

88th Congress }
1st Session }

COMMITTEE PRINT

FEDERAL BANKING LAWS AND REPORTS

A compilation of major Federal
banking documents

1780-1912

COMMITTEE ON
BANKING AND CURRENCY
UNITED STATES SENATE

50th Anniversary
1913-1963



MARCH 15, 1963

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FOREWORD

This volume brings together a number of major Federal banking statutes enacted from 1780 to 1912. It includes, among others, the ordinance of the Bank of North America (1781), the charters of the First and the Second Bank of the United States (1791 and 1816), the texts of the acts of 1863 and 1864, and the Aldrich-Vreeland Act of 1908.

In addition, the volume contains related major legislative and executive reports made during the time these banking laws were under consideration. It includes such items as the report of Alexander Hamilton on a national bank, excerpts from reports of the Comptroller of the Currency and the Secretary of the Treasury, messages of Presidents of the United States, reports of committees of the United States Senate and House of Representatives, and the report of the National Monetary Commission in 1912.

The publication was prepared in connection with the observance of the 50th anniversary of the U.S. Senate Committee on Banking and Currency, established March 15, 1913. The contents range over significant banking laws and reports which helped to set the background against which the Senate Banking and Currency Committee was created in order to consider the proposed Federal Reserve Act of 1913. The contents also include material pertaining to the National Currency Act of 1863, the 100th anniversary of which is being celebrated this year.

These laws and reports were chosen with a view to their importance to the historical development of banking in the United States. They were also selected with a view to their relevance to issues still under debate today. Limitations of space have permitted the inclusion only of selected major laws and reports, which are illustrative rather than exhaustive in coverage. The compilation was made by Robert Moore Fisher, formerly of the committee staff.

The National Archives and the Library of Congress have been very helpful in supplying material for the volume.

In addition to the sources given in the text, other material on banking statutes and reports may be found in such sources as *Laws of the United States Concerning Money, Banking, and Loans, 1778-1909*, compiled by A. T. Huntington and Robert J. Mawhinney for the National Monetary Commission (S. Doc. 580, 61st Cong., 2d sess., 1910); *Federal Reserve Act, 1913*; *McFadden Act, 1927*; *Banking Act of 1933*; *Banking Act of 1935*; *Bank Holding Company Act, 1956*, a one-volume compilation of the House Committee on Banking and Currency (1958); and *Federal Reserve Act of 1913, With Amendments and Laws Relating to Banking*, compiled by Gilman G. Udell, Superintendent of Document Room, House of Representatives, Washington 25, D.C. (1958).

A. WILLIS ROBERTSON, *Chairman.*

MARCH 15, 1963.

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FEDERAL BANKING LAWS AND REPORTS, 1780-1912

Proceedings in Congress on Bank of North America

[Source: Gaillard Hunt, *Journals of the Continental Congress, 1774-1789*, Vol. 17, pp. 542, 548-550, 585; Vol. 20, pp. 519, 545-548; Vol. 21, pp. 1185-1190]

IN CONGRESS, *June 21, 1780.*

* * * * *

A letter, of this day, from the Board of War, was read, informing, "that a number of patriotic persons have formed a plan for the establishment of a bank, whose object is the public service; that the directors have applied to that Board to represent to Congress the desire of the company, that a committee of this body may be appointed to confer with the inspectors and directors on the subject to morrow morning: Whereupon,

Ordered, That a committee of three be appointed for the purpose above mentioned:

The members chosen, Mr. [Oliver] Ellsworth, Mr. [James] Duane, and Mr. [John Morin] Scott.

* * * * *

IN CONGRESS, *June 22, 1780.*

* * * * *

The committee, appointed to confer with the inspectors and directors of the proposed bank brought in a report, which was read stating:

That the gentlemen appointed to confer with the committee, communicated to them a plan for the establishment of a bank for the sole purpose of furnishing and transporting on the credit and by the exertions of the subscribers, three millions of rations and three hundred hogshheads of rum for the use of the army.

That the committee were in the said conference informed that subscribers stand already engaged to support the said bank to the amount of two hundred and seventy five thousand pounds, Pennsylvania currency; and that there is no doubt but that such further sums as will be necessary to its credit and the object of its establishment will be cheerfully subscribed.

That this liberal offer at a conjuncture when the efforts of the states have not produced sufficient supplies is equally seasonable and praiseworthy.

That as the subscribers mean not to derive to themselves the least private gain from their patriotic exertions, so it is the opinion of the committee, that they ought to be fully indemnified against any loss or expense with which it may be attended.¹

¹ In the original journals, this passage was crossed out.

The committee also laid before Congress the plan of the bank, communicated to them at the said conference, which being read, Congress thereupon came to the following resolutions:

Whereas a number of the patriotic citizens of Pennsylvania, have communicated to Congress a liberal offer, on their own credit and by their own exertions, to supply and transport three million of rations and 300 hogsheads of rum for the use of the army, and have established a bank for the sole purpose of obtaining and transporting the said supplies, with greater facility and despatch; and whereas on the one hand the associators, animated to this laudable exertion by a desire to relieve the public necessities, mean not to derive from it the least pecuniary advantage, so on the other it is just and reasonable that they should be fully reimbursed and indemnified: therefore,

Resolved, unanimously, That Congress entertain a high sense of the liberal offer of the said associators to raise and transport the before mentioned supplies for the army, and do accept the same as a distinguished proof of their patriotism.

Resolved, That the faith of the United States be, and the same hereby is pledged to the subscribers to the said bank, for their effectual reimbursement and indemnity in the premises.

Resolved, That the Board of Treasury be directed to deposit in the said bank, bills of exchange in favor of the directors thereof, on the ministers of these United States, in Europe, or any of them, and in such sums as shall be thought convenient, but not to exceed in the whole one hundred and fifty thousand pounds sterling; that the said bills are to be considered not only as a support of the credit of the said bank, but as an indemnity to the subscribers for all deficiencies of losses and expences which they may sustain on account of their said engagements, and which shall not, within six months from the date hereof, be made good to them out of the public treasury; and in case of failure, such a proportion of the said bills as shall be requisite to make good the said deficiency, shall be negotiated for that purpose by the said directors, and the residue thereof returned into the treasury.

Resolved, That upon representation made that the bank stands in need of occasional assistance, Congress will advance as much of their current money as can be spared from other services.

Resolved, That a standing committee of Congress be appointed to confer with the officers of the said bank, as occasion may require:

The members chosen, Mr. [Oliver] Ellsworth, Mr. [James] Duane, and Mr. [John Morin] Scott.

