

received by the favored classes would, as a rule, be increased in proportion to the increase of the rates of tax imposed, and diminished as the rates were reduced to the revenue standard required by the wants of the government.—(The rates required to produce a sufficient revenue for the ordinary expenditures of government, for necessary purposes, were not likely to give to the private partners in this scheme profits sufficient to satisfy their cupidities; and hence a variety of expedients and pretenses were resorted to for the purpose of enlarging the expenditures, and thereby creating a necessity for keeping up a high protective tariff. The effect of this policy was to impose artificial restrictions upon the natural course of the business and trade of the country, and to advance the interests of large capitalists and monopolists, at the expense of the great mass of the people, who were taxed to increase their wealth.)

Another branch of the system was a comprehensive scheme of internal improvements, capable of indefinite enlargement, and sufficient to swallow up many millions annually as could be exacted from the foreign commerce of the country. This was a convenient and necessary adjunct of the protective tariff. It was to be the great absorbent of any surplus which might be in the treasury, and of the taxes levied on the people, for necessary revenue purposes, but for the avowed purpose of affording protection to the favored classes.

Auxiliary to the same end, if it was not an essential part of the system itself, was the scheme which, at a later period, obtained, for distributing the proceeds of the sales of the public lands among the States. Other expedients were devised to take money out of the treasury, and prevent its coming in from any other source than the protective tariff. The authors and supporters of the system were the advocates of the largest expenditures, whether for necessary or useful purposes or not, because the larger the expenditures the greater was the pretext for high taxes in the form of protective duties.

These several measures were sustained by popular names and plausible arguments, by which thousands were deluded. The bank was represented as an indispensable fiscal agent for the government; was to equalize exchanges, and to regulate and furnish a sound currency, always and everywhere of uniform value. The protective tariff was to give employment to "American labor" at advanced prices; was to protect "home industry," and furnish a steady market for the farmer. Internal improvements were to bring trade into every neighborhood and enhance the value of every man's property. The distribution of the land money was to enrich the States, finish their public works, plant schools throughout their borders, and relieve them from taxation. But the fact, that for every dollar taken out of the treasury for these objects a much larger sum was transferred from the pockets of the people to the favored classes, was carefully concealed, as was also the tendency of not the ultimate design of the system to build up an aristocracy of wealth, to control the masses of society, and monopolize the political power of the country.

The several branches of this system were so intimately blended together, that in their operation each sustained and strengthened the others. Their joint operation was to add new burdens of taxation and to encourage a largely increased and wasteful expenditure of public money. It was the interest of the bank that the revenue collected and the disbursements made by the government should be large, because, being the depository of the public money, the larger the amount, the greater would be the bank's profits by its use. It was the interest of the favored classes who were benefited by the protective tariff, to have the rates of that protection as high as possible; for the higher those rates, the greater would be their advantage. It was the interest of the people of those sections and localities who expected to be benefited by expenditures for internal improvements, that the amount collected should be as large as possible, to the end that the sum disbursed might also be the larger. The States being the beneficiaries in the distribution of the land money, had an interest in having the rates of tax imposed by the protective tariff large enough to yield a sufficient revenue from that source to meet the wants of the government, so that each of the branches constituting the system had a common interest in swelling the public expenditures. They had a direct interest in maintaining the public debt unpaid, and increasing its amount, because this would produce an annual increase drawn upon the treasury, to the amount of the interest, and render augmented taxes necessary. The operation and necessary effect of the whole system were, to encourage large and extravagant expenditures, and thereby to increase the public patronage, and maintain a rich and splendid government at the expense of a taxed and impoverished people.

It is manifest that this scheme of enlarged taxation and expenditures, had it continued to prevail, must soon have converted the government of the Union, intended by its framers to be a plain, cheap, and simple confederation of States, united together for common protection, and charged with a few specific duties, relating chiefly to our foreign affairs, into a consolidated empire, depriving the States of their reserved rights, and the people of their just power and control in the administration of their government. In this manner the whole form and character of the government would be changed, not by an amendment of the constitution, but by resorting to an unwarrantable and unauthorized construction of that instrument.

