

CONSIDERATIONS

ON THE

BANK

OF

NORTH-AMERICA.

PHILADELPHIA:

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CONSIDERATIONS, &c.

AN attack is made on the credit and institution of the Bank of North-America. Whether this attack is justified by the principles of law and sound policy, is a natural subject of enquiry. The enquiry is as necessary and interesting, as it is natural: For, though some people represent the Bank as injurious and dangerous, while others consider it as salutary and beneficial, to the community, all view it as an object of high importance; deserving and demanding the public attention.

IN the investigation of this subject, it will be requisite to discuss some great and leading questions concerning the constitution of the United States, and the relation, which subsists between them and each particular State in the union. Perhaps it is to be wished that this discussion had not been rendered necessary; and that those questions had rested some time longer among the *arcana imperii*: But they are now presented to the public; and the public should view them with firmness, with impartiality, and with all the solicitude befitting such a momentous occasion.

A GENTLEMAN,* who had the best opportunities of observing, and who possesses the best talents for judging on the subject, informs his fellow-citizens officially, that “it may be not only *asserted*, but *demonstrated*, that, “without the establishment of the *National Bank*, the “business of the department of finance could not have “been performed” in the late war.

THE *Millennium* is not yet come. War, with all the horrors and miseries in his train, may re-visit us. The

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* *Vide the preface to the Statement of the accounts of the United States.*

finances may again be deranged: "Public credit may, again, be at an end: No means may be afforded adequate to the public expences." Is it wise or politic to deprive our country, in such a situation, of a resource, which happy experience has shewn to be of such *essential* importance? Will the citizens of the United States be encouraged to embark their fortunes on a similar bottom in a future war, by seeing the vessel, which carried us so successfully through the last, thrown aside, like an useless hulk, upon the return of peace?

It will not be improper to recall to our remembrance the origin, the establishment, and the proceedings of the Bank of North-America.

IN May, 1781, the Superintendant of Finance laid before Congress a plan of a Bank. On the 26th of that month Congress passed the following resolution concerning it.

"RESOLVED, That Congress do approve of the plan for *establishing a National Bank in these United States*, submitted to their consideration by Mr. Robert Morris, the 17th May, 1781, and that they will promote and support the same by such ways and means, from time to time, as may appear necessary for the institution, and consistent with the public good.

"THAT the subscribers to the said Bank SHALL BE INCORPORATED, agreeably to the principles and terms of the plan, under the name of *the President, Directors and Company of the Bank of North-America*, so soon as the subscription shall be filled, the Directors and President chosen, and application made to CONGRESS for that purpose, by the President and Directors elected.

"RESOLVED, That it be recommended to the several States, by proper laws for that purpose, to provide that no other Bank or Bankers shall be established or permitted within the said States respectively during the war.

"RESOLVED, That the notes hereafter to be issued by the said Bank, payable on demand, *shall be receivable* in payment of all taxes, duties and debts, due or that may become due or payable to the United States.

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"RESOLVED, That Congress will recommend to the several legislatures to pass laws, making it felony without benefit of clergy, for any person to counterfeit Bank Notes, or to pass such notes, knowing them to be counterfeit; also, making it felony without benefit of clergy, for any President, Inspector, Director, Officer or Servant of the Bank, to convert any of the property, money or credit of the said Bank to his own use, or in any other way to be guilty of fraud or embezzlement, as officers or servants of the Bank."

UNDER these resolutions a subscription was opened for the *National Bank*: This subscription was not confined to *Pennsylvania*: The citizens of *other States* trusted their property to the public faith; and before the end of December, 1781, the subscription was filled, "from an expectation of a charter of incorporation from Congress." Application was made to Congress by the President and Directors, then chosen, for an act of incorporation. "The EXIGENCIES of the United States rendered it *indispensably necessary* that such an act should be immediately passed."† Congress, at the same time that they PASSED the *act of incorporation*, RECOMMENDED to the legislature of each State, to pass such laws as they might judge necessary for giving its *ordinance* its full operation, agreeably to the true intent and meaning thereof, and according to the *recommendations* contained in the resolution of the 26th day of May preceding.

THE Bank immediately commenced its operations. Its seeds were small, but they were vigorous. The sums paid in by individuals upon their subscriptions did not amount, in the whole, to seventy thousand dollars. The sum invested by the United States, in bank stock, amounted to something more than two hundred and fifty thousand dollars: But this sum may be said to have been paid in with one hand and borrowed with the other; and before the end of the first three months farther sums were advanced to the United States, and an advance

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† See the *act* in the appendix.

was made to this State. § Besides, numerous accommodations were afforded to individuals. Little was it then imagined that the Bank would ever be represented as unfriendly to circulation. It was viewed as the source and as the support of credit, both private and public: As such, it was hated and dreaded by the enemies of the United States: As such, it was loved and fostered by their friends.

PENNSYLVANIA, distinguished on numerous occasions by her faithful and affectionate attachment to federal principles, embraced, in the first session of her legislature after the establishment of the Bank, the opportunity of testifying her approbation of an act, which had been found to be indispensably necessary. Harmonizing with the sentiments and recommendations of the United States, the Assembly passed an act, * “ for preventing and punishing the counterfeiting of the common seal, bank bills and bank notes, of the President, Directors and Company of the Bank of North-America.” In the preamble to this act, which, according to the constitution of this state, expresses the reasons and motives for passing it, the “ NECESSITY” of taking “ EFFECTUAL measures for preventing and punishing frauds and cheats which may be put upon the President, Directors and Company of the BANK of NORTH-AMERICA,” is explicitly DECLARED by the legislature.