* * * * *

IN CONGRESS, *June 30, 1780.*

* * * * *

Ordered, That two members be added to the committee, appointed to confer with the directors and inspectors of the proposed bank, in the room of Mr. [James] Duane and Mr. [Oliver] Ellsworth, who are absent:

The members chosen, Mr. [Robert R.] Livingston and Mr. ~~Houston,~~ [Samuel] Adams.

* * * * *

IN CONGRESS, *May 21, 1781.*

* * * * *

A letter, of 17th, from General Washington; and
One, of 17th, from R. Morris, enclosing a plan of a bank, were read:
Ordered, That Wednesday next be assigned for considering the
enclosed plan.

IN CONGRESS, *May 26, 1781.*

* * * * *

The report of the committee [consisting of Mr. Witherspoon, Mr. Sullivan, Mr. M. Smith, Mr. Clymer] on the letter from Mr. R. Morris [with the plan of a bank] was taken into consideration; ¹ Whereupon, The Committee to whom was referred the letter from Mr. R. Morris of the 17 May 1781 together with a plan for establishing a National Bank, beg leave to Report,

¹ The plan, in the writing of Robert Morris, is in the *Papers of the Continental Congress*, as follows:

Plan for establishing a national bank in the United States of North America.

I. That a subscription be opened for four hundred thousand dollars, in shares of four hundred dollars each, to be paid in gold or silver.

II. That the subscriptions be paid into the hands of George Clymer and John Nixon, esqrs. or their agents.

III. That every subscriber of less than five shares, pay the whole sum on the day of his subscription.

IV. That every subscriber of five shares, or upwards, pay one-half the sum on the day of his subscription, and the other half within three months of that day.

V. That every holder of a share shall be entitled to vote by himself, his agent, or proxy properly appointed, at all elections for Directors, and that he have as many votes as he holds shares; and that every subscriber may sell or transfer his share or shares at his pleasure, the transfer being made in the bank books, in presence and with the approbation of the proprietor, or his lawful attorney, the purchaser then to become entitled to the right of voting, &c.

VI. That there be twelve Directors chosen from among those entitled to vote, who, at their first meeting, shall choose one as President.

VII. That there be a meeting of the Directors quarterly, for the purpose of regulating the affairs of the Bank; any seven of the Directors to make a Board, and that the Board have power to adjourn from time to time.

VIII. That the Board of Directors determine the manner of doing business, and the rules and forms to be pursued, appoint the various officers which they may find necessary, and dispose of the money and credit of the Bank for the interest and benefit of the proprietors, and make, from time to time, such dividends, out of the profits, as they may think proper.

IX. That the Board be empowered, from time to time, to open new subscriptions, for the purpose of increasing the capital of the Bank, on such terms and conditions as they shall think proper.

X. That the Board shall at every quarterly meeting, choose two Directors to inspect and control the business of the Bank for the ensuing three months.

XI. That the Inspectors so chosen, shall on the evening of every day, Sundays excepted, deliver to the Superintendent of the Finances of America, a state of the cash account and of the notes issued and received.

That the bank notes, payable on demand, shall by law be made receivable in the duties and taxes of every State in the Union, and from the respective states by the treasury of the United States as specie.

XII. That the Superintendent of the Finances of America shall have a right, at all times, to examine into the affairs of the Bank, and for that purpose shall have access to all the books and papers.

XIII. That any Director or officer of the Bank, who shall convert any of the property, monies or credits thereof to his own use, or shall any other way be guilty of fraud or embezzlement, shall forfeit all his share or stock to the company.

XIV. That laws shall be passed making it felony without benefit of clergy, to commit such fraud or embezzlement.

XV. That the subscribers shall be incorporated under the name of the President, Directors and Company of the Bank of North America.

XVI. That none of the Directors shall be entitled to any pecuniary advantage for his attendance on the duties of his office as Director, or as President or Inspector, unless an alteration in this respect, shall hereafter be made, by the consent of a majority of the stock-holders at a general election.

XVII. That as soon as the subscription shall be filled, George Clymer and John Nixon, esqrs. shall publish a list of the names and sums respectively subscribed, with the places of abode of the subscribers, and appoint a day for the choice of Directors, to whom, when chosen, they shall deliver over the money by them received.

That they approve the said plan and are of opinion that when carried into Execution, it will promote the Interest of the Subscribers, facilitate the commercial intercourse of Individuals, and be highly convenient and advantageous to Government.

Your Committee therefore submit the following resolutions:

Resolved, That Congress do approve of the plan for establishing a national bank in these United States, submitted to their consideration by Mr. R. Morris, the 17 day of 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 for that purpose made to Congress by the president and directors elected.

On the question to agree to this paragraph, the yeas and nays being required by Mr. T[homas] Smith,

<i>New Hampshire</i> ,		<i>Virginia</i> ,	
Mr. Sullivan,	ay } ay	Mr. Jones,	ay } ay
Livermore,	ay }	Madison,	no }
<i>Massachusetts</i> ,		Bland,	ay }
Mr. Lovell,	no } no	M. Smith,	ay }
Ward,	no }	<i>North Carolina</i> ,	
<i>Rhode Island</i> ,		Mr. Sharpe,	ay } ay
Mr. Varnum,	ay } *	Johnston,	ay }
<i>Connecticut</i> ,		<i>South Carolina</i> ,	
Mr. Huntington,	ay } *	Mr. Mathews,	ay } ay
<i>New Jersey</i> ,		Bee,	ay }
Mr. Witherspoon,	ay } ay	Motte,	ay }
Houston,	ay }	<i>Georgia</i> ,	
<i>Pennsylvania</i> ,		Mr. Walton,	ay } ay
Mr. Clymer,	ay } div.	Few,	ay }
T. Smith,	no }	Howly,	ay }
<i>Maryland</i> ,			
Mr. Jenifer,	ay } ay		
Carroll,	ay }		

[Asterisk (*) denotes an X mark in the journals.]

So it was resolved in the affirmative.

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:

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 an officer or servant of the bank.

* * * * *

IN CONGRESS, *December 29, 1781.*

* * * * *

An ordinance for incorporating the subscribers to the national bank, was read a first time:

The Committee appointed to confer with the Bank upon the act of incorporation proposed by them to Congress.

Report,

That it does not seem probable, that an Act of incorporation could be obtained from the Legislature of Pennsylvania before the middle of next March.

That in the Meantime, the finances of the United States must suffer considerably without the aid of the Bank.

