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CONGRESS.

HOUSE OF REPRESENTATIVES.
FRIDAY, Feb. 4.

The BANK BILL under consideration.

MR. SEDGWICK said he would endeavour not to fatigue the patience of the house in the observations he should make on the important subject now under consideration. Without entering into the discussion on a scale so extensive as had been indulged by some gentlemen—he would dwell only on a few important principles, and such consequences as were conclusively deducible from them, which had made a strong impression on his own mind. The opposition to the bill had called in question the constitutional powers of Congress, to establish the proposed corporation, and the utility of Banks, neither of which till within a few days, did he suppose was doubted by any intelligent man in America; and had charged the present system with holding out unequal terms against the government to those who should subscribe to the proposed stock.

With regard to the question of constitutionality much had been said, which in his opinion, had not an intimate relation to the subject now before the house. "We have with great earnestness been warned of the danger of grasping power, by construction and implication; and this warning has been given, in very animated language, by the gentleman from Virginia, (Mr. M.) I do not wish to deprive that member of the honor of consistency; but I well remember the time, when the energy of his reasoning, impressed on the minds of a majority of this house, a conviction, that the power of removal from offices, holden at will, was by construction and implication, vested, by the constitution, in the President—for there could be no pretence that it was expressly granted to him."

He said he would only observe in answer to every thing which had been said of the danger of extending construction and implication, That the whole business of legislation, was a practical construction of the powers of the legislature; and that probably no instrument, for the delegation of power, could be drawn with such precision and accuracy, as to leave nothing to *necessary implication*. That all the different legislatures in the United States had, and *this* in his opinion indispensably must, construe the powers which had been granted to them, and they must assume such auxiliary powers, as are necessarily implied in those which are expressly granted. In doing which, it was no doubt their duty, to be careful not to exceed those limits within which it was intended they should be restricted. By any other limitation, said he, the government would be so shackled, that it would be incapable of operating any of the effects which were intended by its institution.

He observed, that on almost all the great and important measures which come under the deliberation of Congress, there were immense difficulties to be surmounted. "If we attempt," said he, "to proceed in one direction, our ears are assailed with the exclamation of *the constitution is in danger*; if we attempt to attain our objects, by pursuing a different course, we are told the pass is guarded by the *stern spirit of democracy*.—Did I concur with gentlemen in opinion on this subject, I should think it my duty to go home to my constituents, and honestly declare to them, that by their jealousy of power, they had so restrained the operations of the government, that we have not the means of effecting any of the great purposes for which the constitution was designed—without attempting, what perhaps would be found impracticable, to fix by general rules, the nice point within which Congress would be authorized to assume powers by construction and implication, and beyond which they may be justly considered as usurpers."

He wished gentlemen to reflect, what effect a single principle, universally acknowledged, would have, in determining the question now under consideration. It is universally agreed, *That wherever a power is delegated, for express purposes,*

all the known and usual means for the attainment of the objects expressed, are conceded also. That to decide what influence this acknowledged principle would have, on the subject before the house, it would be necessary to reflect on the powers with which Congress are expressly invested. He then repeated that Congress was authorized, to lay and collect taxes, to borrow money on the credit of the United States, to raise and support armies, provide and maintain navies, to regulate foreign and domestic trade, and to make all laws necessary and proper to carry these and the other enumerated powers into effect; they were, in fine, entrusted with the exercise of all those powers, which the people of America thought necessary, to secure their fame and happiness, against the attacks of internal violence, and external invasion, and in the exercise of those powers the legislature was authorized, agreeably to the principle which he had mentioned, to employ all the *known and usual means, necessary and proper*, to effectuate the ends which are expressed. It might be of use to determine with precision, what was the meaning of the words *necessary and proper*:—They do not restrict the power of the legislature, to enacting such laws only, as are indispensable: Such a construction would be infinitely too narrow and limited—and to apply the meaning strictly, it would prove, perhaps, that all the laws, which had been passed, were unconstitutional; for few, if any of them, could be proved indispensable to the existence of the government. The conduct of Congress had a construction on those words more rational, and consistent with common sense, and the purposes for which the government was instituted; which he conceived to be, that the laws should be established on such principles and such an agency, in the known and usual means, employed in the execution of them, as to effect the ends expressed in the constitution, with the greatest possible degree of public utility. If Banks were among the known and usual means, to effectuate or facilitate the ends which had been mentioned—to enable the government with the greatest ease, and least burden to the people, to collect taxes, borrow money, regulate commerce, raise and support armies, provide and maintain fleets, he thought the argument irrefragable and conclusive to prove the constitutionality of the bill. Pursuing farther the same idea, he asked, for what purposes were Banks instituted and patronized by governments, which were unrestricted by constitutional limitations? Were they not employed as the means, and the most useful engines to facilitate the collection of taxes, borrowing money, and the other enumerated powers? Besides, he said it was to be observed, that the constitution had expressly declared the ends of legislation; but in almost every instance had left the means to the honest and sober discretion of the legislature. From the nature of things this must ever be the case; for otherwise, the constitution must contain, not only all the necessary laws under the existing circumstances of the community, but also a code so extensive, as to adapt itself to all future possible contingencies. By our constitution, Congress has power to lay and collect taxes, but every thing subordinate to that end, such as the objects, the means, the instruments, and the purposes are left to the honest and sober discretion of the legislature. The power of borrowing money was expressly granted; but all the known and usual means to that end were left in silence. The same observations might with truth be made respecting the other delegated powers. The great ends to be obtained, as means to effectuate the ultimate end—the public good, and general welfare, are capable, under general terms, of constitutional specification; but the subordinate means are so numerous, and capable of such infinite variation, as to render an enumeration impracticable, and must therefore be left to *construction, and necessary implication*. He said on this ground he was willing to leave the general argument—it was simple—intelligible, and he hoped would be thought conclusive.

