

United States.

MESSAGE

Of the President of the United States, returning with his objections, the Bill to incorporate the Fiscal Bank of the United States, August 16, 1841.

TO THE SENATE OF THE UNITED STATES,

The Bill intitled "An Act to incorporate the subscribers to the Fiscal Bank of the United States," which originated in the Senate, has been considered by me, with a sincere desire to conform my action in regard to it, to that of the two Houses of Congress. By the Constitution it is my duty, either to approve the Bill by signing it, or to return it with my objections, to the house in which it originated. I cannot conscientiously give it my approval, and I proceed to discharge the duty required of me by the Constitution—to give my reasons for disapproving.

The power of Congress to create a National Bank to operate *per se* over the Union, has been a question of dispute from the origin of our Government. Men most justly and deservedly esteemed for their high intellectual endowments, their virtue and their patriotism, in regard to it, entertained different and conflicting opinions. Congress have differed.—The approval of one President has been followed by the disapproval of another. The people at different times, have acquiesced in decisions both for and against it. The country has been, and still is, deeply agitated by this unsettled question. It will suffice for me to say, that my opinion has been uniformly proclaimed to be against the exercise of any such power by this Government. On all suitable occasions, during a period of twenty-five years, the opinions thus entertained have been unreservedly expressed. I declared it in the Legislature of my native State. In the House of Representatives of the United States it has been openly vindicated by me, and the Senate Chamber, in the presence and hearing of many who are at this time members of that body, it has been affirmed and reaffirmed in speeches and reports there made, and by votes there recorded. In popular assemblies I have unhesitatingly announced it; and in the last public declaration which I made, and that but a short time before the Presidential election, I referred to my previously expressed opinions as being those then entertained by me. With a full knowledge of the opinions thus entertained, and never concealed, I was elected by the people Vice-President of the United States. By the occurrence of a contingency provided for by the Constitution, and arising under an impressive dispensation of Providence, I succeeded to the Presidential office. Before entering upon the duties of that office, I took an oath that I would "preserve, protect and defend the Constitution of the United States." Entertaining the opinions alluded to, and having taken this oath, the Senate and the country will see that I could not give my sanction to a measure of the character described, without surrendering all claim to the respect of honorable men—all confidence on the part of the people—all self-respect—all regard for moral and religious obligations, without an observance of which no Government can be prosperous, and no people can be happy. It would be to commit a crime which I would not wilfully commit to gain an earthly reward, and which would justly subject me to the ridicule and scorn of all our virtuous men.

I deem it entirely unnecessary at this time to enter upon the reasons which have brought my mind to the convictions I feel and entertain on this subject. They have been over and over again repeated. If some of those who have preceded me in this high office have entertained and avowed different opinions, I yield all confidence that their convictions were sincere. I claim only to have the same measure meted out to myself. Without going further into the argument, I will say that, in looking to the powers of this Government to collect, safely keep, and disburse the public revenue, and incidentally to regulate the commerce and exchanges, I have not been able to satisfy myself that the establishment by this Government of a bank of discount, in the ordinary acceptance of that term, was a necessary means, or one demanded by propriety, to execute those powers. What can the local discounts of the bank have to do with the collecting, safe-keeping, and disbursing of the revenue? So far as the mere discounting of paper is concerned, it is quite immaterial to this question whether the discount is obtained at a State bank or a United States Bank. They are both equally local—both beginning and ending in local accommodation. What influence have local discounts, granted by any former bank, in the regulating of the currency and the exchanges? Let the history of the late United States Bank aid us in answering this inquiry.

For several years after the establishment of that institution, it dealt most exclusively in local discounts; and during that period the country was, for the most part, disappointed in the consequences anticipated from its incorporation. A uniform currency was not provided, exchanges were not regulated, and little or nothing was added to the general circulation; and in 1820 its embarrassments had become so great, that the directors petitioned Congress to repeal that article of the charter which made its notes receivable everywhere in payment of the public debts. It had, up to that period, dealt to but a very small extent in exchanges, either foreign or domestic, and as late as 1823, its operations in that line amounted to a little more than seven millions of dollars per annum. A very rapid augmentation soon after occurred, and in 1833 its dealings in exchanges amounted to upwards of one hundred millions of dollars, including the sales of its own drafts; and all these immense transactions were effected without the employment of extraordinary means. The currency of the country became sound, and the negotiations in the exchanges were carried on at the lowest possible rates. The circulation was increased to more than \$22,000,000, and the notes of the bank were regarded as equal to specie all over the country; thus showing, exclusively, that it was the capacity to deal in exchanges, and not in local discounts, which furnished these facilities and advantages. It may be remarked too, that notwithstanding the great dealings of the bank in the purchase of

exchange, the losses sustained were merely nominal; while in the line of discounts the suspended debt was enormous, and proved most disastrous to the bank and the country. Its power of local discount has, in fact, proved to be a fruitful source of favoritism and corruption, alike destructive to the public morals and to the public weal.

