, put forth their strength to influence elections or control the affairs of the nation. But if any private citizen or public functionary should interpose to curtail its powers, or prevent a renewal of its privileges it cannot be doubted that he would be made to feel its influence.

Should the stock of the bank principally pass into the hands of the subjects of a foreign country, and we should unfortunately become involved in a war with that country, what would be our condition? Of the course which would be pursued by a bank almost wholly owned by the subjects of a foreign power, and managed by those whose interests, if not affections, would run in the same direction, there can be no doubt. All its operations within would be in aid of the hostile fleets, and armies without; controlling our currency, receiving our public moneys, and holding thousands of our citizens in dependence, it would be more formidable and dangerous than the naval and military power of the enemy.

If we must have a bank with private stockholders, every consideration of sound policy, and every impulse of American feeling, admonishes that it should be purely American. Its stockholders should be composed exclusively of our own citizens, who at least ought to be friendly to our government, and willing to support it in times of difficulty and danger. So abundant is domestic capital that competition in subscribing for the stock of local banks has recently led almost to riots. To a bank exclusively of American stockholders, possessing the powers and privileges granted by this act, subscriptions for two hundred millions of dollars could be readily obtained. Instead of sending abroad the stock of the bank, in which the government must deposit its funds, and on which it must rely to sustain its credit in times of emergency, it would rather seem to be expedient to prohibit its sale to aliens, under penalty of absolute forfeiture.

It is maintained by the advocates of the bank, that its constitutionality, in all its features, ought to be considered as settled by precedent, and by the decision of the Supreme Court. To this conclusion I cannot assent. Mere precedent is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power, except where the acquiescence of the people and the States can be considered as well settled. So far from this being the case on this subject, an argument against the bank might be based on precedent. One Congress, in 1791, decided in favor of a bank, another, in 1811, decided against it. One Congress, in 1815, decided against a bank; another, in 1816, decided in its favor. Prior to the present Congress, therefore, the precedents drawn from that source were equal. If we resort to the States, the expressions of legislative, judicial, and executive opinions against the bank have been, probably, to those in its favor, as four to one. There is nothing in precedent, therefore, which if its authority were admitted, ought to weigh in favor of the act before me.

If the opinion of the Supreme Court covered the whole ground of this act, it ought not to control the co-ordinate authorities of this government. The Congress, the Executive, and the Court, must each for itself be guided by its own opinion of the Constitution. Each public officer who takes an oath to support the Constitution, swears that he will support it as he understands it, and not as it is understood by others. 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 the Congress or the Executive, when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.

But in the case relied upon, the Supreme Court have not decided that all the features of this corporation are compatible with the constitution. It is true that the court have said, that the law incorporating the bank, is a constitutional exercise of power by Congress. But taking into view the whole opinion of the court, and the reasoning by which they have come to that conclusion, I understand them to have decided that, inasmuch as a bank is an appropriate means for carrying into effect the enumerated powers of the General Govern-

ment, therefore, the law incorporating it is in accordance with that provision of the Constitution which declares that Congress shall have power to make all laws which shall be necessary and proper for carrying those powers into execution. Having satisfied themselves, that the word 'necessary' in the constitution means 'needful,' 'requisite,' 'essential,' 'conducive to,' and that 'a bank' is a convenient, a useful and essential instrument in the prosecution of the Government's fiscal operations, they conclude that, to 'use one must be within the discretion of Congress,' and, that, 'the act to incorporate the Bank of the United States, is a law made in pursuance of the constitution.' 'But,' say they 'where the law is not prohibited, and is really calculated to effect any of the objects entrusted to the government, to undertake here to inquire into the degree of its necessity would be to pass the line which circumscribes the judicial department, and to tread on legislative ground.'

The principle, here affirmed is, that the 'degree of its necessity,' involving all the details of a banking institution, is a question exclusively for legislative consideration. A bank is constitutional; but it is the province of the legislature to determine whether this or that particular power, privilege, or exemption, is necessary and proper, to enable the bank to discharge its duties to the Government, and from their decision there is no appeal to the courts of justice. Under the decision of the Supreme Court therefore, it is the exclusive province of Congress and the President to decide, whether the particular features of this act are 'necessary and proper,' in order to enable the bank to perform, conveniently and efficiently, the public duties assigned to it as a fiscal agent, and therefore, constitutional, or unnecessary and improper, and, therefore unconstitutional.

Without commenting on the general principle affirmed by the Supreme Court, let us examine the details of this act, in accordance with the rule of legislative action, which they have laid down. It will be found, that many of the powers and privileges conferred on it, cannot be supposed necessary for the purpose for which it is proposed to be created, and are not, therefore, means necessary to attain the end in view, and consequently, not justified by the constitution.