THE sentiments and conduct of other states, respecting the establishment of the National Bank by Congress, were similar to those of Pennsylvania. The General Assembly of Rhode-Island and Providence Plantations † made it felony, without benefit of Clergy, “ to counterfeit any note or notes issued, or to be issued, from the Bank of North-America, as approved and ESTABLISHED by the United States in Congress assembled.” The state of Connecticut enacted, ‡ that a tax should be laid, payable in money, or “ notes issued by the Directors of the Na-

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§ See in the appendix the different sums advanced to this state. * 18th March, 1782. † January Sessions, 1782. ‡ 10th January, 1782.

tional Bank, ESTABLISHED by an ordinance of the United States in Congress assembled.” By a law of Massachusetts, the subscribers to the National Bank, approved of by the United States, were “ incorporated, on the behalf of that commonwealth, by the name of the President, Directors and Company of the Bank of North-America, according to the terms of the ORDINANCE TO INCORPORATE THE SAID SUBSCRIBERS, passed by the United States in Congress assembled on the thirty-first day of December, 1781.” The same law further enacts, “ that all notes or bills, which have been or shall be issued by, for, or in the name of the said President, Directors and Company, and payable on demand, shall be receivable in the payment of all taxes, debts and duties, due or that may become due, or payable to, or for account of, the said United States.” In the preamble of this law, the legislature declares that “ a National Bank is of great service, as well to the public as to individuals.”

THE President and Directors of the Bank had a delicate and a difficult part to act. On one hand, they were obliged to guard against the malice and exertions of their enemies: On the other, it was incumbent on them to soothe the timidity of some of their friends. The credit of a Bank, as well as all other credit, depends on opinion. Opinion, whether well or ill-founded, produces, in each case, the same effects upon conduct. Some thought that an act of incorporation from the legislature of this state would be *beneficial*; none apprehended that it could ever be *hurtful* to the National Bank. Prudence, therefore, and a disposition, very natural in that season of doubt and diffidence, to gratify the sentiments, and even the prejudices, of such as might become subscribers or customers to the Bank, directed an application to the Assembly for “ a charter, similar to that granted by the United States in Congress assembled.” But tho’ the Directors were willing to avail themselves of encouragement from every quarter, they meant not to relinquish any of their rights, or to change the foundation on which they rested. They made their application in their corporate

corporate character. § They expressly mentioned to the Assembly, that the United States in Congress assembled had granted to the Bank a charter of incorporation, and that the institution was to be carried on under THEIR IMMEDIATE AUSPICES. The legislature thought that it was proper and reasonable to grant * the request of the *President and Directors of the Bank of North-America*; and assigned, as a reason for the act, "that the United States in Congress assembled, from a conviction of the support which the *finances of the UNITED STATES* would receive from the *establishment of a NATIONAL BANK*, passed an ordinance to incorporate the subscribers *for this purpose*, by the name and stile of the President, Directors and Company of the Bank of North-America."

THE first clause of the law enacts, that "those who are, and those who *shall become* subscribers to the *said Bank*, be, and FOR EVER HEREAFTER SHALL BE, a corporation and body politic, to all intents and purposes."

It is further enacted, that "the said corporation be, and *shall be for ever hereafter*, able and capable in law to do and execute all and singular matters and things, that to them shall or may appertain to do."

To shew, in the most striking light, the kind sentiments of the legislature towards the institution, it is further enacted, that "this act shall be construed and taken most *favourably and beneficially* for the said corporation."

ON these facts and proceedings, two questions of much national importance present themselves to our view and examination.

I. Is THE Bank of North America legally and constitutionally instituted and organised, by the charter of incorporation granted by the United States in Congress assembled?

II. WOULD it be wise or politic in the legislature of Pennsylvania, to revoke the charter which it has granted to the institution?

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§ *Their letter to the President of the Supreme Executive Council, on this occasion, is in the appendix.*

* 1st April, 1782.

THE discussion of these two questions will naturally lead us to the proper conclusions concerning the VALIDITY and the UTILITY of the Bank.

I. HAD the United States in Congress assembled a legal and constitutional power to institute and organise the Bank of North-America, by a charter of incorporation?

THE objection, under this head, will be—that the articles of confederation express all the powers of Congress, that in those articles no power is delegated to that body to grant charters of incorporation, and that, therefore, Congress possess no such power.

It is true, that, by the second article of the confederation, "each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not, by the confederation, expressly delegated to the United States in Congress assembled."

If, then, *any* or *each* of the States possessed, previous to the confederation, a power, jurisdiction or right, to institute and organise, by a charter of incorporation, a Bank for North-America; in other words—commensurate to the United States; such power, jurisdiction and right, unless expressly delegated to Congress, cannot be legally or constitutionally exercised by that body.

BUT, we presume, it will not be contended, that *any* or *each* of the States could exercise any power or act of sovereignty extending *over* all the other States, or *any* of them; or, in other words, incorporate a Bank, commensurate to the United States.

THE consequence is, that this is not an act of sovereignty, or a power, jurisdiction or right, which, by the second article of the confederation, must be *expressly* delegated to Congress, in order to be possessed by that body.

If, however, *any* person shall contend that *any* or *each* of the States can exercise such an extensive power or act of sovereignty as that above mentioned; to *such* person we give this answer—The State of Massachusetts has exercised such power and act: It has incorporated the Bank of North-America. But to pursue my argument.

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THOUGH the United States in Congress assembled derive from the *particular States* no power, jurisdiction or right, which is not *expressly* delegated by the confederation, it does not *thence* follow, that the United States in Congress have *no other* powers, jurisdiction or rights, than *those* delegated by the *particular States*.

THE United States have *general* rights, *general* powers, and *general* obligations, not derived from *any* particular States, nor from *all* the particular States, taken *separately*; but *resulting from the union of the whole*: And, therefore, it is provided, in the fifth article of the confederation, "that for the more convenient management of the GENERAL INTERESTS OF THE UNITED STATES, delegates shall be annually appointed to meet in Congress."

To many purposes, the United States are to be considered as one *undivided, independent* nation; and as possessed of *all the rights, and powers, and properties*, by the law of nations *incident* to such.