The indirect mode of levying the taxes by a duty on imports, prevents the mass of the people from readily perceiving the amount they pay, and has enabled the few, who are thus enriched, and who seek to wield the political power of the country, to deceive and delude them. Were the taxes collected by a direct levy upon the people, as is the case in the States, this could not occur.

The whole system was replete from its inception by many of our ablest statesmen, some of whom doubted its constitutionality and expediency, while others believed it was, in all its branches, a flagrant and dangerous infraction of the constitution.

That a national bank, a protective tariff, levied not to raise the revenue needed, but for protection merely, internal improvements, and the distribution of the proceeds of the sale of the public lands, are measures without the warrant of the constitution, would, upon the maturest consideration, seem to be clear. It is remarkable that no one of these measures, involving such momentous consequences, is authorized by any express grant of power in the constitution. No one of them is "incident to, as being necessary and proper for the execution of, the specific powers" granted by the constitution.—The authority under which it has been attempted to justify each of them is derived from inferences and constructions of the constitution which its letter and its whole object and design do not warrant. It is to be conceded that such immense powers would have been left by the framers of the constitution to mere inferences and doubtful constructions. Had it been intended to confer them on the federal government, it is but reasonable to conclude that it would have been done by plain and unequivocal grants. This was not done; but the whole structure of which the "American system" consisted, was reared on no other, or better foundation than forced inferences and inferences of power which its authors assumed might be deduced by construction from the constitution.

But it has been urged that a national bank, which constituted so essential a branch of this combined system of measures, was not a new measure, and that its constitutionality had been previously sanctioned, because a bank had been chartered in 1791, and had received the official signature of President Washington. A few facts will show the just weight to which this precedent

should be entitled as bearing upon the question of constitutionality.

Great division of opinion upon the subject existed in Congress. It is well known that President Washington entertained serious doubts both as to the constitutionality and expediency of the measure; and while the bill was before him for his official approval or disapproval, so great were those doubts, that he required "the opinion in writing" of the members of his cabinet to aid him in arriving at a decision. His cabinet gave their opinion, and were divided upon the subject—General Hamilton being in favor of, and Mr. Jefferson and Mr. Randolph being opposed to the constitutionality and expediency of the bank. It is well known, also, that President Washington retained the bill from Monday, the fourteenth, when it was presented to him, until Friday the twenty-fifth of February—being the last moment permitted him by the constitution to deliberate, when he finally yielded to it his reluctant assent, and gave it his signature. It is certain that as late as the twenty-third of February—being the ninth day after the bill was presented to him—he had arrived at no satisfactory conclusion; for on that day he addressed a note to General Hamilton, in which he informs him that "this bill was presented to me by the joint committee of Congress at 12 o'clock on Monday, the fourteenth instant," and he requested his opinion "to what precise period, by legal interpretation of the constitution, can the President retain it in his possession, before it becomes a law by the lapse of ten days." If the proper construction was which the day on which the bill was presented to the President, and the day on which his action was had upon it, were both to be counted inclusive, then the time allowed him, within which it would be competent for him to return it to the House in which it originated with his objections, would expire on Thursday, the twenty-fourth of February. General Hamilton on the same day returned an answer, in which he states: "I give it as my opinion that you have ten days exclusive of that on which the bill was delivered to you, and Sundays; hence, in the present case, if it is returned on Friday, it will be in time." By this construction, which the President adopted, he gained another day for deliberation, and it was not until the twenty-fifth of February that he signed the bill; thus affording conclusive proof that he had at last obtained his own consent to sign it not without great and almost insuperable difficulty. Additional light has been recently shed upon the serious doubts which he had on the subject, amounting at one time to a conviction that it was his duty to withhold his approval from the bill. This is found among the manuscript papers of Mr. Madison, authorized to be purchased for the use of the government by an act of the last session of Congress, and now for the first time accessible to the public. From those papers, it appears that President Washington, while he yet held the bill in his hands, actually requested Mr. Madison, at that time a member of the House of Representatives, to prepare the draft of a veto message for him. Mr. Madison, at his request, did prepare the draft of such a message, and sent it to him on the twenty-first of February, 1791. A copy of his original draft, in Mr. Madison's own handwriting, was carefully preserved by him, and is among the papers lately purchased by Congress. It is preceded by a note, written on the same sheet, which is also in Mr. Madison's handwriting, and is as follows:

"February 21st, 1791. Copy of a paper made out and sent to the President at his request, to be ready in case his judgment should finally decide against the bill for incorporating a national bank, the bill being then before him."

Among the objections assigned in the paper to the bill, and which were submitted for the consideration of the President, are the following:

"Object to the bill, because it is an essential principle of the government that powers not delegated by the constitution cannot be rightfully exercised; because the power proposed by the bill to be exercised is not expressly delegated, and because I cannot satisfy myself that it results from any express power by fair and safe rules of interpretation."

The weight of the precedent of the bank of 1791, and the sanction of the great name of Washington which has been so often invoked in its support, are greatly weakened by the development of these facts. The experiment of that bank satisfied the country that it ought not to be continued, and at the end of twenty years Congress refused to re-charter it. It would have been fortunate for the country, and saved thousands from bankruptcy and ruin, had our public men of 1816 resisted the temporary pressure of the times upon our financial and pecuniary interests, and refused to charter the second bank. Of this the country became abundantly satisfied, and at the close of its twenty years' duration, as in the case of the first bank, it also ceased to exist. Under the repeated blows of President Jackson, it reeled and fell, and a subsequent attempt to charter a similar institution was arrested by the veto of President Tyler.

Mr. Madison, in yielding his signature to the charter of 1816, did so upon the ground of the respect due to precedents; and, as he subsequently declared, "the Bank of the United States, though, on the original question, held to be unconstitutional, received the Executive sanction."

It is probable that neither the bank of 1791, nor that of 1816, would have been chartered but for the embarrassments of the government in its financial operations, the derangement of the currency, and the pecuniary pressure which existed—the first the consequence of the war of the revolution, and the second the consequence of the war of 1812. Both were resorted to in the delusive hope that they would restore public credit, and afford relief to the government, and to the business of the country.

Those of our public men who opposed the whole "American system" at its commencement, and throughout its progress, fore-saw and predicted that it was fraught with incalculable mischief, and must result in serious injury to the best interests of the country. For a series of years their wise counsels were unheeded, and the system was established. It was soon apparent that its practical operation was unequal and unjust upon different portions of the country, and upon the people engaged in different pursuits. All were equally entitled to the favor and protection of the government. It fostered and elevated the money power, and enriched the favored few by taxing labor, and at the expense of the many. Its effect was to "make the rich richer, and the poor poorer." Its tendency was to create distinctions in society based upon wealth, and to give to the favored classes undue control and sway in our government. It was an organized money power, which reiated the popular will, and sought to shape and control the public policy.

Under the pernicious workings of this combined system of measures, the country witnessed alternate seasons of temporary apparent prosperity; of sudden and disastrous commercial revolutions; of unprecedented fluctuations of prices, and depression of the great interests of agriculture, navigation, and commerce; of general pecuniary suffering, and of final bankruptcy of thousands. After a severe struggle of more than a quarter of a century, the system was overthrown.

The bank has been succeeded by a practical system of finance, directed and controlled solely by the government. The constitutional currency has been restored, and the public credit maintained unimpaired, even in a period of foreign war; and the whole country has become satisfied that

banks, national or State, are not necessary as fiscal agents of the government.—Revenue duties have taken the place of the protective tariff. The distribution of the money derived from the sale of the public lands has been abandoned, and the corrupting system of internal improvements, it is hoped, has been effectually checked.