That the Bank cannot operate without an act of incorporation from Congress itself.

The Committee therefore—

Report the following act of incorporation (here read the act, and let a question be taken upon reading it a second time on Monday next) and the Committee beg leave to sit again.

Ordered, That Monday next be assigned for a second reading.

* * * * *

IN CONGRESS, *December 31, 1781.*

The ordinance for incorporating the subscribers to the Bank of North America, was read a second time, and ordered to be read a third time at two o'clock.

* * * * *

The ordinance being read a third time, was agreed to as follows:

An ordinance to incorporate the subscribers to the Bank of North America.

Whereas Congress on the 26th 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 forever 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 forever 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 Fitzsimmons, John Maxwell Nesbit, James Wilson, Henry Hill, Samuel Osgood, Cadwallader Morris, Andrew Caldwell, Samuel Inglis, 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 authorize 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 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 favorably and beneficially for the said corporation.

Done in Congress &c. &c.

Resolved, That it be recommended to the legislature of each State, to pass such laws as they may judge necessary, for giving the foregoing ordinance its full operation, agreeably to the true intent and meaning thereof, and according to the recommendations contained in the resolutions of the 26th day of May last. [Editor's note: See pp. 3, 19, 412.]

Report of Secretary of Treasury (Alexander Hamilton), on a National Bank

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DEC. 14, 1790.

First Congress, 3d Session

[Source: American State Papers, Finance, vol. 1, pp. 67-76]

TREASURY DEPARTMENT, *December 13th, 1790.*

In obedience to the order of the House of Representatives, of the ninth day of August last, requiring the Secretary of the Treasury to prepare and report, on this day, such further provision as may, in his opinion, be necessary for establishing the public credit, the said Secretary further respectfully reports:

That, from a conviction (as suggested in his report herewith presented) that a National Bank is an institution of primary importance to the prosperous administration of the finances, and would be of the greatest utility in the operations connected with the support of the public credit, his attention has been drawn to devising the plan of such an institution, upon a scale which will entitle it to the confidence, and be likely to render it equal to the exigencies of the public.

Previously to entering upon the detail of this plan, he entreats the indulgence of the House towards some preliminary reflections naturally arising out of the subject, which he hopes will be deemed neither useless nor out of place. Public opinion being the ultimate arbiter of every measure of government, it can scarcely appear improper, in deference to that, to accompany the origination of any new proposition with explanations, which the superior information of those to whom it is immediately addressed, would render superfluous.

It is a fact, well understood, that public banks have found admission and patronage among the principal and most enlightened commercial nations. They have successively obtained in Italy, Germany, Holland, England, and France, as well as in the United States. And it is a circumstance which cannot but have considerable weight, in a candid estimate of their tendency, that, after an experience of centuries, there exists not a question about their utility in the countries in which they have been so long established. Theorists and men of business unite in the acknowledgement of it.

Trade and industry, wherever they have been tried, have been indebted to them for important aid. And government has been repeatedly under the greatest obligations to them in dangerous and distressing emergencies. That of the United States, as well in some of the most critical conjunctures of the late war, as since the peace, has received assistance from those established among us, with which it could not have dispensed.

With this twofold evidence before us, it might be expected that there would be a perfect union of opinions in their favor. Yet doubts have been entertained; jealousies and prejudices have circulated; and, though the experiment is every day dissipating them, within the spheres in which effects are best known, yet there are still persons by whom they have not been entirely renounced. To give a full and accurate view of the subject, would be to make a treatise of a report; but there are certain aspects in which it may be cursorily exhibited, which may perhaps conduce to a just impression of its merits. These will involve a comparison of the advantages, with the disadvantages, real or supposed, of such institutions.

The following are among the principal advantages of a Bank:

First. The augmentation of the active or productive capital of a country. Gold and silver, when they are employed merely as the instruments of exchange and alienation, have been not improperly denominated dead stock; but when deposited in banks, to become the basis of a paper circulation, which takes their character and place, as the signs of representatives of value, they then acquire life, or in other words, an active and productive quality. This idea, which appears rather subtle and abstract, in a general form, may be made obvious and palpable, by entering into a few particulars. It is evident, for instance, that the money which a merchant keeps in his chest, waiting for a favorable opportunity to employ it, produces nothing till that opportunity arrives. But if, instead of locking it up in this manner, he either deposits it in a bank or invests it in the stock of a bank, it yields a profit during the interval, in which he partakes, or not, according to the choice he may have made of being a depositor or a proprietor; and when any advantageous speculation offers, in order to be able to embrace it, he has only to withdraw his money, if a depositor, or, if a proprietor, to obtain a loan from the bank, or to dispose of his stock—an alternative seldom or never attended with difficulty, when the affairs of the institution are in a prosperous train. His money, thus deposited or invested, is a fund upon which himself and others can borrow to a much larger amount. It is a well established fact, that banks in good credit, can circulate a far greater sum than the actual quantum of their capital in gold and silver. The extent of the possible excess seems indeterminate; though it has been conjecturally stated at the proportions of two and three to one. This faculty is produced in various ways. *1st.* A great proportion of the notes which are issued, and pass current as cash, are indefinitely suspended in circulation, from the confidence which each holder has, that he can, at any moment, turn them into gold and silver. *2dly.* Every loan which a bank makes, is, in its first shape, a credit given to the borrower on its books, the amount of which it stands ready to pay, either in its own notes, or in gold or silver, at his option. But, in a great number of cases, no actual payment is made in either. The borrower, frequently, by a check or order, transfers his credit to some other person, to whom he has a payment to make; who, in his turn, is as often content with a similar credit, because he is satisfied that he can, whenever he pleases, either convert it into cash, or pass it to some other hand, as an equivalent for it. And in this manner the credit keeps circulating, performing in every stage the office of money, till it is extinguished by a discount with

some person who has a payment to make to the bank, to an equal or greater amount. Thus large sums are lent and paid, frequently through a variety of hands, without the intervention of a single piece of coin. *Sdly.* There is always a large quantity of gold and silver in the repositories of the bank, besides its own stock, which is placed there, with a view partly to its safe keeping, and partly to the accommodation of an institution, which is itself a source of general accommodation. These deposits are of immense consequence in the operations of a bank. Though liable to be redrawn at any moment, experience proves, that the money so much oftener changes proprietors than place, and that what is drawn out is generally so speedily replaced, as to authorize the counting upon the sums deposited, as an *effective fund*, which, concurring with the stock of the bank, enables it to extend its loans, and to answer all the demands for coin, whether in consequence of those loans, or arising from the occasional return of its notes.

