

ison shall be considered as incorporated banks," and "either of the aforesaid banks may be adopted as the state bank."—This 10th article of the constitution was evidently intended not only to restrain but to effectually prevent, all citizens or combination of citizens, from creating an illegal or unjust monied monopoly—for such a monopoly is the sure and broad avenue that leads to oppressive aristocracy. That you gentlemen of the jury may hereafter bear testimony that I have endeavored to preserve without pollution our adopted constitution—or if pollution has already stained its articles that I have made an effort to wipe off one stain, I shall proceed to dissect the clause of the constitution which I have recited with a view of discovering whether it remains pure and uncontaminated as it proceeded from the council chamber of the convention, or whether we have in 3 short years made such encroachments upon it as to become a matter of serious alarm and judicial scrutiny. In attempting to analyse the article I have repeated, it will only be necessary to pursue the usual and ordinary method of interpreting all laws, and by that rule explore the *will* and *intention* of our convention at the time the article was ordained.—By all approved expositors of law, we are informed that the most certain and effectual method of ascertaining the design of the law giver, is to examine his intentions at the time the law or ordinance was made by signs the most rational,—and these are either the words, the context, the subject matter, the effects and consequences—or the spirit and reason of the law." Now gentlemen, apply this rule to the 10th article of our constitution which I have repeated to you and with all due deference must you not find that it has been infringed upon?

"There shall not be *established* or *incorporated* in this state, any bank or *banking company* or *monied institution* for the purpose of issuing *bills of credit* or bills payable to order or bearer," *proviso* for a state bank and branches.—

In the construction of this article of our constitution, I am naturally to enquire what is meant by the terms "*established*" and "*incorporated*" the two most prominent and leading features of the sentences. The word "*established*" as applied here is evidently intended to convey the idea of a *fixing of monied or banking institutions without constitutional or legislative sanction*. The term "*incorporated*" as applied here is evidently intended to prohibit the legislature from making a contract or granting legislative approbation in any shape, to any other monied institution than those provided for; and even if the legislature would contrary to this positive prohibitory injunction, grant their approbation, it would be the business of judicial tribunals to determine as to the constitutionality of the grant.

The context of the article under consideration expressed in these forcible words, "*any bank or banking company, or monied institution* for the purpose of issuing *bills of credit* or *bills payable to order or bearer*" clearly and explicitly evince the apprehension of the framers of the constitution that such dangerous and antirepublican establishments might by possibility, insinuate themselves into our state, and by insensible degrees lead to an undue monopoly of credit and monied concerns—the sure and dreaded harbingers of local oppression and general distress. I will now gentlemen bring to your notice the statute relative to "crime and punishment" and I know of no better method to give you a clear and lucid understanding of it than to recite to you the section entire as it stands in the volume of our statute laws. In sec. 11th we have a display of the corresponding republican sentiments of the legislature with the framers of the constitution, it reads as follows:—"If any person or persons in this state shall sign, issue, pass, circulate or exchange any due bill, promissory note or note purporting to be a bank note, or other instrument

of writing for the payment of any money or property, or performing any contract or covenant purporting to be the act of any *banking company*, secret society or set of men in this state other than those who are expressed by name upon the face of such bill, promissory note, or note purporting to be a bank note or instrument of writing so as to give a credit and trust in some person, company or set of men unknown to the holder of such bill, note or other instrument aforesaid, *besides the signor or signors thereof*, such person or persons may be fined in any sum not exceeding \$10,000 nor less than \$10, *provided* that no chartered bank shall be affected by this statute, or any merchantile house for any note, due bill, or contract *on common paper, in common writing*." Let the same standard that guided the exposition of the constitution govern in expounding this statute. But gentlemen, from the complicated manner in which it is worded, we can only find the clear and distinct intention of the legislature by casting a retrospective view on the 10th art. of the constitution and combine that view with the clause and *proviso* of this law, which gives a saving to chartered banks in that proviso expressed, and to all merchantile houses for any promissory note or due bill, *on common paper, in common writing*.