The original act of incorporation, section 21, enacts 'that no other bank shall be established by any future law of the United States, during the continuance of the corporation, hereby created, for which the faith of the United States is hereby pledged: Provided Congress may renew existing charters for the banks within the District of Columbia, not increasing the capital thereof, and may also establish any other bank or banks in said District, with capitals not exceeding, in the whole, six millions of dollars, if they shall deem expedient.' This provision is continued in force by the act before me, fifteen years from the 3d of March, 1836.

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 by the Constitution. If they possessed 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 one 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 fifteen 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 a 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 declares they shall not. Which is the supreme law of the land? This 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 away one 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 in Congress the power to grant exclusive privileges on the 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

(Continued on the fourth page.)

BY EDM. B. FREEMAN.
The Advocate will be printed every Thursday morning at \$2 50 per annum, in advance, or \$3 if payment is not made within 3 months.
No paper to be discontinued until all arrearages are paid, unless at the option of the Editor; and a failure to notify a discontinuance will be considered as a new engagement.
Advertisements, making one square or less, inserted three times for One Dollar, and twenty-five cents for every subsequent insertion, longer ones in proportion. All advertisements will be continued unless otherwise ordered, and each continuance charged.

JUST RECEIVING

MY Spring supply of Drugs and Medicines from New York, consisting of almost every article usually kept by an Apothecary.

ON HAND

A good assortment of Confectioneries and daily expected, a further supply from Norfolk.

ALSO,

a quantity of good FLOUR, prices varying from \$5.50 to 6.75, &c. &c. &c. I shall, at all times, be pleased to attend to my friends, whether they apply in person or by order; and will take this opportunity to suggest to my customers, who have deferred their accounts to stand open beyond the usual time (some, ever since I commenced business) that if they are not closed immediately, justice will require my pursuing a legal course for collection.

JOS. L. SIMMONS.

Halifax April 6. 7—tf

State of North Carolina.

HALIFAX COUNTY.

To John R. Pierce et uxors.

YOU are hereby notified that I shall proceed, at the Tavern of William H. Pope (commonly called the Eagle Hotel) in the town of Halifax, State aforesaid, on Tuesday and Wednesday, the 21st and 22d days of August next, to take the deposition of William H. Day, Mark Pettway and others, to be read as evidence in the suit wherein you and wife are plaintiffs and R. F. W. Perkins et al are defendants; when and where you may attend if you see proper.

JAMES BISHOP.

July 5th, 1832 19—4w

State of North Carolina.

NASH COUNTY.

Superior Court of Law, March Term 1832.

Mourning Kent vs Nelson Kent } Petition for Divorce.

WHEREAS it appears to the satisfaction of the Court that the defendant, Nelson Kent, is not an inhabitant of this State: It is therefore ordered that publication be made in the ROANOKE ADVOCATE and RALEIGH REGISTER for three months, to the end that the said Nelson may appear at the next court to be held for the county of Nash, at the court House in Nashville, on the third Monday in September next, then and there to plead answer or demur to the allegations in the said Petition otherwise the same will be taken as pro confesso and heard ex parte.

J. H. DRAKE, C. N. C. S.

Price Adv. \$5 16—3m

State of North Carolina.

NORTHAMPTON COUNTY.

Court of Pleas and Quarter Sessions, June Term A. D. 1832.

Joseph D. White vs } Orig. Attachment levied on Negroes, Shandy, Hary, Rose Anjoline. Aary and their children, (Mary Davy James,) Julia, Jesse & Molly.

Thomas Brown } Petition for Divorce.

IT appearing to the satisfaction of the Court that Thomas Brown, the Defendant in this case, is not at this time an inhabitant of this State: On motion, it is therefore Ordered by the Court, that publication be made in the ROANOKE ADVOCATE for six weeks, giving the said Thomas Brown notice to appear at the Court of Pleas and Quarter Sessions to be held for the County of Northampton, at the Court House in Jackson, on the first Monday in September next, then and there to enter into a replevin bond according to law or final judgment will be entered up against him and the property levied on, condemned liable to the Plaintiffs recovery.

Teste RICHARD H. WEAVER, Ck.

Price Adv. \$3.05 19—w

FOR SALE OR HIRE

ONE Sulky and Harness, One New Waggon and Harness, Two good Mules and Two first rate Horses.

JOSHUA CORPREW.

Halifax N. C. June 18, 1832. 17—tf

S. WHITAKER,

Attorney at Law.

PRACTICES in the County and Superior Courts of Martin, Northampton and Halifax and the Superior Courts of Washington. When not absent on professional duty, he will be at his office in the Town of Halifax on Mondays & Tuesdays; at any other time at his residence in the County.

Halifax Jan 27th 32. 12m