These different circumstances explain the manner in which the ability of a bank to circulate a greater sum than its actual capital in coin is acquired. This, however, must be gradual, and must be preceded by a firm establishment of confidence—a confidence which may be bestowed on the most rational grounds, since the excess in question will always be bottomed on good security of one kind or another. This, every well conducted bank carefully requires, before it will consent to advance either its money or its credit, and where there is an auxiliary capital, (as will be the case in the plan hereafter submitted) which, together with the capital in coin, define the boundary that shall not be exceeded by the engagements of the bank, the security may, consistently with all the maxims of a reasonable circumspection, be regarded as complete.

The same circumstances illustrate the truth of the position, that it is one of the properties of banks to increase the active capital of a country. This, in other words, is the sum of them: the money of one individual, while he is waiting for an opportunity to employ it, by being either deposited in the bank for safe keeping, or invested in its stock, is in a condition to administer to the wants of others, without being put out of his own reach when occasion presents. This yields an extra profit, arising from what is paid for the use of his money by others, when he could not himself make use of it, and keeps the money itself in a state of incessant activity. In the almost infinite vicissitudes and competitions of mercantile enterprise, there never can be danger of an intermission of demand, or that the money will remain for a moment idle in the vaults of the bank. This additional employment given to money, and the faculty of a bank to lend and circulate a greater sum than the amount of its stock in coin, are, to all the purposes of trade and industry, an absolute increase of capital. Purchases and undertakings, in general, can be carried on by any given sum of bank paper or credit, as effectually as by an equal sum of gold and silver. And thus, by contributing to enlarge the mass of industrious and commercial enterprise, banks become nurseries of national wealth—a consequence as satisfactorily verified by experience, as it is clearly deducible in theory.

Secondly. Greater facility to the Government, in obtaining pecuniary aids, especially in sudden emergencies. This is another, and an undisputed advantage of public banks—one which, as already remarked, has been realized in signal instances among ourselves. The reason is obvious; the capitals of a great number of individuals are, by this operation, collected to a point, and placed under one direction. The mass formed by this union, is, in a certain sense, magnified by the credit attached to it; and while this mass is always ready, and can at once be put in motion, in aid of the Government, the interest of the bank to afford that aid, independent of regard to the public safety and welfare, is a sure pledge for its disposition to go as far in its compliances as can in prudence be desired. There is, in the nature of things, as will be more particularly noticed in another place, an intimate connexion of interest between the Government and the bank of a nation.

Thirdly. The facilitating of the payment of taxes. This advantage is produced in two ways. Those who are in a situation to have access to the bank, can have the assistance of loans, to answer, with punctuality, the public calls upon them. This accommodation has been sensibly felt in the payment of the duties heretofore laid by those who reside where establishments of this nature exist. This, however, though an extensive, is not an universal benefit. The other way in which the effect here contemplated is produced, and in which the benefit is general, is the increasing of the quantity of circulating medium, and the quickening of circulation. The manner in which the first happens, has already been traced. The last may require some illustration. When payments are to be made between different places, having an intercourse of business with each other, if there happen to be no private bills at market, and there are no bank notes which have a currency in both, the consequence is, that coin must be remitted. This is attended with trouble, delay, expense, and risk. If, on the contrary, there are bank notes current in both places, the transmission of these by the post, or any other speedy or convenient conveyance, answers the purpose; and these again, in the alternations of demand, are frequently returned, very soon after, to the place from whence they were first sent: whence the transportation and re-transportation of the metals are obviated, and a more convenient and more expeditious medium of payment is substituted. Nor is this all; the metals, instead of being suspended from their usual functions during this process of vibration from place to place, continue in activity, and administer still to the ordinary circulation, which, of course, is prevented from suffering either diminution or stagnation. These circumstances are additional causes of what, in a practical sense, or to the purposes of business, may be called greater plenty of money. And it is evident, that whatever enhances the quantity of circulating money, adds to the ease with which every industrious member of the community may acquire that portion of it of which he stands in need, and enables him the better to pay his taxes, as well as to supply his other wants. Even where the circulation of the bank paper is not general, it must still have the same effect, though in a less degree. For, whatever furnishes additional supplies to the channels of circulation, in one quarter, naturally contributes to keep the streams fuller elsewhere. This last view of the subject serves both to illustrate the position that banks tend to

facilitate the payment of taxes, and to exemplify their utility to business of every kind in which money is an agent.

It would be to intrude too much on the patience of the House, to prolong the details of the advantages of banks; especially, as all those which might still be particularized, are readily to be inferred as consequences from those which have been enumerated. Their disadvantages, real or supposed, are now to be reviewed. The most serious of the charges which have been brought against them, are,

That they serve to increase usury;

That they tend to prevent other kinds of lending;

That they furnish temptations to overtrading;

That they afford aid to ignorant adventurers, who disturb the natural and beneficial course of trade;

That they give to bankrupt and fraudulent traders, a fictitious credit, which enables them to maintain false appearances, and to extend their impositions; and, lastly,

That they have a tendency to banish gold and silver from the country.

There is great reason to believe, that, on a close and candid survey, it will be discovered that these charges are either destitute of foundation, or that, as far as the evils they suggest have been found to exist, they have proceeded from other, or partial, or temporary causes, are not inherent in the nature and permanent tendency of such institutions, or are more than counterbalanced by opposite advantages. This survey shall be had, in the order in which the charges have been stated. The first of them, is—

That banks serve to increase usury.

It is a truth, which ought not to be denied, that the method of conducting business, which is essential to bank operations, has, among us, in particular instances, given occasion to usurious transactions. The punctuality in payments, which they necessarily exact, has sometimes obliged those who have adventured beyond both their capital and their *credit*, to procure money at any price, and, consequently, to resort to usersers for aid.

But experience and practice gradually bring a cure to this evil. A general habit of punctuality among traders, is the natural consequence of the necessity of observing it with the bank—a circumstance which, itself, more than compensates for any occasional ill which may have sprung from that necessity, in the particular under consideration. As far, therefore, as traders depend on each other for pecuniary supplies, they can calculate their expectations with greater certainty; and are in proportionably less danger of disappointments, which might compel them to have recourse to so pernicious an expedient as that of borrowing at usury; the mischiefs of which, after a few examples, naturally inspire great care, in all but men of desperate circumstances, to avoid the possibility of being subjected to them. One, and not the least of these evils, incident to the use of that expedient, if the fact be known, or even strongly suspected, is loss of credit with the bank itself.

