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DOMESTIC.

MESSAGE

From the President of the U. States, returning the Bank Bill, with his objections, &c.

(*continued from our last.*)

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! 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 recognise in Congress the power to grant exclusive privileges or monopolies. It declares that "Congress shall have power to promote the progress of science and the 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 fair 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 extinguish its discretion in the choice of means to execute its delegated powers, is equivalent to a legislative amendment of the Constitution, and palpably unconstitutional.

This act authorises 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 United 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 several States reserved the power at the formation of the Constitution, to regulate and control titles and transfers of real property, and most, if not all of them, have laws disqualifying aliens from acquiring or holding lands within their limits. But this act, in disregard of the undoubted right of the States to prescribe such disqualifications, gives to aliens, stockholders 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 privilege granted to aliens is not "*necessary*" to enable the Bank to perform its public duties, nor in any sense "*proper*," because it is vitally subversive of the rights of the States.

The government of the United 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 purposes, 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, safe keeping, or transmission of the funds of the government, that the Bank should possess this power, and it is not *proper* that Congress should thus enlarge the powers delegated to them in the Constitution.

The old Bank of the United States possessed a capital of only eleven millions of dollars, which was found fully sufficient to enable it, with despatch and safety, to perform all the functions required of it by the government. The capital of the present Bank is thirty-five millions of dollars—at least twenty-four more than experience has proved to be *necessary* to enable a bank to perform its public functions. The public debt which existed during the period of the old Bank, and on the establishment of the new, has been nearly paid off, and our revenue will soon be reduced. This increase of capital is, therefore, not for public, but for private purposes.

The government is the only "*proper*" judge where its agents should reside and keep their offices, because it best knows where their presence will be "*necessary*." It cannot, therefore, be '*necessary*' or '*proper*' to authorize the Bank 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 concedes, that Congress cannot establish a bank for purposes of private speculation and gain, but only as a means of executing the delegated powers of the General Government. By the same principle, a branch bank cannot constitutionally be established for other than public purposes. The power which this act gives to establish two branches in any State without the injunction or request 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 exacted from the Bank is a confession upon the face of the act, that the powers granted by it are greater than are '*necessary*' to its character of a fiscal agent. The government does not tax its officers and agents for the privilege of serving it. The bonus of a million and a half, required by the original charter, and that of three millions proposed by this act, are not exacted for the privilege of giving the necessary facilities for transferring the public funds from place to place, within the United States, or the territories thereof, and for distributing the same in payment of the public creditors, without charging commission or claiming allowance on account of the difference of exchange" as required by the act of incorporation, but for something more beneficial to the stockholders. The original act declares, that it (the bonus) is granted "in consideration of the exclusive benefits and privileges continued by this act to the said corporation for fifteen years as aforesaid." It is, therefore, for "exclusive privileges and benefits" conferred for their own use and emolument, and not for the advantage of the government, that a bonus is exacted. These surplus powers, for which the Bank is required to pay, cannot surely be "*necessary*," to make it the fiscal agent of the Treasury. If they were, the exaction of a bonus for them would not be "*proper*."

It is maintained by some that the Bank is a means of executing the constitutional power "to coin money and regulate the value thereof." Congress 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 powers 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, manufacturing, 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 again 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 guarded their taxing power with peculiar jealousy. They surrendered it only as it regards imports and exports. In relation to every other object within their jurisdiction, whether persons, property, business or profession, 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 United States are liable to the usual land tax, except in the new States from whom agreements that they will not tax unsold lands, are exacted when they are admitted into the Union: horses, wagons, any beasts or vehicles, tools or property, belonging to private citizens, tho' employed in the service of the United 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 United States 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 and the business of banking, by whomsoever instituted and carried on. Over this whole subject matter, it is just as absolute, unlimited and uncontrolable 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 remitting it; but will any man maintain that their mere 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 United 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 these 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 this, and like sources, from the persons, property, and business, that are found residing, located or carried on under their jurisdiction, must the States since the surrender of the 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 the 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 it "*proper*" that the substantive and most essential powers reserved by the States shall be thus attacked and annihilated as a means of executing the powers delegated to the General Government. It may be safely assumed that none of those sages who had an agency in forming or adopting the Constitution, ever imagined that any portion of the taxing power of the States, not prohibited to them nor delegated to Congress, was to be swept away and annihilated as a means of executing certain powers delegated to Congress.