

the operations of the Government. It may be carried to an extent to arrest them entirely. The tax on Government stock is thought by the court to be a tax on the contract, a tax on the power to borrow money on the credit of the United States, and consequently repugnant to the constitution." See also, 2 Black's Rep., 620, *The People of New York vs. The Bank of Commonwealth*, decided December, 1864.

This law of Congress presents another objection to any power of taxation being exercised by the State. Its 41st section enacts that in lieu of all existing taxes, every association shall pay to the Treasurer of the United States, certain taxes therein specified, &c.; "*provided*, that nothing in this Act shall prevent all the shares in any of the said associations held by any person, &c., from being included in the assessment of taxes imposed by or under any State authority, at the place where said Bank is located and not elsewhere, but not at a greater rate than is assessed upon the other moneyed capital in the hands of individual citizens of such State, and such tax shall not exceed the rate imposed upon the shares in any of the Banks organized under the authority of the State where such associations are located, and that nothing in this Act shall exempt the real estate of associations from either State, county or municipal taxes to the same extent according to its value, as other real estate is taxed." As, therefore, Congress has undertaken to define to what taxes these associations shall be subjected, viz: taxes on the shares held by individuals, &c., and excluded thereby the right to tax the association itself upon its capital or operations—and as such would be this school tax, it must be intended that the right to levy or enforce this school tax should not exist, and Congress having the power so to determine, this right cannot be claimed by the State.

*6th Inquiry.*—"Has the State the power to prevent the State Banks from winding up their affairs under their State charters, and re-organizing under the National Currency Act, without distributing their funds among the stockholders before so doing, by the assent of all their stockholders under the State charters?"

I have, in reply to the 4th inquiry, respectfully submitted my opinion, that the State, *as such*, has not the power to prevent the State Banks from organizing under the National Currency Act. One reason assigned is, that those banks are authorized by the Act of 1853, to close their banking operations, &c., when their stockholders could organize themselves into a National Association under this Act of Congress. This, I am of opinion, they can do under their charters, with the assent of all the stockholders, without first distributing their funds among the stockholders. The debts and liabili-