The directors of a bank, too, though, in order to extend its business and its popularity, in the infancy of an institution, they may be tempted to go further in accommodation than the strict rules of prudence will warrant, grow more circumspect, of course, as its affairs become better established, and as evils of too great facility are experi-

mentally demonstrated. They become more attentive to the situation and conduct of those with whom they deal; they observe more narrowly their operations and pursuits; they economise the credit they give to those of suspicious solidity; they refuse it to those whose career is more manifestly hazardous. In a word, in the course of practice, from the very nature of things, the *interest* will make it the *policy* of a bank to succor the wary and industrious; to discredit the rash and unthrifty; to discountenance both usurious lenders and usurious borrowers.

There is a leading view, in which the tendency of banks will be seen to be to abridge, rather than to promote usury. This relates to their property of increasing the quantity and quickening the circulation of money. If it be evident, that usury will prevail or diminish, according to the proportion which the demand for borrowing bears to the quantity of money at market to be lent; whatever has the property just mentioned, whether it be in the shape of paper or coin, by contributing to render the supply more equal to the demand, must tend to counteract the progress of usury.

But bank lending, it is pretended, is an impediment to other kinds of lending; which, by confining the resource of borrowing to a particular class, leaves the rest of the community more destitute, and, therefore, more exposed to the extortions of usurers. As the profits of bank stock exceed the legal rate of interest, the possessors of money, it is urged, prefer investing it in that article, to lending it at this rate; to which, there are the additional motives of a more prompt command of the capital, and of more frequent and exact returns, without trouble or perplexity in the collection. This constitutes the second charge which has been enumerated.

The fact on which this charge rests, is not to be admitted without several qualifications; particularly in reference to the state of things in this country.

First. The great bulk of the stock of a bank will consist of the funds of men in trade, among ourselves, and moneyed foreigners; the former of whom could not spare their capitals out of their reach, to be invested in loans for long periods, on mortgages or personal security; and the latter of whom would not be willing to be subjected to the casualties, delays, and embarrassments, of such a disposition of their money in a distant country.

Secondly. There will always be a considerable proportion of those who are properly the money lenders of a country, who, from that spirit of caution which usually characterises this description of men, will incline rather to vest their funds in mortgages on real estate, than in the stock of a bank, which they are apt to consider as a more precarious security.

These considerations serve, in a material degree, to narrow the foundation of the objection, as to the point of fact. But there is a more satisfactory answer to it. The effect supposed, as far as it has existence, is temporary. The reverse of it takes place in the general and permanent operation of the thing.

The capital of every public bank, will, of course, be restricted within a certain defined limit. It is the province of legislative prudence so to adjust this limit, that, while it will not be too contracted for the demand which the course of business may create, and for the security

which the public ought to have for the solidity of the paper which may be issued by the bank, it will still be within the compass of the pecuniary resources of the community; so that there may be an easy practicability of completing the subscriptions to it. When this is once done, the supposed effect, of necessity, ceases. There is then no longer room for the investment of any additional capital. Stock may, indeed, change hands, by one person selling and another buying; but the money which the buyer takes out of the common mass to purchase the stock, the seller receives and restores to it. Hence, the future surplusses which may accumulate must take their natural course, and lending at interest must go on as if there were no such institution.

It must, indeed, flow in a more copious stream. The bank furnishes an extraordinary supply for borrowers, within its immediate sphere. A larger supply consequently remains for borrowers elsewhere. In proportion as the circulation of the bank is extended, there is an augmentation of the aggregate mass of money for answering the aggregate mass of demand. Hence greater facility in obtaining it for every purpose.

It ought not to escape without a remark, that, as far as the citizens of other countries become adventurers in the bank, there is a positive increase of the gold and silver of the country. It is true, that, from this, a half yearly rent is drawn back, accruing from the dividends upon the stock. But as this rent arises from the employment of the capital by our own citizens, it is probable that it is more than replaced by the profits of that employment. It is also likely that a part of it, in the course of trade, converted into the products of our country: and it may even prove an incentive, in some cases, to emigration to a country in which the character of citizen is as easy to be acquired as it is estimable and important. This view of the subject furnishes an answer to an objection which has been deduced from the circumstance here taken notice of, namely, the income resulting to foreigners from the part of the stock owned by them, which has been represented as tending to drain the country of its specie. In this objection, the original investment of the capital, and the constant use of it afterwards, seem both to have been overlooked.

That banks furnish temptations to overtrading, is the third of the enumerated objections. This must mean, that, by affording additional aids to mercantile enterprise, they induce the merchant sometimes to adventure beyond the prudent or salutary point. But the very statement of the thing shows that the subject of the charge is an occasional ill, incident to a general good. Credit of every kind (as a species of which only, can bank lending have the effect supposed), must be, in different degrees, chargeable with the same inconvenience. It is even applicable to gold and silver, when they abound in circulation. But would it be wise, on this account, to decry the precious metals, to root out credit, or to prescribe the means of that enterprise which is the main spring of trade, and a principal source of national wealth, because it now and then runs into excesses, of which overtrading is one?

If the abuses of a beneficial thing are to determine its condemnation, there is scarcely a source of public prosperity which will not speedily be closed. In every case, the evil is to be compared with the good; and in the present case, such a comparison will issue in this, that the new and increased energies derived to commercial enterprise, from the aid

of banks, are a source of general profit and advantage, which greatly outweigh the partial ills the overtrading of a few individuals, at particular times, or of numbers in particular conjunctures.

The fourth and fifth charges may be considered together. These relate to the aid which is sometimes afforded by banks to unskilful adventurers and fraudulent traders. These charges, also, have some degree of foundation, though far less than has been pretended; and they add to the instances of partial ills, connected with more extensive and overbalancing benefits.

The practice of giving fictitious credit to improper persons, is one of those evils which experience, guided by interest, speedily corrects. The bank itself is in so much jeopardy of being a sufferer by it, that it has the strongest of all inducements to be on its guard. It may not only be injured immediately, by the delinquencies of the persons to whom such credit is given, but eventually by the incapacities of others, whom their impositions or failures may have ruined.