WHENEVER an object occurs, to the direction of which no particular state is competent, the management of it must, *of necessity*, belong to the United States in Congress assembled. There are many objects of this extended nature. The purchase, the sale, the defence, and the government of lands and countries, *not WITHIN ANY State*, are all included under this description. An institution for *circulating paper*, and *establishing its credit over the whole United States*, is naturally ranged in the same class.

THE act of independence was made before the articles of confederation. This act declares, that "*these UNITED Colonies*," (not enumerating them separately) "*are free and independent States*; and that, as free and independent States, **THEY** have full power to do *all* acts and things which independent States may, of right, do."

THE confederation was not intended to weaken or abridge the *powers and rights*, to which the United States were *previously* entitled. It was not intended to transfer any of those powers or rights to the *particular States*, or
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any of them. If, therefore, the power now in question was vested in the United States before the confederation; it continues vested in them still. The confederation clothed the United States with many (though, perhaps, not with sufficient) powers: But of none did it disrobe them.

IT is no *new* position, that rights may be vested in a political body, which did not previously reside in *any* or in *all* the members of that body. They may be derived solely from *the UNION of those members*.

* "THE case," says the celebrated Burlamaqui, "is here very near the same as in that of several voices collected together, which, *by their union*, produce a harmony, that was *not* to be found *separately in each*."

A NUMBER of unconnected inhabitants are settled on each side of a navigable river; it belongs to *none* of them; it belongs not to them *all*, for they have nothing in common: Let them unite; the river is the property of the united body.

THE arguments drawn from the political associations of *individuals* into a *state* will apply, with equal force and propriety, to a *number of states* united by a *confederacy*.

NEW states must be FORMED and established; their extent and boundaries must be regulated and ascertained. How can this be done, unless by the United States in Congress assembled?

STATES are corporations or bodies politic of the most important and dignified kind.

LET us now concenter the foregoing observations, and apply them to the incorporation of the Bank of North-America by Congress.

By the *civil law*, corporations seem to have been created by the mere and voluntary association of their members, provided such convention was not contrary to law.†

By the *common law*, something more is necessary---All the methods whereby corporations exist are, for the

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* 2 Burlamaqui, p. 42. † Blackstone, 472.

most part, reducible to that of the king's letters patents, or charter of incorporation. †

FROM this it will appear that the creation of a corporation is, by the common law, considered as the act of the executive rather than of the legislative powers of government.

BEFORE the revolution charters of incorporation were granted by the proprietaries of Pennsylvania, under a derivative authority from the crown, and those charters have been recognized by the *constitution* and *laws* of the commonwealth since the revolution.

FROM analogy, therefore, we may justly infer, that the United States in Congress assembled, possessing the executive powers of the union, may, in virtue of such powers, grant charters of incorporation for accomplishing objects that comprehend the *general interests* of the United States.

BUT the United States in Congress assembled possess, in many instances, and to many purposes, the legislative as well as the executive powers of the union; and therefore, whether we consider the incorporation of the Bank as a *law*, or as a *charter*, it will be equally within the powers of Congress: For the object of this institution could not be reached without the exertion of the *combined sovereignty* of the union.

I HAVE asked---How can new states, which are bodies politic, be formed, unless by the United States in Congress assembled? Fact, as well as argument, justifies my sentiments on this subject. The conduct of Congress has been similar on similar occasions. The same principles have directed the exercise of the same powers.

IN the month of April, 1784, Congress resolved, that part of the western territory "should be divided into distinct states."

THEY further resolved, that the settlers should, "either on their own petition, or on the order of Congress, receive authority from THEM to meet together, for the purpose

† Blackstone, 472, 473.

purpose of establishing a temporary government, to adopt the constitution and laws of *any one of the original states*."

"WHEN any such state shall have acquired twenty thousand free inhabitants, on giving due proof thereof to Congress, they shall receive from THEM authority to call a Convention of representatives, to establish a permanent constitution and government for themselves."

"THE preceding articles," among others, "shall be formed into a CHARTER of compact, shall be duly executed by the President of the United States in Congress assembled, under his hand and the seal of the United States; shall be promulgated, and shall stand as *fundamental Constitutions* between the thirteen original states, and each of the *several states* NOW NEWLY DESCRIBED, unalienable from and after the sale of any part of the territory of such state, but by the *joint* consent of the United States in Congress assembled, and of the particular state within which such alteration is proposed to be made."

It will be difficult, I believe, to urge against the power of Congress to grant a charter to the Bank of North-America, any argument, which may not, with equal strength and fitness, be urged against the power of that body to form, execute and promulgate a charter of compact for the *New States*.

THE sentiments of the representatives of the United States, as to their power of incorporating the Bank, ought to have much weight with us. Their sentiments are strongly marked by their conduct, in their first resolutions respecting the Bank. These resolutions are made at the *same time*, and on the *same subject*: But there is a striking difference in their manner. It was thought proper "that no other Bank should be permitted within any of the states, during the war." Congress "RECOMMENDED to the several states to make provision, for that purpose, by proper laws." It was thought prudent that the Bank should be protected, by penal laws, from fraud, embezzlement and forgery. Congress RECOMMENDED it to the several Legislatures to pass such laws. It was deemed

deemed expedient that bank notes should be received in payment of sums payable to the United States: Congress *RESOLVE*, that the notes "SHALL BE RECEIVABLE" in such payments. It was judged necessary that the Bank should have a charter of incorporation: Congress *RESOLVE*, that the Bank "SHALL BE INCORPORATED," on application made "TO CONGRESS" for that purpose. The line of distinction between those things in which Congress could only *recommend*, and those in which they could *act*, is drawn in the clearest manner. The incorporation of the National Bank is ranked among those things, in which they could *act*.

THIS *act* of Congress has, either expressly, or by implication, received the approbation of every state in the union. It was *officially* announced to every state by the Superintendent of Finance.* Had any one state considered it as an exercise of usurped power, would not that state have remonstrated against it? But there is no such remonstrance.