It is not doubted, that if this whole train of measures designed to take wealth from the many, and bestow it upon the few, were to prevail, the effect would be to change the entire character of the government. One only change remains. It is the seductions of that branch of the system, which consists in internal improvements, holding out, as it does, inducements to the people of particular sections and localities to embark the government in them without stopping to calculate the inevitable consequences. This branch of the system is intimately combined and linked with the others, that as surely as an effect is produced by an adequate cause, if it be resuscitated and revived, and firmly established, it requires no sagacity to foresee that it will necessarily and speedily draw after it the re-establishment of a national bank, the revival of a protective tariff, the distribution of the land money, and not only the postponement to the distant future of the payment of the present national debt, but its annual increase.

I entertain the solemn conviction, that if the internal improvement branch of the "American system" be not firmly resisted at this time, the whole series of measures composing it will be speedily re-established, and the country be thrown back from its present high state of prosperity, which the existing policy has produced, and be destined again to witness all the evils, commercial revolutions, depression of prices, and pecuniary embarrassments, through which we have passed during the last twenty-five years.

To guard against consequences so ruinous, is an object of high national importance, involving in my judgment the continued prosperity of the country.

I have felt it to be an imperative obligation to withhold my constitutional sanction from two bills which had passed the two houses of Congress, involving the principle of the internal improvement branch of the "American system," and conflicting in their provisions with the views here expressed.

This power conferred upon the President by the constitution, I have on three occasions, during my administration of the executive department of the government, deemed it my duty to exercise; and on this last occasion of making to Congress an annual communication "of the state of the Union," it is not deemed inappropriate to review the principles and considerations which have governed my action. I deem this the more necessary, because, after the lapse of nearly sixty years since the adoption of the constitution, the propriety of the exercise of this undoubted constitutional power by the President has for the first time been drawn seriously in question by a portion of my fellow-citizens.

The constitution provides that "every bill which shall have passed the House of Representatives & the Senate shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it with his objections, to that house in which it shall have originated, who shall enter the objections at large upon their journal and proceed to reconsider it."

The preservation of the constitution from infraction is the President's highest duty. He is bound to discharge that duty, at whatever hazard of incurring the displeasure of those who may differ with him in opinion. He is bound to discharge it, as well by his obligations to the people who have clothed him with his exalted trust, as by his oath of office, which he may not disregard. Nor are the obligations of the President in any degree lessened by the prevalence of views different from his own in one or both houses of Congress. It is not alone hasty and inconsiderate legislation that he is required to check; but if at any time Congress shall, after apparently full deliberation, resolve on measures which he deems subversive of the constitution, or of the vital interests of the country, it is his solemn duty to stand in the breach and resist them. The President is bound to approve, or disapprove, every bill which passes Congress and is presented to him for his signature. The constitution makes this his duty, and he cannot escape it if he would. He has no election. In deciding upon any bill presented to him, he must exercise his own best judgment. If he cannot approve, the constitution commands him to return the bill to the House in which it originated, with his objections; and if he fail to do this within ten days, (Sundays excepted,) it shall become a law without his signature. Right or wrong, he may be overruled by a vote of two-thirds of each House; and, in that event, the bill becomes a law without his sanction. If his objections be not thus overruled, the subject is only postponed, and is referred to the States and the people for their consideration and decision. The President's power is negative merely, and not affirmative. He can enact no law.—The only effect, therefore, of his withholding his approval of a bill passed by Congress, is to suffer the existing laws to remain unchanged, and the delay occasioned is only that required to enable the States and the people to consider and act upon the subject in the election of public agents who will carry out their wishes and instructions. Any attempt to coerce the President to yield his sanction to measures which he cannot approve, would be a violation of the constitution,

palpable and flagrant; and if successful, would break down the independence of the executive department, and make the President, elected by the people, and clothed by the constitution with power to defend their rights, the mere instrument of a majority of Congress. A surrender, on his part, of the powers with which the constitution has invested his office, would effect a practical alteration of that instrument, without resorting to the prescribed process of amendment.