Nor is there much danger of a bank's being betrayed into this error from want of information. The directors themselves, being, for the most part, selected from the class of traders, are to be expected to possess, individually, an accurate knowledge of the characters and situations of those who come within that description. And they have, in addition to this, the course of dealing of the persons themselves with the bank, to assist their judgment, which is, in most cases, a good index of the state in which those persons are. The artifices and shifts, which those in desperate or declining circumstances are obliged to employ, to keep up the countenance which the rules of the bank require, and the train of their connexions, are so many prognostics, not difficult to be interpreted, of the fate which awaits them. Hence, it not unfrequently happens, that banks are the first to discover the unsoundness of such characters, and, by withholding credit, to announce to the public that they are not entitled to it.

If banks, in spite of every precaution, are sometimes betrayed into giving a false credit to the persons described, they more frequently enable honest and industrious men, of small, or, perhaps, of no capital, to undertake and prosecute business with advantage to themselves and to the community; and assist merchants, of both capital and credit, who meet with fortuitous and unforeseen shocks, which might, without such helps, prove fatal to them and to others, to make head against their misfortunes, and finally to retrieve their affairs—circumstances which form no inconsiderable encomium on the utility of banks.

But the last and heaviest charge is still to be examined: this is, that banks tend to banish the gold and silver of the country.

The force of this objection rests upon their being an engine of paper credit, which, by furnishing a substitute for the metals, is supposed to promote their exportation. It is an objection, which, if it has any foundation, lies not against banks peculiarly, but against every species of paper credit.

The most common answer given to it is, that the thing supposed is of little or no consequence; that it is immaterial what serves the purpose of money, whether paper, or gold and silver; that the effect of both upon industry is the same; and that the intrinsic wealth of a nation is to be measured, not by the abundance of the precious metals contained in it, but by the quantity of the productions of its labor and industry.

This answer is not destitute of solidity, though not entirely satisfactory. It is certain, that the vivification of industry, by a full circulation, with the aid of a proper and well regulated paper credit, may more than compensate for the loss of a part of the gold and silver of a nation, if the consequence of avoiding that loss should be a scanty or defective circulation.

But the positive and permanent increase or decrease of the precious metals in a country, can hardly ever be a matter of indifference. As the commodity taken in lieu of every other, it is a species of the most effective wealth; and as the money of the world, it is of great concern to the State, that it possess a sufficiency of it to face any demands which the protection of its external interests may create.

The objection seems to admit of another and a more conclusive answer, which controverts the fact itself. A nation that has no mines of its own, must derive the precious metals from others; generally speaking, in exchange for the products of its labor and industry. The quantity it will possess, will, therefore, in the ordinary course of things, be regulated by the favorable or unfavorable balance of its trade; that is, by the proportion between its abilities to supply foreigners, and its wants of them; between the amount of its exportations and that of its importations. Hence, the state of its agriculture and manufactures, the quantity and quality of its labor and industry, must, in the main, influence and determine the increase or decrease of its gold and silver.

If this be true, the inference seems to be, that well constituted banks favor the increase of the precious metals. It has been shewn that they augment, in different ways, the active capital of a country. This it is which generates employment; which animates and expands labor and industry. Every addition which is made to it, by contributing to put in motion a greater quantity of both, tends to create a greater quantity of the products of both; and, by furnishing more materials for exportation, conduces to a favorable balance of trade, and, consequently, to the introduction and increase of gold and silver.

This conclusion appears to be drawn from solid premises. There are, however, objections to be made to it.

It may be said, that, as bank paper affords a substitute for specie, it serves to counteract that rigorous necessity for the metals, as a medium of circulation, which, in the case of a wrong balance, might restrain, in some degree, their exportation; and it may be added, that, from the same cause, in the same case, it would retard those economical and parsimonious reforms in the manner of living, which the scarcity of money is calculated to produce, and which might be necessary to rectify such wrong balance.

There is, perhaps, some truth in both these observations; but they appear to be of a nature rather to form exceptions to the generality of the conclusion, than to overthrow it. The state of things in which the *absolute exigencies* of circulation can be supposed to resist, with any effect, the urgent demands for specie which a wrong balance of trade may occasion, presents an *extreme case*. And a situation in which a too expensive manner of living of a community, compared with its means, can stand in need of a corrective, from distress or necessity, is one which, perhaps, rarely results but from extraordinary and adventitious causes: such, for example, as a national revolution; which unsettles all the established habits of the people, and inflames the appe-

tite for extravagance, by the illusion of an ideal wealth, engendered by the continual multiplication of a depreciating currency, or some similar cause. There is a good reason to believe, that, where the laws are wise and well executed, and the inviolability of property and contracts maintained, the economy of a people will, in the general course of things, correspond with its means.

The support of industry is, probably, in every case, of more consequence towards correcting a wrong balance of trade, than any practicable retrenchments in the expenses of families or individuals; and the stagnation of it would be likely to have more effect in prolonging, than any such savings in shortening, its continuance. That stagnation is a natural consequence of an inadequate medium, which, without the aid of bank circulation, would, in the cases supposed, be severely felt.

It also deserves notice, that, as the circulation is always in a compound ratio to the fund upon which it depends, and to the demand for it, and as that fund is itself affected by the exportation of the metals, there is no danger of its being overstocked, as in the case of paper issued at the pleasure of the Government, or of its preventing the consequences of any unfavorable balance from being sufficiently felt to produce the reforms alluded to, as far as circumstances may require and admit.

Nothing can be more fallible than the comparisons which have been made between different countries, to illustrate the truth of the position under consideration. The comparative quantity of gold and silver in different countries, depends upon an infinite variety of facts and combinations, all of which ought to be known, in order to judge whether the existence or non-existence of paper currencies has any share in the relative proportions they contain. The *mass* and *value* of the productions of the labor and industry of each, compared with its wants; the nature of its establishments abroad; the kind of wars in which it usually engaged; the relations it bears to the countries which are the original possessors of those metals; the privileges it enjoys in their trade; these, and a number of other circumstances, are all to be taken into the account, and render the investigation too complex to justify any reliance on the vague and general surmises which have been hitherto hazarded on the point.

In the foregoing discussion, the objection has been considered as applying to the permanent expulsion and diminution of the metals. Their temporary exportation, for particular purposes, has not been contemplated. This, it must be confessed, is facilitated by banks, from the faculty they possess of supplying their place. But their utility is in nothing more conspicuous than in these very cases. They enable the Government to pay its foreign debts, and to answer any exigencies which the external concerns of the community may have produced. They enable the merchant to support his credit (on which the prosperity of trade depends) when special circumstances prevent remittances in other modes. They enable him also to prosecute enterprises which ultimately tend to an augmentation of the species of wealth in question. It is evident that gold and silver may often be employed in procuring commodities abroad, which, in a circuitous commerce, replace the original fund, with considerable addition. But it is not to be inferred, from this facility given to temporary exportation, that banks, which are so friendly to trade and industry, are, in their general tendency, inimical to the increase of the precious metals.

