After ſome general remarks on the limitations of all political power, he took notice of the peculiar manner in which the federal government is limited. It is not a general grant, out of which particular powers are excepted—it is a grant of particular powers only, leaving the general maſs in other hands. So it had been underſtood by its friends and its foes, and ſo it was to be interpreted.

As preliminaries to a right interpretation, he laid down the following rules:

An interpretation that deſtroys the very characteriſtic of the government cannot be juſt.

Where a meaning is clear, the conſequences, whatever they may be, are to be admitted—where doubtful, it is fairly triable by its conſequences.

In controverted caſes, the meaning of the parties to the inſtrument, if to be collected by reaſonable evidence, is a proper guide.

Cotemporary and concurrent expoſitions are a reaſonable evidence of the meaning of the parties.

In admitting or rejecting a conſtructive authority, not only the degree of its incidentality to an expreſs authority, is to be regarded, but the degree of its importance alſo; ſince on this will depend the probability or improbability of its being left to conſtruction.

Reviewing the conſtitution with an eye to theſe poſitions, it was not poſſible to diſcover in it the power to incorporate a Bank. The only clauſes under which ſuch a power could be pretended, are either—

1. The power to lay and collect taxes to pay the debts, and provide for the common defence and general welfare: Or,

2. The power to borrow money on the credit of the United States: Or,

3. The power to paſs all laws neceſſary and proper to carry into execution thoſe powers.

The bill did not come within the firſt power. It laid no tax to pay the debts, or provide for the general welfare. It laid no tax whatever. It was altogether foreign to the ſubject.

No argument could be drawn from the terms "common defence, and general welfare." The power as to theſe general purpoſes, was limited to acts laying taxes for them; and the general purpoſes themſelves were limited and explained by the particular enumeration ſubjoined. To underſtand theſe terms in any ſenſe, that would juſtify the power in queſtion, would give to Congreſs an unlimited power; would render nugatory the enumeration of particular powers; would ſupercede all the powers reſerved to the ſtate governments. Theſe terms are copied from the articles of confederation; had it ever been pretended, that they were to be underſtood otherwiſe than as here explained?

It had been ſaid that "general welfare" meant caſes in which a general power might be exerciſed by Congreſs, without interfering with the powers of the States; and that the eſtabliſhment of a National Bank was of this ſort. There were, he ſaid, ſeveral anſwers to this novel doctrine.

1. The propoſed Bank would interfere ſo as indirectly to defeat a State Bank at the ſame place.—2. It would directly interfere with the rights of the States, *to prohibit* as well as to eſtabliſh Banks, and the circulation of Bank Notes. He mentioned a law of Virginia, actually prohibiting the circulation of notes payable to bearer. 3. Interference with the power of the States was no conſtitutional criterion of the power of Congreſs. If the power was not given, Congreſs could not exerciſe it; if given, they might exerciſe it, altho it ſhould interfere with the laws, or even the conſtitution of the States.—4. If Congreſs could incorporate a Bank, merely becauſe the act would leave the States free to eſtabliſh Banks alſo; any other incorporations might be made by Congreſs. They could incorporate companies of manufacturers, or companies for cutting canals, or even religious ſocieties, leaving ſimilar incorporations by the States, like State Banks to themſelves: Congreſs might even eſtabliſh religious teachers in every pariſh, and pay them out of the Treaſury of the United States, leaving other teachers unmoleſted in their functions.—Theſe inadmiſſible conſequences condemned the controverted principle.

The caſe of the Bank eſtabliſhed by the former Congreſs, had been cited as a precedent.—This was known, he ſaid, to have been the child of neceſſity. It never could be juſtified by the regular powers of the articles of confederation. Congreſs betrayed a conſciouſneſs of this in recommending to the States to incorporate the Bank alſo. They did not attempt to protect the Bank Notes by penalties againſt counterfeiters. Theſe were reſerved wholly to the authority of the States.

The ſecond clauſe to be examined is that, which empowers Congreſs to borrow money.

Is this a bill to borrow money? It does not borrow a ſhilling. Is there any fair conſtruction by which the bill can be deemed an exerciſe of the power to borrow money?—The obvious meaning of the power to borrow money, is that of accepting it from, and ſtipulating payment to thoſe who are *able* and *willing* to lend.