THIS *act* of Congress has been most explicitly recognised by the Legislature of Pennsylvania. The law for preventing and punishing frauds and cheats upon the Bank was passed on the 18th of March, 1782, and *before* the Bank had obtained a charter from this state. By that law it is made felony without benefit of clergy, to forge the common seal of the President, Directors and Company of the Bank of North-America. Who were the President, Directors and Company of the Bank of North-America? Those whom Congress had made "a corporation and body politic, to all intents and purposes, BY THAT NAME AND STYLE." How came that body by a "common seal?" The act of Congress ordained that that body "should have full power and authority to make, have and use a COMMON SEAL." In the act to incorporate the subscribers to the Bank of North-America, the Legislature, after reciting that the United States in Congress assembled had "passed an ordinance to incorporate them," say, "the President and Directors of the said

* See his letter in the appendix.

said Bank have applied to this House for a *similar act* of incorporation, which request it is *proper* and *reasonable* to grant."

WHEN the foregoing facts and arguments are considered, compared and weighed, they will, it is hoped, evince and establish, *satisfactorily to all*, and *conclusively* on the legislature of Pennsylvania, the truth of this position—That the Bank of North-America was legally and constitutionally instituted and organised, by the charter of incorporation granted by the United States in Congress assembled.

II. WOULD it, then, be wise or politic in the legislature of Pennsylvania, to revoke the charter which it has granted to this institution? It would not be wise or politic—

1st. BECAUSE the proceeding would be nugatory. The recall of the charter of Pennsylvania would not repeal that of the United States, by which we have proved the Bank to be legally and constitutionally instituted and organised.

2d. BECAUSE, though the legislature may destroy the legislative operation, yet it cannot undo the legislative acknowledgment of its own act. Though a statute be repealed, yet it shews the sense and opinion of the legislature concerning the subject of it, in the same manner as if it continued in force.* The legislature declared, in the law, that it was *proper* and *reasonable* to grant the request of the President and Directors of the Bank, for an act of incorporation similar to the ordinance of Congress: No repeal of the law can weaken the force of that declaration.

3d. BECAUSE such a proceeding would wound that confidence in the engagements of government, which it is so much the interest and duty of every state to encourage and reward. The act in question formed a charter of compact between the Legislature of this state, and the President, Directors and Company of the Bank of North-America. The latter asked for nothing but what was proper

* Foster, 394.

stitution originated under the auspices of the United States: The subscription to the National Bank was opened under the recommendations and the engagements of Congress: Citizens of this state, and of the other states, and foreigners, have become stock-holders, on the public faith: The United States have pledged themselves "to promote and support the institution by such ways and means, from time to time, as may appear necessary for it, and consistent with the public good"*. They have recommended to the legislature of each state, "to pass such laws as they might judge necessary for giving the ordinance incorporating the Bank its full operation." Pennsylvania has entered fully into the views, the recommendations, and the measures of Congress respecting the Bank. She has declared in the strongest manner her sense of their propriety, their reasonableness, and their necessity: She has passed laws for giving them their full operation. Will it redound to the credit of the United States to adopt and pursue a contrary system of conduct? The acts and recommendations of Congress subsist still in all their original force: Will it not have a tendency to shake all confidence in the councils and proceedings of the United States, if those acts and recommendations are now disregarded, without any reason shewn for disregarding them? What influence will such a proceeding have upon the opinions and sentiments of the citizens of the United States and of foreigners? In one year they see measures respecting an object of confessed public importance adopted and recommended with ardour by Congress; and the views and wishes of that body zealously pursued by Pennsylvania: In another year they see those very measures, without any apparent reason for the change, warmly reprobated by that state: They must conclude one of two things:—That Congress adopted and recommended those measures hastily and without consideration; or that Pennsylvania has reprobated them undutifully and disrespectfully. The former conclusion will give rise to very unfavourable reflections concerning the discernment

* 26th May, 1781.

discernment both of the state and of the United States: The latter will suggest very inauspicious sentiments concerning the federal disposition and character of this commonwealth. The result of the conclusion will be—that the United States does not deserve, or that they will not receive, support in their system of finance.—These deductions and inferences will have particular weight, as they will be grounded on the conduct of Pennsylvania, hitherto one of the most federal, active and affectionate states in the union.

5th. It would not be wise or politic in the legislature to repeal her charter to the Bank; because the tendency of such a step would be to deprive this state and the United States of all the advantages, public and private, which would flow from the institution, in times of war, and in times of peace.

LET us turn our attention to some of the most material advantages resulting from a Bank.

1st. It increases circulation, and invigorates industry. "It is not, says Dr. Smith, in his Treatise on the Wealth of Nations,* by augmenting the capital of the country, but by rendering a greater part of that capital active and productive than would otherwise be so, that the most judicious operations of banking can increase the industry of the country. The part of his capital which a dealer is obliged to keep by him unemployed, and in ready money, for answering occasional demands, is so much dead stock, which, so long as it remains in this situation, produces nothing either to him or to his country. The judicious operations of banking enable him to convert this dead stock into active and productive stock; into materials to work upon, into tools to work with, and into provisions and subsistence to work for; into stock which produces something both to himself and to his country. The gold and silver money which circulates in any country, and by means of which the produce of its land and labour is annually circulated and distributed to the proper consumers, is, in the same manner

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† Vol. I, p. 383, 384.

as the ready money of the dealer, all dead stock. It is a very valuable part of the capital of the country, which produces nothing to the country. The judicious operations of banking, by substituting paper in the room of a great part of this gold and silver, enables the country to convert a great part of this dead stock into active and productive stock; into stock which produces something to the country. The gold and silver money which circulates in any country may very properly be compared to a highway, which, while it circulates and carries to market all the grass and corn of the country, produces, itself, not a single pile of either. The judicious operations of banking, by providing, if I may be allowed so violent a metaphor, a sort of waggon-way through the air, enable the country to convert, as it were, a great part of its highways into good pasture and corn-fields, and thereby to increase very considerably the annual produce of its land and labour."