The capital invested in banks of discount in the United States, created by the States, at this time, exceeds \$350,000,000; and if the discounting of local paper could have produced any beneficial effects, the United States ought to possess the soundest currency in the world; but the reverse is lamentably the fact.

Is the measure now under consideration of the objectionable character to which I have alluded?—It is clearly so, unless by the 16th fundamental article of the 11th section it is made otherwise. The article is in the following words:

"The directors of the said corporation shall establish one competent office of discount and deposit in any State in which two thousand shares shall have been subscribed, or may be held, whenever upon application of the Legislature of such State, Congress may by law require the same. And the said directors may also establish one or more competent offices of discount and deposit in any Territory or District of the United States, and in any State, with the assent of such State; and when established, the said office or offices shall be only withdrawn or removed by the said directors prior to the expiration of this charter, with the previous assent of Congress; Provided, in respect of any state which shall not, at the first session of the Legislature thereof, held after the passage of this act, by resolution, or other usual Legislative proceeding, unconditionally assent or dissent to the establishment of such office or offices within it, such assent to the said State shall be thereafter presumed: And provided, nevertheless, That whenever it shall become necessary and proper for carrying into execution any of the powers granted by the Constitution, to establish an office or offices in any of the States whatever, and the establishment thereof shall be directed by law, it shall be the duty of the said directors to establish such office or offices accordingly."

It will be seen by this clause the directors are invested with the fullest power to establish a branch in any state which has yielded its assent; and having once established such branch, it shall not afterwards be withdrawn, except by order of Congress. Such assent is to be implied, and to have the force and sanction of an actually expressed assent, "provided in respect to any State which shall not at the first Session of the Legislature thereof, held after the passage of this act, by resolution or other usual Legislative proceeding, unconditionally assent or dissent to the establishment of such office or offices within it, such assent shall be therefore presumed." The assent or dissent is to be expressed unconditionally at the first Session of the Legislature, by some formal Legislative Act; and if not so expressed, its assent is to be implied; and the directors are thereupon invested with power, at such time thereafter as they may please, to establish branches which cannot afterwards be withdrawn, except by resolve of Congress.

No matter what may be the cause which may operate with the Legislature, which either prevents it from speaking, or addresses itself to its wisdom, to induce delay, its assent is to be implied. This iron rule is to give way to no circumstances—it is unbending and inflexible. It is the language of the master to the vassal—an unconstitutional answer is claimed forthwith, and delay, postponement, or incapacity to answer, produces an implied assent which is ever after irrevocable. Many of the State elections have already taken place, without any knowledge, on the part of the people, that such was to come up.

The representatives may desire a submission of the question to their constituents, preparatory to final action upon it, but this high privilege is denied; whatever may be the motives and views entertained by the representatives of the people to induce delay, their assent is to be presumed, and is ever afterwards binding, unless their dissent shall be unconditionally expressed at their first session after the passage of this bill into a law. They may, by formal resolution, declare the question of assent or dissent to be undecided and postponed; and yet, in opposition to their express declaration to the contrary, their assent is to be implied. Cases innumerable might be cited to manifest the irrationality of such an inference. Let one or two in addition suffice. The popular branch of the Legislature may express its dissent by an unanimous vote, and its resolution may be defeated by a tie vote of the Senate, and yet the assent is to be implied. Both branches of the Legislature may concur in a resolution of decided dissent, and yet the governor may exert the veto power, and thus, by the State Constitution, find their legislative action may be defeated, and yet the assent of the legislative authority is implied, and the directors of this contemplated institution are authorized to establish a branch or branches in such State whenever they may find it conducive to the interest of the stockholders to do so, and having once established it, they can, under no circumstances withdraw it, except by act of Congress. The State may afterwards protest against such unjust inference, but its authority is gone. Its assent is implied by its failure or inability to act at its first session, and its voice can never afterwards be heard. To inferences so violent, and as they seem to me irrational, I cannot yield my consent. No court of justice would or could sanction them, without reversing all that is established in judicial proceeding, by introducing presumptions at variance with fact, and inferences at the expense of reason.

A State in a condition of duress would be presumed to speak, as an individual, manacled and in prison, might be presumed to be in the enjoyment of freedom. Far better to say to the States boldly and frankly—Congress wills and submission is demanded.