With the motives or considerations which may induce Congress to pass any bill, the President can have nothing to do. He must presume them to be as pure as his own, and look only to the practical effect of their measures when compared with the constitution or the public good.

But it has been urged by those who object to the exercise of this undoubted constitutional power, that it assails the representative principle and the capacity of the people to govern themselves; that there is greater safety in a numerous representative body than in the single Executive created by the constitution, and that the executive veto is a "one-man power," despotic in its character. To expose the fallacy of this objection, it is only necessary to consider the frame and true character of our system. Ours is not a consolidated empire, but a confederated Union. The States, before the adoption of the constitution, were co-ordinate, equal, and separate independent sovereignties, and by its adoption they did not lose that character. They clothed the federal government with certain powers, and reserved all others, including their own sovereignty, to themselves. They guarded their own rights as States and the rights of the people, by the very limitations which they incorporated into the federal constitution, whereby the different departments of the general government were checks upon each other. That the majority should govern, is a general principle, controverted by none; but they must govern according to the constitution, and not according to an undefined and unrestrained discretion, whereby they may oppress the minority.

The people of the United States are not bound to the fact that they may be temporarily misled, and that their representatives, legislative and executive, may be mistaken or influenced in their action by improper motives. They have therefore interposed between themselves and the laws which may be passed by their public agents, various representations, such as assemblies, senates, and governors in their several States; a House of Representatives, a Senate, and a President of the United States. The people can by their own direct agency make no law; nor can the House of Representatives immediately elected by them; nor can the Senate; nor can both together, without the concurrence of the President, or a vote of two-thirds of both houses.

Happily for themselves, the people, in framing our admirable system of government, were conscious of the infirmities of their representatives; and, in delegating to them the power of legislation, they have fenced them around with checks, to guard against the effects of hasty action, error, of combination, and of possible corruption, Error, selfishness, and faction have often sought to rend asunder this web of checks, and subject the government to the control of fanatic and sinister influences; but these efforts have only satisfied the people of the wisdom of the checks which they have imposed, and of the necessity of preserving them unimpaired.

The true theory of our system is not to govern by the acts or decrees of any one set of representatives. The constitution interposes checks upon all branches of the government, in order to give time for error to be corrected, and delusion to pass away; but if the people settle down into a firm conviction, different from that of their representatives, they give effect to their opinions by changing their public servants. The checks which the people imposed on their public servants in the adoption of the constitution, are the best evidence of their capacity for self-government. They know that the men whom they elect to public stations are of like infirmities and passions with themselves, and not to be trusted without being restricted by co-ordinate authorities and constitutional limitations. Who that has witnessed the legislation of Congress for the last 30 years, will say that he knows of no instance in which measures not demanded by the public good, have been carried? Who will deny that in the State governments, by combinations of individuals and sections, in derogation of the general interest, banks have been chartered, systems of internal improvement adopted, and debts entailed upon the people, depressing their growth, and impairing their energies for years to come?

After so much experience, it cannot be said that absolute unchecked power is safe in the hands of any one set of representatives, or that the capacity of the people for self-government, which is admitted in its broadest extent, is a conclusive argument to prove the prudence, wisdom, and integrity of their representatives.

The people, by the constitution, have commanded the President, as much as they have commanded the legislative branch of the government, to execute their will. They have said to him in the constitution, which they require he shall take a solemn oath to support, that if Congress pass any bill which he cannot approve, "he shall return it to the House in which it originated, with his objections." In withholding from it his approval and signature, he is executing the will of the people constitutionally expressed, as much as the Congress that passed it. No bill is

presumed to be in accordance with the popular will until it shall have passed through all the branches of the government required by the constitution to make it a law. A bill which passes the House of Representatives may be rejected by the Senate; and so a bill passed by the Senate may be rejected by the House. In each case the respective houses exercise the veto power on the other.