THE same sensible writer informs us, in another place, that "the † substitution of paper in the room of gold and silver money, replaces a very expensive instrument of commerce with one much less costly, and sometimes equally convenient. Circulation comes to be carried on by a new wheel, which it costs less both to erect and to maintain than the old one.—There are several sorts of paper money; but the circulating notes of banks and bankers is the species which is best known, and which seems best adapted for this purpose."—"These notes come to have the same currency as gold and silver money, FROM THE CONFIDENCE THAT SUCH MONEY CAN AT ANY TIME BE HAD FOR THEM."

SIR James Stewart calls banking "the great engine, ‡ by which domestic circulation is carried on."

TO HAVE a free, easy and equable instrument of circulation is of much importance in all countries: It is of peculiar importance in young and flourishing countries, in which the demands for credit, and the rewards of industry, are greater than in any other. When we view the

† Vol. 1, p. 434, 435.

‡ Vol. 2, p. 350.

extent and situation of the United States, we shall be satisfied that their inhabitants may, for a long time to come, employ profitably, in the improvement of their lands, a greater stock than they will be able easily to procure. In such a situation, it will always be of great service to them to save as much as possible the expence of so costly an instrument of commerce as gold and silver, to substitute in its place one cheaper, and, for many purposes, not less convenient; and to convert the value of the gold and silver into the labour and the materials necessary for improving and extending their settlements and plantations.

"To the Banks of Scotland, says Sir James Stewart,* the improvement of that country is entirely owing; and until they are generally established in other countries of Europe, where trade and industry are little known, it will be very difficult to set those great engines to work."

2d. THE influence of a Bank on credit is no less salutary than its influence on circulation. This position is, indeed, little more than a corollary from the former. CREDIT IS CONFIDENCE; and, before we can place confidence in a payment, we must be convinced that he who is to make it will be both able and willing to do so at the time stipulated. However unexceptionable his character and fortune may be, this conviction can never take place, unless in a country where solid property can be, at any time, turned into a circulating medium.

3d. TRADE, as well as circulation and credit, derives great support and assistance from a Bank. Credit and circulation produce punctuality; and punctuality is the soul of commerce. Let us appeal to experience as well as reason.

DR. SMITH says, § he has heard it asserted, that the trade of the city of Glasgow doubled in about fifteen years after the first erection of the Banks there; and that the trade of Scotland has more than quadrupled since the first erection of the two public Banks at Edinburgh, of which one was established in 1695, and the other in

* Vol. 2, p. 356.

§ Vol. 1, p. 442.

1727. Whether the increase has been in so great a proportion, the author pretends not to know. But that the trade of Scotland has increased very considerably during this period, and that the Banks have contributed a good deal to this increase, cannot, he says, be doubted.

THESE observations, and observations similar to these, have induced Sir James Stewart to conclude,—that “Banking,* in the age we live, is that branch of credit which best deserves the attention of a statesman. Upon the right establishment of Banks depends the prosperity of trade, and the equable course of circulation. By them, SOLID PROPERTY MAY BE MELTED DOWN. By the means of Banks, money may be constantly kept at a due proportion to alienation. If alienation increases, more property may be melted down. If it diminishes, the quantity of money stagnating will be absorbed by the Bank, and part of the property formerly melted down in the securities granted to them will be, as it were, consolidated anew. These must pay, for the country, the balance of their trade with foreign nations: These keep the mints at work: And it is BY THESE MEANS, PRINCIPALLY, THAT PRIVATE, MERCANTILE, AND PUBLIC CREDIT IS SUPPORTED.”

I MAKE no apology for the number and length of the quotations here used. They are from writers of great information, profound judgment, and unquestioned candour. They appear strictly and strongly applicable to my subject: And being so, should carry with them the greatest weight and influence: For the sentiments, which they contain and inculcate, must be considered as resulting from *general* principles and facts, and not as calculated for any *partial* purpose in this commonwealth.

BUT, here, it will probably be asked—Has your reasoning been verified by experience in this country? What advantages have resulted from the Bank to commerce, circulation and credit? Was our trade ever on such an undesirable footing? Is not the country distressed by the

* Vol. 2, p. 358.

want of a circulating medium? Is not credit almost totally destroyed?

I ANSWER—There is, unfortunately, too much truth in the representation: But if events are properly distinguished, and traced to their causes, it will be found—that none of the inconveniences above-mentioned have arisen from the Bank—that some of them have proceeded, at least in part, from the opposition which has been given to it—and that, as to others, its energy has not been sufficient to counteract or controul them.

THE disagreeable state of our commerce has been the effect of extravagant and injudicious importation. During the war, our ports were in a great measure blocked up. Imported articles were scarce and dear; and we felt the disadvantages of a stagnation in business. Extremes frequently introduce one another. When hostilities ceased, the flood-gates of commerce were opened; and an inundation of foreign manufactures overflowed the United States: We seemed to have forgot, that to pay was as necessary in trade as to purchase; and we observed no proportion between our imports, and our produce and other natural means of remittance. What was the consequence? Those who made any payments made them chiefly in specie; and in that way diminished our circulation. Others made no remittances at all, and thereby injured our credit. This account of what happened between the European merchants and our importers, corresponds exactly with what happened between our importers and the retailers spread over the different parts of the United States. The retailers, if they paid at all, paid in specie: And thus every operation, foreign and domestic, had an injurious effect on our credit, our circulation, and our commerce. But are any of these disadvantages to be ascribed to the Bank? No. Is it to be accounted a fault or defect in the Bank, that it did not prevent or remedy those disadvantages? By no means. Because one is not able to stem a torrent, is he therefore to be charged with augmenting its strength? The Bank has had many difficulties to encounter. The experiment

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was a new one in this country : It was therefore necessary that it should be conducted with caution. While the war continued, the demands of the public were great; and the stock of the Bank was but inconsiderable: It had its active enemies, and its timid friends. Soon after the peace was concluded, its operations were restrained and embarrassed by an attempt to establish a new Bank. A year had not elapsed after this, when the measure, which has occasioned these Considerations, was introduced into the legislature, and caused, for some time, a total stagnation in the business of the institution. When all these circumstances are recollected and attended to, it will be matter of surprize that the Bank has done so much, and not that it has done no more. Let it be deemed, as it ought to be, the object of public confidence, and not of public jealousy: Let it be encouraged, instead of being opposed, by the counsels and proceedings of the State: Then will the genuine effects of the institution appear; then will they spread their auspicious influence over Agriculture, Manufactures and Commerce.