To ſay that the power to borrow involves a power of creating the ability, where there may be the will, to lend, is not only eſtabliſhing a dangerous principle, as will be immediately ſhewn, but is as forced a conſtruction, as to ſay that it involves the power of compelling the will, where there may be the ability, to lend.

The *third* clauſe is that which gives the power to paſs all laws neceſſary and proper to execute the ſpecified powers.

Whatever meaning this clauſe may have, none can be admitted, that would give an unlimited diſcretion to Congreſs.

Its meaning muſt, according to the natural and obvious force of the terms and the context, be limited to means *neceſſary* to the *end*, and *incident* to the *nature* of the ſpecified powers.

The clauſe is in fact merely declaratory of what would have reſulted by unavoidable implication, as the appropriate, and as it were, technical means of executing thoſe powers. In this ſenſe it had been explained by the friends of the conſtitution, and ratified by the ſtate conventions.

The eſſential characteriſtic of the government, as compoſed of limited and enumerated powers, would be deſtroyed: If inſtead of direct and incidental means, any means could be uſed, which in the language of the preamble to the bill, 'might be conceived to be conducive to the ſucceſsful conducting of the finances; or might be *conceived* to *tend* to give *facility* to the obtaining of loans.' He urged an attention to the diffuſe and ductile terms which had been found requiſite to cover the ſtretch of power contained in the bill. He compared them with the terms *neceſſary* and *proper*, uſed in the Conſtitution, and aſked whether it was poſſible to view the two deſcriptions as ſynonimous, or the one as a fair and ſafe commentary on the other.

If, proceeded he, Congreſs, by virtue of the power to borrow, can create the means of lending, and in purſuance of theſe means, can incorporate a Bank, they may do any thing whatever creative of like means.

The East-India company has been a lender to the Britiſh government, as well as the Bank, and the South-Sea company is a greater creditor than either. Congreſs then may incorporate ſimilar companies in the United States, and that too not under the idea of regulating trade, but under that of borrowing money.

Private capitals are the chief reſources for loans to the Britiſh government. Whatever then may be conceived to favor the accumulation of capitals may be done by Congreſs. They may incorporate manufacturers. They may give monopolies in every branch of domeſtic induſtry.

If, again, Congreſs by virtue of the power to borrow money, can create the ability to lend, they may by virtue of the power to levy money, create the ability to pay it. The ability to pay taxes depends on the general wealth of the ſociety, and this, on the general proſperity of agriculture, manufactures and commerce. Congreſs then may give bounties and make regulations on all of theſe objects.

The States have, it is allowed on all hands, a concurrent right to lay and collect taxes. This power is ſecured to them not by its being expreſsly reſerved, but by its not being ceded by the conſtitution. The reaſons for the bill cannot be admitted, becauſe they would invalidate that right; why may it not be *conceived* by Congreſs, that an uniform and excluſive impoſition of taxes, would not leſs than the propoſed Banks 'be *conducive* to the ſucceſsful conducting of the national finances, and *tend* to *give facility* to the obtaining of revenue, for the uſe of the government?'

The doctrine of implication is always a tender one. The danger of it has been felt in other governments. The delicacy was felt in the adoption of our own; the danger may alſo be felt, if we do not keep cloſe to our chartered authorities.

Mark the reaſoning on which the validity of the bill depends. To borrow money is made the *end* and the accumulation of capitals, *implied* as the *means*. The accumulation of capitals is then the *end*, and a bank *implied* as the *means*. The bank is then the *end*, and a charter of incorporation, a monopoly, capital puniſhments, &c. *implied* as the *means*.

If implications, thus remote and thus multiplied, can be linked together, a chain may be formed that will reach every object of legiſlation, every object within the whole compaſs of political economy.

The latitude of interpretation required by the bill is condemned by the rule furniſhed by the conſtitution itſelf.

Congreſs have power "to regulate the value of money;" yet it is expreſsly added not left to be implied, that counterfeitors may be puniſhed.