These several views of the subject appear sufficient to impress a full conviction of the utility of banks, and to demonstrate that they are of great importance, not only in relation to the administration of the finances, but in the general system of the political economy.

The judgment of many concerning them, has, no doubt, been perplexed, by the misinterpretation of appearances which were to be ascribed to other causes. The general devastation of personal property, occasioned by the late war, naturally produced, on the one hand, a great demand for money, and, on the other, a great deficiency of it to answer the demand. Some injudicious laws, which grew out of the public distresses, by impairing confidence, and causing a part of the inadequate sum in the country to be locked up, aggravated the evil. The dissipated habits contracted by many individuals during the war, which, after the peace, plunged them into expenses beyond their incomes; the number of adventurers without capital, and, in many instances, without information, who at that epoch rushed into trade, and were obliged to make any sacrifices to support a transient credit; the employment of considerable sums in speculations upon the public debt, which, from its unsettled state, was incapable of becoming itself a substitute: all these circumstances concurring, necessarily led to usurious borrowing, produced most of the inconveniences, and were the true causes of most of the appearances, which, where banks were established, have been by some erroneously placed to their account—a mistake which they might easily have avoided by turning their eyes towards places where there were none, and where, nevertheless, the same evils would have been perceived to exist, even in a greater degree than where those institutions had obtained.

These evils have either ceased, or been greatly mitigated. Their more complete extinction may be looked for from that additional security to property which the constitution of the United States happily gives; (a circumstance of prodigious moment in the scale, both of public and private prosperity) from the attraction of foreign capital, under the auspices of that security, to be employed upon objects, and in enterprises for which the state of this country opens a wide and inviting field; from the consistency and stability which the public debt is fast acquiring, as well in the public opinion at home and abroad, as, in fact, from the augmentation of capital which that circumstance and the quarter-yearly payment of interest will afford; and from the more copious circulation which will be likely to be created by a well constituted national bank.

The establishment of banks in this country seems to be recommended by reasons of a peculiar nature. Previously to the Revolution, circulation was in a great measure carried on by paper emitted by the several local governments. In Pennsylvania alone, the quantity of it was near a million and a half of dollars. This auxiliary may be said to be now at an end. And it is generally supposed that there has been, for some time past, a deficiency of circulating medium. How far that deficiency is to be considered as real or imaginary, is not susceptible of demonstration; but there are circumstances and appearances, which, in relation to the country at large, countenance the supposition of its reality.

The circumstances are, besides the fact just mentioned respecting paper emissions, the vast tracts of waste land, and the little advanced

state of manufactures. The progressive settlement of the former, while it promises ample retribution, in the generation of future resources, diminishes or obstructs, in the mean time, the *active* wealth of the country. It not only draws off a part of the circulating money, and places it in a more passive state, but it diverts, into its own channels, a portion of that species of labor and industry which would otherwise be employed in furnishing materials for foreign trade, and which, by contributing to a favorable balance, would assist the introduction of specie. In the early periods of new settlements, the settlers not only furnish no surplus for exportation, but they consume a part of that which is produced by the labor of others. The same thing is a cause that manufactures do not advance, or advance slowly. And notwithstanding some hypotheses to the contrary, there are many things to induce a suspicion, that the precious metals will not abound in any country which has not mines, or variety of manufactures. They have been sometimes acquired by the sword; but the modern system of war has expelled this resource, and it is one upon which it is to be hoped the United States will never be inclined to rely.

The appearances alluded to, are, greater prevalence of direct barter, in the more interior districts of the country, which, however, has been for some time past gradually lessening; and greater difficulty, generally, in the advantageous alienation of improved real estate; which, also, has of late diminished, but is still seriously felt in different parts of the Union. The difficulty of getting money, which has been a general complaint, is not added to the number; because it is the complaint of all times, and one in which imagination must ever have too great scope to permit an appeal to it.

If the supposition of such a deficiency be in any degree founded, and some aid to circulation be desirable, it remains to inquire what ought to be the nature of that aid.

The emitting of paper money by the authority of Government is wisely prohibited to the individual States, by the national constitution; and the spirit of that prohibition ought not to be disregarded by the Government of the United States. Though paper emissions, under a general authority, might have some advantages not applicable, and be free from some disadvantages which are applicable to the like emissions by the States, separately, yet they are of a nature so liable to abuse—and, it may even be affirmed, so certain of being abused—that the wisdom of the Government will be shown in never trusting itself with the use of so seducing and dangerous an expedient. In times of tranquility, it might have no ill consequence; it might even perhaps be managed in a way to be productive of good: but, in great and trying emergencies, there is almost a moral certainty of its becoming mischievous. The stamping of paper is an operation so much easier than the laying of taxes, that a government, in the practice of paper emissions, would rarely fail, in any such emergency, to indulge itself too far in the employment of that resource, to avoid, as much as possible, one less auspicious to present popularity. If it should not even be carried so far as to be rendered an absolute bubble, it would at least be likely to be extended to a degree which would occasion an inflated and artificial state of things, incompatible with the regular and prosperous course of the political economy.

Among other material differences between a paper currency, issued by the mere authority of Government, and one issued by a bank, payable in coin, is this: That, in the first case, there is no standard to which an appeal can be made, as to the quantity which will only satisfy, or which will surcharge the circulation; in the last, that standard results from the demand. If more should be issued than is necessary, it will return upon the bank. Its emissions, as elsewhere intimated, must always be in a compound ratio to the fund and the demand: whence it is evident, that there is a limitation in the nature of the thing; while the discretion of the Government is the only measure of the extent of the emissions, by its own authority.

This consideration further illustrates the danger of emissions of that sort, and the preference which is due to bank paper.

The payment of the interest of the public debt, at thirteen different places, is a weighty reason, peculiar to our immediate situation, for desiring a bank circulation. Without a paper, in general currency, equivalent to gold and silver, a considerable proportion of the specie of the country must always be suspended from circulation, and left to accumulate, preparatory to each day of payment; and as often as one approaches, there must in several cases be an actual transportation of the metals, at both expense and risk, from their natural and proper reservoirs, to distant places. This necessity will be felt very injuriously to the trade of some of the States; and will embarrass, not a little, the operations of the treasury in those States. It will also obstruct those negotiations, between different parts of the Union, by the instrumentality of treasury bills, which have already afforded valuable accommodations to trade in general.