4th. ANOTHER advantage to be expected from the Bank of North-America is, the establishment of an undepreciating paper currency through the United States. This is an object of great consequence, whether it be considered in a political, or in a commercial view. It will be found to have a happy effect on the collection, the distribution, and the management of the public revenue: It will remove the inconveniences and fluctuation attending exchange and remittances between the different states. "It is the interest of every trading state to have a sufficient quantity of paper, well secured to circulate through it, so as to facilitate payments everywhere, and to cut off inland exchanges, which are a great clog upon trade, and are attended with the risk of receiving the paper of people, whose credit is but doubtful."—*Political Oeconomy*, vol. 2, p. 415.

SUCH are the advantages which may be expected to flow from a *National Bank*, in times of peace. In time

of war, the institution may be considered as *essential*. We have seen that, without it, the business of the Department of Finance could not have been carried on in the late war. It will be of use to recollect the situation of the United States with regard to this subject. The two or three first years of the war were sufficient to convince the British government, and the British armies, that they could not subdue the United States by military force. Their hopes of success rested on the failure of our finances. This was the source of our fears, as well as of the hopes of our enemies. By this thread our fate was suspended. We watched it with anxiety: We saw it stretched and weakened every hour: The deathful instrument was ready to fall upon our heads: On our heads it must have fallen, had not public credit, in the moment when it was about to break asunder, been entwined and supported by the credit of the Bank. Congress, to speak without metaphors, had not money or credit to hire an express, or purchase a cord of wood. General Washington, on one occasion, and probably more than one, saw his army *literally unable to march*. Our distress was such, that it would have been destruction to have divulged it: But it ought to be known *now*; and when known, ought to have its proper influence on the public mind and the public conduct.

THE expences of a war must be defrayed, either—
1st, by treasures previously accumulated—or 2dly, by supplies levied and collected within the year, as they are called for—or 3dly, by the anticipation of the public revenues. No one will venture to refer us to the first mode. To the second the United States, as well as every state in Europe, are rendered incompetent by the modern system of war, which, in the military operations of one year, concentrates the revenue of many. While our enemies adhere to this system, we must adopt it. The anticipation of revenue, then, is the only mode, by which the expences of a future war can be defrayed. How the revenues of the United States can be anticipated without the operations of a National Bank, I leave

to those who attack the Bank of North-America to shew. They ought to be well prepared to shew it; for they must know, that to be incapable of supporting a war is but a single step from being involved in one.

THE result of the whole, under this head, is,—that in times of peace, the National Bank will be *highly advantageous*; that in times of war, it will be *essentially necessary*,—to the United States.

I FLATTER myself, that I have evinced the *validity* and the *utility* of the institution.

IT HAS been surmised, that the design of the legislature is not to destroy, but to modify, the charter of the Bank; and that if the Directors would assent to reasonable amendments, the charter, modified, might continue in force. If this is the case, surely to repeal the law incorporating the Bank is not the proper mode of doing the business. The Bank was established and organised under the authority and auspices of Congress. The Directors have a trust and duty to discharge to the United States, and to all the particular States, each of which has an equal interest in the Bank. They could not have received, from this state, a charter, unless it had been *similar* to that granted by Congress. Without the approbation of Congress, where all the states are represented, the Directors would not be justified in agreeing to any alteration of the institution. If alterations are necessary; they should be made through the channel of the United States in Congress assembled.

A P P E N -

A P P E N D I X.

AN ORDINANCE, to incorporate the SUBSCRIBERS to the BANK of NORTH-AMERICA.

WHEREAS Congress, on the twenty-sixth day of May last, did, from a conviction of the support which the finances of the United States would receive from the establishment of a National Bank, approve a plan for such an institution, submitted to their consideration by Robert Morris, Esq; and now lodged among the archives of Congress, and did engage to promote the same by the most effectual means: AND WHEREAS the subscription thereto is now filled, from an expectation of a charter of incorporation from Congress, the Directors and President are chosen, and application hath been made to Congress, by the said President and Directors, for an act of incorporation: AND WHEREAS the exigencies of the United States render it indispensably necessary that such an act be immediately passed:

Be it therefore ordained, and it is hereby ordained by the United States in Congress assembled, That those who are, and those who shall become subscribers to the said Bank, be, and for ever after shall be, a corporation and body politic, to all intents and purposes, by the name and stile of THE PRESIDENT, DIRECTORS AND COMPANY OF THE BANK OF NORTH-AMERICA.

And be it further ordained, That the said corporation are hereby declared and made able, and capable in law to have, purchase, receive, possess, enjoy and retain lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature or quality soever, to the amount of ten millions of Spanish silver milled dollars, and no more, and also to sell, grant, demise, alien or dispose of the same lands, rents, tenements, hereditaments, goods, chattels and effects.

And be it further ordained, That the said corporation be, and shall be for ever hereafter, able and capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in courts of record, or any other place whatsoever, and to do and execute all and singular other matters and things, that to them shall or may appertain to do.