Congress, and each House of Congress, hold under the constitution a check upon the President, and he, by the power of the qualified veto, a check upon Congress.—When the President recommends measures to Congress, he avows, in the most solemn form, his opinions, gives his voice in their favor, and pledges himself in advance to approve them if passed by Congress. If he acts without due consideration, or has been influenced by improper or corrupt motives—or if from any other cause Congress, or either house of Congress, shall differ with him in opinion, they exercise their veto upon his recommendations, and reject them; and there is no appeal from their decision, but to the people at the ballot-box. These are proper checks upon the Executive, wisely interposed by the constitution. None will be found to object to them, or to wish them removed. It is equally important that the constitutional checks of the Executive upon the legislative branch should be preserved.

If it be said that the representatives in the popular branch of Congress are chosen directly by the people, it is answered, the people elect the President. If both houses represent the States and the people, so does the President. The President represents in the executive department the whole people of the United States, as each member of the legislative department represents portions of them.

The doctrine of restriction upon legislative and executive power, while a well settled public opinion is enabled within a reasonable time to accomplish its ends, has made our country what it is, and has opened to us a career of glory and happiness to which all other nations have been strangers.

In the exercise of the power of the veto, the President is responsible not only to an enlightened public opinion, but to the people of the whole Union, who elected him, as the representatives in the legislative branches, who differ with him in opinion, are responsible to the people of particular States, or districts, who compose their respective constituencies. To deny to the President the exercise of this power, would be to repeal that provision of the constitution which confers it upon him. To charge that its exercise unduly controls the legislative will, is to complain of the constitution itself.

If the presidential veto be objected to upon the ground that it checks & thwarts the public will, upon the same principle the equality of representation of the States in the Senate should be stricken out of the constitution. The vote of a Senator from Delaware has equal weight in deciding upon the most important measures with the vote of a Senator from New York; and yet the one represents a State containing, according to the existing apportionment of representatives in the House of Representatives, but one thirty-fourth part of the population of the other. By the constitutional composition of the Senate, a majority of that body from the smaller States represent less than one-fourth of the people of the Union. There are 30 States; and, under the existing apportionment of representatives, there are two hundred & thirty members in the House of Representatives. Sixteen of the smaller States are represented in that House by but fifty members; and yet the Senators from these States constitute a majority of the Senate. So that the President may recommend a measure to Congress, and it may receive the sanction and approval of more than three-fourths of the House of Representatives, and of all the Senators from the large States, containing more than three-fourths of the whole population of the United States; and yet the measure may be defeated by the votes of the Senators from the smaller States. Nor, it is presumed, can be found ready to change the organization of the Senate on this account, or to strike that body practically out of existence, by requiring that its action shall be conformable to the will of the more numerous branch.

Upon the same principle that the veto of the President should be practically abolished, the power of the Vice President to give the casting vote upon an equal division of the Senate, should be abolished also. The Vice President exercises the veto power as effectually by rejecting a bill by his casting vote, as the President does by refusing to approve and sign it. This power has been exercised by the Vice President in a few instances, the most important of which was the rejection of the bill to recharter the Bank of the United States in 1811. It may happen that a bill may be passed by a large majority of the House of Representatives, and may be supported by the Senators from the larger States, and the Vice President may reject it by giving his vote with the Senators from the smaller States; & yet none, it is presumed, are prepared to deny to him the exercise of this power under the constitution.

But it is, in point of fact, untrue that an act passed by Congress is conclusive evidence that it is an emanation of the popular will. A majority of the whole number elected to each House of Congress constitutes a quorum, and a majority of that quorum is competent to pass laws. It might happen that a quorum of the House of Representatives, consisting of a single member more than half of the