It may be said that the directors may not establish branches under such circumstances. But this is a question of power, and this bill invests them with authority to do so. If the Legislature of New York or Pennsylvania, or any other State, should be found to be in such

a condition as I have supposed, could there be any security furnished against such a step on the part of the directors. Nay, is it not fairly to be presumed that this proviso was introduced for the sole purpose of meeting the contingency referred to. Why else should it have been intended. And I submit to the Senate, whether it can be believed that any State would be likely to sit quietly down under such a state of things. In a great measure of public interest their patriotism may be successfully appealed to; but to infer their assent from circumstances at war with such inference, I cannot but regard as calculated to excite a feeling of fatal enmity with the peace and harmony of the country. I must, therefore, regard this clause as asserting the power to be in Congress to establish offices of discount in any State, not only without its assent, but against its dissent; and so regarding it, I cannot sanction it. On general principles, the right in Congress to prescribe terms to any State, implies a superiority of power and control, deprives the transaction of all pretence to compact between them, and terminates, as we have seen, in the total abrogation of all freedom of action on the part of the States.

But further, the State may express, under the most solemn form of legislation, its dissent, which may thereafter be repeated, in full view of its own interest, which can never be separated from the wise and beneficial operations of this Government; and yet Congress may, by virtue of the last proviso, overrule its law, and upon grounds which, to such State, will appear to rest on a constructive necessity and propriety and nothing more. I regard the bill as asserting for Congress the right to incorporate a United States Bank with power and right to establish offices of discount and deposit in the several States of this Union, with or without their consent—a principle to which I have always heretofore been opposed, and which can never obtain my sanction. And waiving all other considerations growing out of its other provisions, I return it to the House in which it originated, with these my objections to its approval.

JNOH TYLER.

Washington, Aug. 16, 1841.

Canada.

MEMORIAL OF THE SYNOD OF CANADA.

ON THE DESECRATION OF THE SABBATH.

To the Right Honorable Charles Baron Sydenham, of Sydenham, in the County of Kent, and of Toronto, in Canada, one of Her Majesty's Most Honorable Privy Council, Governor General of British North America, &c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,—

We, the Ministers and Elders of the Presbyterian Church of Canada, in connection with the Church of Scotland, in Synod assembled, beg leave most respectfully to bring under Your Excellency's notice, a practice which fills us with the most serious fears for the best interests of the community—the practice, namely, of conveying the Royal Mail in steamers or otherwise, on the Lord's Day.

Believing that "the Most High ruleth in the kingdoms of men," and that from the beginning "he made the Sabbath for man,"—enjoining upon him to keep it holy for his highest good, we cannot but regard with grief and apprehension, the present arrangements for forwarding the Royal Mail, by which the law of the Sabbath is set aside, as in the highest degree dishonoring to God, and calculated to bring down his heavy judgments upon us as a people; and Your Excellency's Memorialists conceive that there is the more reason for grief and apprehension on this account, that the desecrations now existing are in direct violation of the Statute Law of the Empire—a circumstance which renders them more criminal than if the nation had never acknowledged the divine authority of the institution, or affixed its seal to the blessedness of its holy keeping.

Taught by the well-accredited experience of other countries, as well as by our more limited observations, that the Sabbath must either be spent religiously, or surrendered up to dissipation and crime; Your Excellency's Memorialists, as appointed to watch over the religious and moral interests of a large portion of the community, and feeling, as we humbly trust, the solemn responsibility connected with such a charge, cannot too strongly deplore and deprecate the inevitable effect of the continuance of these Sabbath desecrations in opening the flood-gates of vice and immorality in the towns, on the borders of those majestic waters so graciously given by the Creator for the convenience as well as in spreading the contamination to those more sequestered districts, upon the people of which, already perishing for lack of knowledge, it cannot but exert the most baneful influence.

We cannot venture to hope that the influence will be different from that of other lands which have been visited with the evil complained of—we can only expect that many members of our congregations, and especially many of the unthinking and unwary young in them, will be found yielding to the temptations thus thrown in their way to make excursions of pleasure, so called—an event which we could not look upon but as most calamitous, since let the young ones burst through the obligations to observe the rest of the Holy Sabbath, and we can only expect to find them spending it in idleness and vice.