He said the constitutionality had been attacked from another quarter. It was said we could not give commercial advantages to one port above another. The constitutional provision which had been quoted, was undoubtedly intended to prevent a partial regulation of commerce; if extended to the case under consideration, it would much more strongly prove, that Congress ought not to reside in any commercial city; for he verily believed, that the commercial advantages of Philadelphia were incomparably greater, from the

residence, than they could be supposed from the institution of a National Bank. Indeed, it was his opinion, that considering that this city had a Bank, the capital of which was adequate to all her commercial exigencies, that she could enlarge that capital as her necessity should require, and that her Bank will, if this bill shall be rejected, receive the benefit of national operations, that the measure will not advance her individual interest.

With regard to the utility of Banks, he observed, that he would not attempt to display a knowledge of the subject, by repeating all he had read and heard in relation to it, nor fatigue the house by a detail of his own reflections and reasoning upon it; the causes were unnecessary to be explained—the effects had been such, in all countries where Banks had been instituted, as to produce an unanimous opinion, that they were alike useful for all the great purposes of government, and to promote the general happiness of the people. Nor was our own experience wanting to the same purpose. At a time when our public resources were almost annihilated, our credit prostrate, our government imbecile, and its patronage inconsiderable, a Bank, of small capital, was among the most operative causes, which produced that first dawn that ultimately terminated in meridian splendor, by the establishment of peace, independence and freedom. There were two circumstances which he would take the liberty to mention, which would render Banks of more importance in this country, than in any where they are at present in use. The first, the commercial enterprise of our merchants compared with the smallness of their capitals, which, as we had no large manufacturing capitals, whereby the precious metals would be retained in circulation, would frequently, by their exportation, greatly distress the people; the other originated from a measure of the government—Congress, from a laudable intention of accommodating their constituents, instituted treasuries in all the States: In some of these there would be, in the ordinary course of events, a deficiency, and in others a redundancy. To keep them in equilibrium by the transportation of the precious metals, or by the purchase of bills in the market, would be not only inconvenient and expensive, but would keep out of circulation a considerable part of the medium of the country.

Gentlemen, he said, had been pleased to consider the proposed terms as giving an undue advantage to the stock-holders. He would leave this part of the subject to gentlemen who better understood it—only observing, that as government must rely principally on merchants to obtain the proposed stock, it would be necessary to afford to them sufficient motives to withdraw from their commercial pursuits, a part of their capitals.

He said he would attempt an answer to some of those desultory objections which had been made—and in doing this, he would omit to answer such as had been in his opinion already refuted. He observed, that it had been said, that granting charters of incorporation was a high prerogative of government. He supposed it was not intended that it was, in the nature of things, too transcendent a power to be exercised by a national government; but that the exercise of it should only be in consequence of express delegation. Let this objection be compared with the conduct of Congress on another subject, in all respects at least as important. There is not by the constitution any power expressly delegated to mortgage our revenues, and yet without any question being made on the constitutionality of the measure, we have mortgaged them to an immense amount—From whence he asked, do we acquire the authority to exercise this power?—Not from express grants, but being empowered to borrow money on the credit of the United States. We have very properly considered the pledging funds as among the *known and usual means, necessary and proper* to be employed for the attainment of the end expressly delegated.

It had been said, that the bill authorized the stock-holders to purchase real estate. He considered the provision in the bill in that regard, not a grant, but a limitation of power. Any man or body of men, might, by the existing laws, purchase, in their private capacities, real estate to any amount. This right was limited as it respected the proposed corporation.

It is said there are banks already, and therefore the proposed incorporation is unnecessary. To this he answered, that if the government should