There should be no misunderstanding of the statute under consideration when we view the constitution—indeed the last expressions of the providing clause of the section I have read, sufficiently elucidate every perplexity. These last expressions with the prohibition (in the clause itself) to all notes giving a credit to men who are not "signers thereof" are the keys which unlock the door of every doubt which might otherwise conceal from a common observer the laudable sentiments of our convention and legislature. By these expressions we discover what is clearly conveyed by the constitution that *no bank shall be established* or banking company incorporated or banking transactions conducted within the state, other than those provided for in the 10th article of that instrument. That such is the due and only rational construction of the statute must be the decision of every reflecting mind. By it as well as by the constitution, it matters not if notes sent abroad by banking operations, as a circulating medium bear upon the face of them, in the *body of the note*, the names of many or few, printed or impressed by the most approved engravers, Murray, Draper & co. or Morgan, Lodge & co.—the expression of the names of this many or few in that way, cannot evade the plain and evident meaning of the statute itself. And when we look to the constitution, the supreme law, it is still more pointed. Four very important requisites are wanting to create and give that legality to the notes of associated individuals which the constitution and the law imperiously require:—*First* the bills or notes should be drawn "*on common paper*"—*second*, they should be "*in common writing*"—*3d*, they should only be intended and issued to give a credit to the "*signor or signors thereof*"—and *4th*, they should be signed by all the concern. These are the indecible, the characteristic badges which will ever designate constitutional or legal issues of paper from the illegal & spurious currency forced upon the public without authority.

Gentlemen, if it has already fallen within your view, or if in the course of your deliberations you discover a union of a number of men exercising all or a part of the forms and ceremonies of banking establishments, in the issuing of "bills of credit or bills payable to order or bearer" without being provided for in the constitution, such a union under whatever garb it may assume, or ingenious concealing evasion it may lurk to shield itself from legal reproof, is indubitably within the interdiction of our constitution and the prohibitory section of the statute we have read;—and if you find the existence of any such establish-

ment (other than those within the per-view of the constitution) it will become your duty as guardians of that constitution, and as the grand inquest of the body of the county of Knox, to make a faithful presentment of the agents thereof. We have invariably observed that when a poor unprotected individual is guilty of a misdemeanor, he is arraigned before the tribunal of justice, and receives punishment deemed commensurate with the offence; thus the poor and the unprotected endure the penalties of the law they have transgressed; let not men of a contrary disposition violate it with impunity. Gentlemen, a sense of duty and a sincere desire for the happiness of all our citizens, blended with an anxious hope for the honor and prosperity of our state and country at large, have alone led to this address.—This is an awful crisis; and it behoves you to weigh well the sentiments you have heard. You see banking institutions inflicting destruction on many of your fellow citizens, and whether you will tolerate the continuance of such evils, without sanction or judicial enquiry, will now be determined by you.

WESTERN SUN.

VINCENNES:

SATURDAY, SEPTEMBER 11.

When we announced in our last, the publication of Judge Ewing's charge in pamphlet form, we had just been apprised of its having been asked and obtained for publication; and destitute of paper, we consequently intended it in that shape to remunerate the expence. The views of the gentlemen who procured it being solely to enable every man to know and judge for himself on a matter of such deep and general interest, we have changed the manner of publication, and now take pleasure in presenting it to our readers in this days paper.

ERRATA—In the charge as published on our first page—in second column, last paragraph but one—for "*injurious contrivance*" read *ingenious contrivance*. In third column, last paragraph—for "*you will know our constitution*," read *you well know our constitution*.

Extract of a letter from St. Thomas, dated 4th August, to a gentleman in Baltimore, arrived on Friday evening.

"You must know that Barcelona has fallen, and Cumana and the whole Royal squadron are now in possession of the patriots; and probably, before this reaches you, Laguaira, Port Cavello, and Caracas, will also be subject to them."

Fed. Gaz.

Brigadier General JAMES MILLER has accepted the appointment of governor of the territory of Arkansas, and has, of course, resigned his commission in the army.

Nat. Int.

We understand from credible authority, that orders have been issued by the navy department, to double the number of workmen engaged in various ports in building ships of the line, for the purpose of hastening the completion of these vessels. Whatever may be the cause of these orders, the policy of prompt preparations to meet the emergency of war must ever be considered wise.

Franklin Gaz.