They have the power "to declare war," to which armies are more incident, than incorporated Banks, to borrowing; yet is expreſsly added, the power "to raiſe and ſupport armies;" and to this again, the expreſs power "to make rules and regulations for the government of armies;" a like remark is applicable to the powers as to a navy.

The regulation and calling out of the militia are more appurtenant to war, than the propoſed bank, to borrowing; yet the former is not left to conſtruction.

The very power to borrow money is a leſs remote implication from the power of war, than an incorporated monopoly bank, from the power of borrowing—yet the power to borrow is not left to implication.

It is not pretended that every inſertion or omiſſion in the conſtitution is the effect of ſyſtematic attention. This is not the character of any human work, particularly the work of a body of men. The examples cited, with others that might be added, ſufficiently inculcate nevertheleſs a rule of interpretation, very different from that on which the bill reſts. They condemn the exerciſe of any power, particularly a great and important power, which is not evidently and neceſſarily involved in an expreſs power.

It cannot be denied that the power propoſed to be exerciſed is an important power.

As a charter of incorporation the bill creates an artificial perſon previouſly not exiſting in law. It confers important civil rights and attributes, which could not otherwiſe be claimed. It is, though not preciſely ſimilar, at leaſt equivalent, to the naturalization of an alien, by which certain new civil characters are acquired by him. Would Congreſs have had the power to naturalize, if it had not been expreſsly given?

In the power to make bye laws, the bill delegated a ſort of legiſlative power, which is unqueſtionably an act of a high and important nature. He took notice of the only reſtraint on the bye laws, that they were not to be contrary to the law and the conſtitution of the bank; and aſked what law was intended; if the law of the United States, the ſcantineſs of their code would give a power, never before given to a corporation—and obnoxious to the States, whoſe laws would then be ſuperceded not only by the laws of Congreſs, but by the bye laws of a corporation within their own juridiction. If the law intended, was the law of the State, then the State might make laws that would deſtroy an inſtitution of the United States.

The bill gives a power to purchaſe and hold lands; Congreſs themſelves could not purchaſe lands within a State "without the conſent of its legiſlature." How could they delegate a power to others which they did not poſſeſs themſelves?

It takes from our ſucceſſors, who have equal rights with ourſelves, and with the aid of experience will be more capable of deciding on the ſubject, an opportunity of exerciſing that right, for an immoderate term.

It takes from our conſtituents the opportunity of deliberating on the untried meaſure, although their hands are alſo to be tied by it for the ſame term.

It involves a monopoly, which affects the equal rights of every citizen.

It leads to a penal regulation, perhaps capital puniſhments, one of the moſt ſolemn acts of ſovereign authority.

From this view of the power of incorporation exerciſed in the bill, it could never be deemed an acceſſary or ſubaltern power, to be deduced by implication, as a means of executing another power; it was in its nature a diſtinct, an independent and ſubſtantive prerogative, which not being enumerated in the conſtitution could never have been meant to be included in it, and not being included could never be rightfully exerciſed.

He here adverted to a diſtinction, which he ſaid had not been ſufficiently kept in view, between a power neceſſary and proper for the government or union, and a power neceſſary and proper for executing the enumerated powers. In the latter caſe, the powers included in each of the enumerated powers were not expreſſed, but to be drawn from the nature of each. In the former, the powers compoſing the government were expreſsly enumerated. This conſtituted the peculiar nature of the government, no power therefore not enumerated, could be inferred from the general nature of government. Had the power of making treaties, for example, been omitted, however neceſſary it might have been, the defect could only have been lamented, or ſupplied by an amendment of the conſtitution.

But the propoſed bank could not even be called neceſſary to the government; at moſt it could be but convenient. Its uſes to the government could be ſupplied by keeping the taxes a little in advance—by loans from individuals—by the other banks, over which the government would have eqnal command; nay greater, as it may grant or refuſe to theſe the privilege, made a free and irrevocable gift to the propoſed bank, of uſing their notes in the federal revenue.

He proceeded next to the cotemporary expoſitions given to the conſtitution.

The defence againſt the charge founded on the want of a bill of rights, preſuppoſed, he ſaid, that the powers not given were retained; and