It is with no diffidence that Your Excellency's Memorialists express it as our solemn and deliberate opinion that it is not possible to preserve the Christian Religion in a land without a season solemnly set apart from worldly business and pleasure in which its truths may be expounded to the mind, and its obligations pressed upon the heart and conscience; and from the connection which Your Excellency's Memorialists have constantly witnessed between the casting off of the authority of Christian truth, and the disruption of the bonds of society—of the ties which bind husband and wife, parent and child, master and servant, ruler and subject—we cannot but indulge the very gloomiest apprehensions in regard to the preservation of the peace and

order of this community, unless an arrest shall be speedily put upon an evil which, once commenced and endured, must in the nature of things become daily more and more aggravated.

Your Excellency's Memorialists lamenting, as we believe, in common with Your Excellency, that so little has hitherto been done for the advancement of Education in this country, must regard the existing Sabbath desecrations as tending to have the most unfavourable effect on any plan for its advancement. Let the Sabbath be sacredly guarded, or simply preserved, and by means of the preaching of divine truth, of the opportunities given for the reading of the Scriptures, and of Sabbath Schools, much might be done to promote the intelligence and principle of the people, even in the absence of any legislative enactment; destroy the Sabbath and no legislative enactment will avail, as was lately universally admitted in the House of Lords, on the Marquis of Normanby's moving for a Committee to enquire into Sunday trafficking on Canals," on which occasion it was stated that it had been shown on evidence, that the population along canals, from being engaged in Sabbath trading and other violations of God's Holy Day, were among the most ignorant and demoralized portions of the British population. Legislative enactments for the advancement of Education, however good in themselves, will never educate a country. There must be first some taste or desire for Education, and this taste or desire, the preservation of the Sabbath, we believe, has done much, and might yet do more to implant and cherish.

It has been supposed that great inconvenience in respect of the business of the country would arise from the keeping holy of the Sabbath in the matter referred to. Your Excellency's memorialists may state that, while holding that no plan of temporal convenience can ever justify a violation of the divine law, we have, nevertheless, been at pains to enquire into this matter, and we have good reason to believe that no such inconvenience as has been apprehended would arise. If there were any, our acquaintance with our flocks, and with the other bodies of the population, warrant us in saying that it would be cheerfully submitted to by all the respectable portion of the community, who in many cases feel the existing arrangements a great grievance.

Your Excellency's memorialists having had intercourse with many of the persons employed as engineers, firemen, and otherwise, on board the steamers, and having witnessed in several instances how deeply their consciences are wounded by being obliged to labour on the day of sacred rest, cannot forbear humbly interceding with your Excellency on their behalf, that your Excellency would be pleased to consider their case, and interfere with your authority to free them from so hard and unreasonable a bondage. Your Excellency's memorialists allow that it might be said, that if labouring on board the steamers on the Lord's Day violates their consciences, they ought to leave them. Yet it will be allowed that this would be a hardship in the case of men, who at the expense of time and substance, have fitted themselves for their several crafts; and your Excellency's memorialists would very earnestly submit it as a matter for grave consideration whether the necessity of abandoning such employments should be imposed on conscientious men, since thereby the management of the steamers must be entrusted to those reckless and unprincipled persons who having become dead to all feeling of responsibility to God, cannot be expected to be alive to their obligations to their fellow men,—a view of the subject confirmed by a recent report of a meeting of practical men at Birmingham, convened to enquire into the causes of accidents on railways, who gave it as their opinion, founded on evidence, that "it must be to an improved state of discipline and moral responsibility on the part of the men employed on railways, that exemption from such accidents must be mainly looked for."

Your Excellency's memorialists, therefore, humbly pray that your Excellency will be pleased to take this subject into your Excellency's consideration, and by the exercise of the Royal Prerogative remove those lamented desecrations of the Lord's Day, that vice and profligacy being restrained and pure religion and morality promoted, through our land enjoying its Sabbaths, we may yet look for the descent upon us as a people of the "blessing of the Lord which maketh rich, and addeth no sorrow."

In name and by appointment of the Synod of the Presbyterian Church of Canada, in connection with the Church of Scotland, and in their presence at Kingston, this 6th day of July, 1841.

(Signed) JAMES GEORGE, Moderator.

REPLY.

Kingston, 12th July, 1841.

SIR,—I am commanded by the Governor General to acknowledge the receipt this morning of your letter of the 9th instant, enclosing two Addresses which the Synod of the Presbyterian Church are anxious to present to His Excellency. I am to inform you that the subject of these Addresses will receive His Excellency's most attentive consideration.

I have the honor to be, Sir, Your most obedient servant,

T. W. C. MURDOCH, Civil Secretary.

The Rev. A. GALE, Kingston.

*The "two addresses" were the Memorial on Sabbath desecration, and another on the use of the Bible in Schools.

NOTICE.