And be it further ordained, That for the well governing of the said corporation, and the ordering of their affairs, they shall have such officers as they shall hereafter direct or appoint: *Provided nevertheless*, That twelve Directors, one of whom shall be the President of the corporation, be of the number of their officers.

And be it further ordained, That *Thomas Willing* be the present President; and that the said *Thomas Willing* and *Thomas Fitzsimons*, *John Maxwell Nesbitt*, *James Wilson*, *Henry Hill*, *Samuel Osgood*, *Cadwalader Morris*, *Andrew Caldwell*, *Samuel Ingles*, *Samuel Meredith*, *William Bingham*, *Timothy Matlack*, be the present Directors of the said corporation, and shall so continue until another President and other Directors shall be chosen, according to the laws and regulations of the said corporation.

And be it further ordained, That the President and Directors of the said corporation shall be capable of exercising such power, for the well governing and ordering of the affairs of the said corporation, and of holding such occasional meetings for that purpose, as shall be described, fixed and determined by the laws, regulations and ordinances of the said corporation.

And be it further ordained, That the said corporation may make, ordain, establish and put in execution, such laws, ordinances and regulations, as shall seem necessary and convenient to the government of the said corporation: *Provided always*, That nothing herein before contained shall be construed to authorise the said corporation to exercise any powers in any of the United States, repugnant to the laws or constitution of such state. *And be it further ordained*, That the said corporation shall have

have full power and authority to make, have and use a common seal, with such device and inscription as they shall think proper, and the same to break, alter and renew, at their pleasure.

And be it further ordained, That this ordinance shall be construed and taken most favourably and beneficially for the said corporation.

D O N E by the United States in Congress assembled, the thirty-first day of December, in the year of our Lord one thousand seven hundred and eighty-one, and in the sixth year of our Independence.

JOHN HANSON, President.

Attest. CHARLES THOMSON, Secretary.

Office of Finance, January 8, 1782.

S I R,

I HAVE the honor to transmit herewith an Ordinance, passed by the United States in Congress assembled the 31st day of December, 1781, incorporating the subscribers to the Bank of North-America, together with sundry resolutions, recommending to the several states to pass such laws as they may judge necessary for giving the said Ordinance its full operation. The resolutions of the 26th of May last speak so clearly to the points necessary to be established by those laws, that I need not enlarge on them. Should any thing more be found necessary upon experience, the President and Directors will no doubt make suitable applications to Congress, or to the states respectively, as the case may require. It affords me great satisfaction to inform your Excellency, that this Bank commenced its operations yesterday; and I am confident, that with proper management it will answer the most sanguine expectations of those who befriend the institution. It will facilitate the management of the finances of the United States: The several States may, when their respective necessities require, and the abilities of the Bank will permit, derive occasional

occasional advantage and accommodations from it: It will afford to the individuals of all the states, a medium for their intercourse with each other, and for the payment of taxes, more convenient than the precious metals, and equally safe: It will have a tendency to increase both the internal and external commerce of North-America, and undoubtedly will be infinitely useful to all the traders of every state in the union: Provided, as I have already said, it is conducted on the principles of equity, justice, prudence and economy. The present Directors bear characters that cannot fail to inspire confidence; and as the corporation is amenable to the laws, power can neither sanctify any improper conduct, nor protect the guilty. Under a full conviction of these things, I flatter myself that I shall stand excused for recommending, in the strongest manner, this well meant plan, to all the encouragement and protection which your state can give, consistently with wisdom and justice. I have the honor to be, with great respect,

*Your Excellency's most obedient,
and most humble servant,*

ROBERT MORRIS.

Circular

To the Governors of each state.

An ACT for preventing and punishing the counterfeiting of the Common Seal, Bank Bills and Bank Notes of the President, Directors and Company of the Bank of North-America, and for other purposes therein mentioned.

SECT. I. **W**HEREAS it is necessary to take effectual measures for preventing and punishing frauds and cheats, which may be put upon the President, Directors and Company of the Bank of North-America, by altering, forging or counterfeiting the Common Seal, and the Bank Bills and Bank Notes of the said President, Directors and Company:

SECT. II. *Be it therefore enacted, and it is hereby enacted by the Representatives of the Freemen of the Commonwealth*

wealth of Pennsylvania, in General Assembly met, and by the Authority of the same, That if any person or persons shall forge, counterfeit or alter the Common Seal of the said President, Directors and Company, or any Bank Bill or Bank Note, made or given out, or to be made or given out, for the payment of any sum of money by or for the said President, Directors and Company, or shall tender in payment, utter, vend, exchange or barter any such forged, counterfeit or altered Bill or Note, or shall demand to have the same exchanged for ready money by the said President, Directors and Company, or any other person or persons (knowing such Bill or Note so tendered, uttered, vended, exchanged or bartered, or demanded to be so exchanged, to be forged, counterfeit or altered) with intent to defraud the said President, Directors and Company, or any other person or persons, bodies politic or corporate, then every such person or persons so offending, and being thereof convicted in due form of law, shall be deemed guilty of felony, and shall suffer death as a felon, without benefit of clergy.

SECT. III. *And be it further enacted by the Authority aforesaid, That if any President, Director, or any officer or servant of the said President, Directors and Company, being intrusted with any such bill or note, or any bond, deed, money or other effects, belonging to the said President, Directors and Company, or having any such bill or note, or any bond, deed, money or other effects, lodged or deposited with the said President, Directors and Company, or with such officer or servant, as an officer or servant of the said President, Directors and Company, shall secrete, embezzle, or run away with any such bill, note, bond, deed, money or other effects, or any part of them, every President, Director, Officer or Servant, so offending, and being thereof convicted in due form of law, shall be deemed guilty of*

of felony, and shall suffer death as a felon, without benefit of clergy.

Signed, by Order of the House,

FREDERICK A. MUHLENBERG, Speaker.

Enacted into a Law, at Philadelphia, on Monday, the eighteenth day of March, in the year of our Lord One Thousand Seven Hundred Eighty and Two.

