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 the 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 monopolizing 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 concentred, as it may, under the operation of such an act as this in the hands of a self-elected Directory whose interests are identified with that 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 operatione 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 dependance, 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 Government, 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 enquire 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 supposed to be created, and are not therefore means necessary to attain the end in view, & consequently not justified by the Constitution.

The original act of corporation, 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 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 it expedient." This provision is continued in force, by the act before me, fifteen years from the 3d of March, 1836.

If Congress possessed 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 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 has 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.

(*continued in our next.*)

Communications.

FOR THE FREE PRESS.

Mr. Howard: In the Free Press of the 24th inst. I observe a communication over the signature of "A Voter," addressed to the freemen of Nash county—the ostensible object of which is to prevent the re-election of Mr. BODDIE to the Senate of the State Legislature, which office he has filled for many years, and has been an honest, faithful and able representative. As this address may be a "virgin effort" of "A Voter,"—and I judge so from the puerility of its style and language—charity would seem to require that it should be handled lightly and tenderly; but, Sir, the object aimed at by the writer in this case, I think should deprive him of the benefit of that virtue, and I shall therefore proceed to treat his effusion as it deserves.

Mr. Boddie, it appears according to this writer, has committed a great and unpardonable sin by voting, in the discharge of his official duty as a member of the Court, for the building of a new fire-proof Court House in the county of Nash. Mr: B. has given his reasons for his vote, which to every unprejudiced, liberal and intelligent mind are perfectly satisfactory.

"A Voter" wishes to induce the people of Nash to believe that they are taxed without their consent—and that Mr. B. alone is answerable for the conduct of the whole Court in relation to the building of the Court House. Why is this attack aimed directly at Mr. B.? Is he alone to be sacrificed? and are we to be deprived of his valuable services in the Legislature merely because he voted, in the discharge of his official duty as magistrate, for the building of a new Court House? The people of Nash taxed without their consent! wonderful discovery indeed!! "'Tis strange, 'tis passing strange, 'tis pitiful, 'tis wondrous pitiful," that the people of Nash should rest so long in ignorance of their oppressions, until this great man in Israel rose up and proclaimed it to them. "O Jew! an upright judge, a learned judge! A second Daniel! A Daniel, still I say, a second Daniel" has risen up amoug us to discover the defects in the laws from which the magistrates of the county derive their authority. The writer invokes the aid of the spirits of '76 to assist him in his denunciation of the tyrannical and oppressive act, of which Mr. B. and the rest of the Court were guilty, in voting for the building of a new Court House. This is characteristic of that principle of "*exclusive republicanism*" which is manifested in every paragraph of his address from beginning to end. As to the principle of taxation, I can perceive no analogy whatever.—Our forefathers were taxed by the British government not only without their consent, *but* without their being represented in the British Parliament—this was taxation without representation—they had no voice in the matter at all—but in the other case, the people of Nash have a voice—if they are not represented directly by the magistrates of the county, they are indirectly—they are represented by the Lenislature which has the power of appointing the magistrates.

The writer goes on to argue that it is not necessary to build a fire-proof Court House, "because," says he, "it is *possible* that the documents may be burnt by accident or design." I thank the writer for this argument, and will say that it is the strongest that can be urged in behalf of the Court House. The "indulgence of county pride" seems to stick in "A Voter's" throat, and really it would seem from his long tirade, and heaving and setting that it was about to choke him—his "trusty friend, Economy," however, with the aid of a passage of scripture may enable him to extricate himself—but *economy* is one thing and *parsimony* another, and I am not sure but this "trusty friend," on whose arm "A Voter" leans with so much confidence, is *parsimony* clothed in *economy's* garb. "Mark you this, Bassanio, the devil can cite scripture for his purpose."

The effusion of "A Voter" evidently emanated from a mind laboring under a morbid sensibility—at least one of the faculties of his mind is not exactly in a sane condition, for he *imagines* that our rights and liberties have been invaded and trampled upon—indeed according to his own showing, we are already at war! for says he, "but for this diabolical stimulus (county pride) to pomp and parade, to extravagance and show, we should now be in harmony and peace, like a band of brothers." Then are we already at war? or is this "Voter" (who by the by I should judge to be a descendant of the hero of Salamanca, or one brought up in the school of knight-errantry) fighting a "windmill!" or is he preparing to attack a flock of sheep? I should judge from the cloud of dust which he has kicked up that there was something in the wind. It is to be hoped that he or his "squire"