MY SON, JOHN TAPLEY, now twenty years of age, is desirous of transacting business in his own name; I therefore give Notice that I relinquish all claim to the said JOHN TAPLEY, during his minority; and furthermore state, that I will not be accountable for any of his transactions from this date.

DAVID TAPLEY, SEN. Fredericton, Aug. 25, 1841.

ROYAL GAZETTE.

FREDERICTON, SEPT. 1, 1841.

Central Bank of New Brunswick.

WILLIAM J. BEDELL, President.
SAMUEL W. BABBIT, Cashier.
Discount Days.....Tuesdays and Fridays.
Director this week.....THOMAS PICKARD.
Bills or Notes offered for discount must be left at the Bank, enclosed and directed to the Cashier, before two o'clock on Mondays and Thursdays.

Bank of British North America.

FREDERICTON BRANCH.
GEORGE TAYLOR, Manager.
Discount Days.....Wednesdays and Saturdays.
Director this week.....SPAFFORD BARKER.
Hours of business, from 10 to 3.
Notes and Bills for Discount to be left before 3 o'clock on the days preceding the Discount Days.

Saving's Bank.

Trustee for next week.....MARK NEEDHAM.

Central Fire Insurance Company.

Office open everyday, at Mr. Minchin's Brick House, opposite the Parade, (Sunday excepted,) from 11 to 2 o'clock.

B. WOLHAUPT, President.

Committee for the present month.

F. E. BECKWITH and W. A. McLEAN.

Alms House and Work House.

Commissioner for the week commencing to-morrow.

WILLIAM J. BEDELL.

Hartford Fire Insurance Company.

HARTFORD, CONNECTICUT,
Agent at Fredericton.—ASA COY.



By Authority.

SECRETARY'S OFFICE,

Fredericton, 30th August, 1841.

As some misunderstanding appears to exist in the minds of the Public, as to what Certificates are required, previous to the payment of the several sums to which the Supervisors and Commissioners of Roads are respectively entitled,

The following notice on the subject is republished for the information of those concerned.

Notice to Supervisors and Commissioners of Roads.

As by the arrangements made for prompt payment at the Treasury, the Warrants for sums appropriated for the Great and Bye Roads throughout the Province, will in future be paid as the money may be required for those services, the Supervisors and Commissioners are hereby directed, in drawing on the Province Treasury for the monies intrusted to them, to state in their orders or drafts, that the sums so drawn for are actually due for work performed, and they will in all cases be held responsible for the correctness of these statements.

By order of His Excellency the Lieut. Governor.

WM. F. ODELL.

Secretary's Office, 18th June, 1839.

HEAD QUARTERS, FREDERICTON,

31st August, 1841.

MILITIA GENERAL ORDER.

His Excellency the Lieutenant Governor and Commander in Chief has been pleased to order, on the suggestion of Lieutenant Colonel J. C. VAIL, that the Drill and Inspection of the 2nd Battalion King's County Militia, shall take place as follows:—

The 1st Division at Sussex, on the 29th September next.

The 2nd Division at Studholm's Mill Stream, on the 30th September.

The 3rd Division at Smith's Creek, (Parish of Studholm,) on the 1st October; and the whole Battalion to assemble for General Inspection in the Parish of Sussex, on the 2nd of October.

By Command.

GEORGE SHORE, A. G. M.

WESTMORLAND IMMIGRATION SOCIETY.

Pursuant to notice, a Public Meeting was held at the Court House in Dorchester, on Tuesday the 1st inst., at which the following gentlemen were present:—

CHRISTOPHER MILNER, Esq., was appointed Secretary.

The following Resolutions were then moved and carried unanimously:—

Moved by the Honorable E. B. Chandler, and seconded by Joseph Avard, Jr. Esquire.

Resolved, That this Meeting do form themselves into a Society for the encouragement of Immigration to this County, pursuant to the recommendation of His Excellency the Lieutenant Governor, and in accordance with the object of the appropriation of the Legislature, made at the last Session.

Moved by the Honorable E. B. Chandler, and seconded by E. Peck, Jr. Esq., and carried unanimously.

Resolved, That there be a President and two Vice-Presidents of this Society appointed, that Joseph Avard, Jr. be President, and that Elisha Peck, Jr. and John Chapman, Esquires, be Vice-Presidents; also

Resolved, That Honorables W. Crane, E. B. Chandler, Thompson Treuman, George Oulton, Thomas Keilor, Philip Palmer, Bliss Botsford, S. G. Morse, W. Smith, Alexander Wright, John Smith, Philip Chapman, J. Lewis, and J. Wallace, be a Committee appointed to solicit Subscriptions for the Society.