PETER Z. LLOYD,
Clerk of the General Assembly.

Philadelphia, February 9, 1782.

S I R,

THE President, Directors and Company of the Bank of North America, incorporated by the United States of America in Congress assembled, have thought it proper to petition the General Assembly of Pennsylvania for a similar charter, and such further support from the legislature of the state, as may render the Bank capable of yielding those advantages to the general cause of America, which are intended thereby: And this institution being encouraged and supported by citizens of other states, as well as that in which it happens to be established, the most respectful and proper mode of presenting the petition to that Honorable House appearing to be through the Supreme Executive Council of the state, we have enclosed the same to you, and request that you will please to lay it before the General Assembly as soon as they shall meet. I have the honor to be,

Your Excellency's most obedient servant,

THOMAS WILLING, *President.*

His Excellency WILLIAM MOORE, Esq; President.

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An ACT to incorporate the Subscribers to the Bank of North-America.

SECT. I. **W**HEREAS the United States in Congress assembled, from a conviction of the support which the finances of the United States would receive from the establishment of a National Bank, passed an Ordinance to incorporate the Subscribers for this purpose, by the Name and Stile of "THE PRESIDENT, DIRECTORS AND COMPANY OF THE BANK OF NORTH-AMERICA."

AND WHEREAS the President and Directors of the said Bank have applied to this House for a similar Act of incorporation, which request it is proper and reasonable to grant:

SECT. II. *Be it therefore enacted, and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania, in General Assembly met, and by the Authority of the same,* That those who are, and those who shall become Subscribers to the said Bank, be and for ever hereafter shall be a Corporation and Body politic, to all intents and purposes, by the Name and Stile of "THE PRESIDENT, DIRECTORS AND COMPANY OF THE BANK OF NORTH-AMERICA."

SECT. III. *And be it further enacted by the Authority aforesaid,* That the said corporation are hereby declared and made able and capable in law, to have, purchase, receive, possess, enjoy and retain lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature or quality soever, to the amount of Ten Millions of *Spanish* Silver milled Dollars, and no more. And also to sell, grant, demise, alien, or dispose of the same lands, rents, tenements, hereditaments, goods, chattels and effects.

SECT. IV. *And be it further enacted by the Authority aforesaid,* That the said corporation be, and shall be for ever hereafter, able and capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in courts of record, or

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any other place whatsoever, and to do and execute all and singular other matters and things, that to them shall or may appertain to do.

SECT. V. *And be it further enacted by the Authority aforesaid,* That for the well governing of the said corporation, and the ordering of their affairs, they shall have such officers as they shall hereafter direct or appoint. *Provided nevertheless,* That twelve Directors, one of whom shall be the President of the corporation, be of the number of their officers.

SECT. VI. *And be it further enacted by the Authority aforesaid,* That Thomas Willing be the present President, and that the said Thomas Willing, and Thomas Fitzsimons, John Maxwell Nesbitt, James Willson, Henry Hill, Samuel Osgood, Cadwallader Morris, Samuel Engles, Samuel Meredith, William Bingham, Timothy Matlack and Andrew Caldwell, be the present Directors of the said corporation, and shall so continue until another President and other Directors shall be chosen, according to the laws and regulations of the said corporation.

SECT. VII. *And be it further enacted by the Authority aforesaid,* That the President and Directors of the said corporation shall be capable of exercising such powers, for the well governing and ordering of the affairs of the said corporation, and of holding such occasional meetings for that purpose, as shall be described, fixed and determined by the laws, regulations and ordinances of the said corporation.

SECT. VIII. *And be it further enacted by the Authority aforesaid,* That the said corporation may make, ordain, establish and put in execution such laws, ordinances and regulations, as shall seem necessary and convenient for the government of the said corporation.

SECT. IX. *Provided always,* That nothing herein before contained shall be construed to authorise the said corporation to exercise any powers in this state, repugnant to the laws or constitution thereof.

SECT. X. *And be it further enacted by the Authority aforesaid,* That the said corporation shall have full pow-

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er and authority to make, have and use a common Seal, with such devices and inscription as they shall think proper, and the same to break, alter and renew, at their pleasure.

SECT. XI. *And be it further enacted by the Authority aforesaid,* That this Act shall be construed and taken most favorably and beneficially for the said corporation.

Signed, by Order of the House,

FREDERICK A. MUHLENBERG, Speaker.

Enacted into a Law, at Philadelphia, on Monday, the first day of April, in the year of our Lord One Thousand Seven Hundred Eighty and Two.

PETER Z. LLOYD,

Clerk of the General Assembly.

ON the 16th day of February, 1782, advanced to the United States, on behalf of Pennsylvania, 80,000 dollars.

At different times in 1782, advanced to the Commissioners for defence of the river and bay of Delaware, the sum of about 22,500 dollars.

On the 17th day of September, 1782, advanced to the State Treasurer, for defence of the western frontiers, upon application of the House of Assembly, 13,333 $\frac{1}{3}$ dollars, in part of a larger sum agreed to be lent, as the necessity of the state might require; but upon advice from the British commander in chief, that the Indians were called off our frontiers, this requisition stopped, and no further sum was taken out of the Bank.

On the 18th day of April, 1784, paid the Speaker's draft on the Treasurer, accepted by him, in favour of James Mease, 16,000 dollars.

On the 6th of January, 1785, lent the Managers of the House of Employment, 4,000 dollars.

On the 26th of January, 1785, lent the City Wardens the sum of 2,400 dollars.

F I N I S.

L I M I T

OF THE CITY OF NEW YORK

IN SENATE, JANUARY 18, 1882.

REPORT OF THE COMMISSIONERS OF THE LAND OFFICE

IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE

ON JANUARY 10, 1882.

ALBANY: PUBLISHED BY THE STATE OF NEW YORK, 1882.

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