Assuming it, then, as a consequence, from what has been said, that a National Bank is a desirable institution, two inquiries emerge: Is there no such institution, already in being, which has a claim to that character, and which supersedes the propriety or necessity of another? If there be none, what are the principles upon which one ought to be established?

There are at present three banks in the United States: that of North America, established in the city of Philadelphia; that of New York, established in the city of New York; that of Massachusetts, established in the town of Boston. Of these three, the first is the only one which has at any time had a direct relation to the Government of the United States.

The Bank of North America originated in a resolution of Congress of the 26th of May, 1781, founded upon a proposition of the Superintendent of Finance, which was afterwards carried into execution by an ordinance of the 31st of December following, entitled "An ordinance to incorporate the subscribers to the Bank of North America."

The aid afforded to the United States by this institution, during the remaining period of the war, was of essential consequence; and its conduct towards them since the peace, has not weakened its title to their patronage and favor. So far, its pretensions to the character in question are respectable; but there are circumstances which militate against them, and considerations which indicate the propriety of an establishment on different principles.

The directors of this bank, on behalf of their constituents, have since *accepted*, and *acted* under, a new charter, from the State of

Pennsylvania, materially variant from their original one, and which so narrows the foundation of the institution, as to render it an incompetent basis for the extensive purposes of a national bank.

The limit assigned by the ordinance of Congress to the stock of the bank, is ten millions of dollars. The last charter of Pennsylvania confines it to two millions. Questions naturally arise, whether there be not a direct repugnancy between two charters so differently circumstanced? and whether the acceptance of the one, is not to be deemed a virtual surrender of the other? But, perhaps it is neither advisable nor necessary to attempt a solution of them.

There is nothing in the acts of Congress which imply an exclusive right in the institution to which they relate, except during the term of the war. There is, therefore, nothing, if the public good require it which prevents the establishment of another. It may, however, be incidentally remarked, that, in the general opinion of the citizens of the United States, the Bank of North America has taken the station of a bank of Pennsylvania only. This is a strong argument for a new institution, or for a renovation of the old, to restore it to the situation in which it originally stood in the view of the United States.

But, though the ordinance of Congress contains no grant of exclusive privileges, there may be room to allege, that the Government of the United States ought not, in point of candor and equity, to establish any rival or interfering institution, in prejudice of the one already established; especially as this has, from services rendered, well founded claims to protection and regard.

The justice of such an observation ought, within proper bounds, to be admitted. A new establishment of the sort ought not to be made without cogent and sincere reasons of public good. And, in the manner of doing it, every facility should be given to a consolidation of the old with the new, upon terms not injurious to the parties concerned. But there is no ground to maintain that, in a case in which the Government has made no condition restricting its authority, it ought voluntarily to restrict it, through regard to the interests of a particular institution, when those of the State dictate a different course; especially, too, after such circumstances have intervened, as characterize the actual situation of the Bank of North America.

The inducements to a new disposition of the thing are now to be considered. The first of them which occurs is, the, at least, ambiguous situation in which the Bank of North America has placed itself, by the acceptance of its last charter. If this has rendered it the mere bank of a particular State, liable to dissolution at the expiration of fourteen years, to which term the act of that State has restricted its duration, it would be neither fit nor expedient to accept it as an equivalent for a bank of the United States.

The restriction of its capital, also, which, according to the same supposition, cannot be extended beyond two millions of dollars is a conclusive reason for a different establishment. So small a capital promises neither the requisite aid to Government, nor the requisite security to the community. It may answer very well the purposes of local accommodation, but is an inadequate foundation for a circulation co-extensive with the United States, embracing the whole of their revenues, and affecting every individual into whose hands the paper may come.

And, inadequate as such a capital would be to the essential ends of a National Bank, it is liable to being rendered still more so, by that principle of the constitution of the Bank of North America, contained equally in its old and in its new charter, which leaves the increase of the *actual* capital at any time (now far short of the allowed extent) to the discretion of the directors or stockholders. It is naturally to be expected, that the allurements of an advanced price of stock, and of large dividends, may disincline those who are interested to an extension of capital, from which they will be apt to fear a diminution of profits. And for this circumstance, the interest and accommodation of the public, (as well individually as collectively) are made more subordinate to the interest, real or imagined, of the stockholders, than they ought to be. It is true, that, unless the latter be consulted, there can be no bank, (in the sense at least in which institutions of this kind, worthy of confidence, can be established in this country.) But, it does not follow that this is alone to be consulted, or that it even ought to be paramount. Public utility is more truly the object of public banks than private profit. And it is the business of Government to constitute them on such principles, that, while the latter will result in a sufficient degree to afford competent motives to engage in them, the former be not made subservient to it. To effect this, a principal object of attention ought to be to give free scope to the creation of an ample capital, and with this view, fixing the bounds which are deemed safe and convenient, to leave no discretion either to stop short of them, or to overpass them. The want of this precaution in the establishment of the Bank of North America, is a further and an important reason for desiring one differently constituted.

There may be room at first sight for a supposition, that, as the profits of a bank will bear a proportion to the extent of its operations, and as for this reason the interest of the stockholders will not be disadvantageously affected by any necessary augmentations of capital, there is no cause to apprehend that they will be indisposed to such augmentations. But most men, in matters of this nature, prefer the certainties they enjoy, to probabilities depending on untried experiments, especially, when these promise rather that they will not be injured, than that they will be benefitted.

From the influence of this principle, and a desire of enhancing its profits, the directors of a bank will be more apt to overstrain its faculties, in an attempt to face the additional demands which the course of business may create, than to set on foot new subscriptions, which may hazard a diminution of the profits, and even a temporary reduction of the price of stock.

Banks are among the best expedients for lowering the rate of interest in a country; but, to have this effect, their capitals must be completely equal to all the demands of business, and such as will tend to remove the idea, that the accommodations they afford are in any degree favors—an idea very apt to accompany the parsimonious dispensation of contracted funds. In this, as in every other case, the plenty of the commodity ought to beget a moderation of the price.

The want of a principle of rotation in the constitution of the Bank of North America is another argument for a variation of the establishment. Scarcely one of the reasons which militate against this principle in the constitution of a country, is applicable to that of a bank;

while there are strong reasons in favor of it, in relation to the one, which do not apply to the other. The knowledge to be derived from experience is the only circumstance common to both, which pleads against rotation in the directing officers of a bank.

But the objects of the Government of a nation, and those of the government of a bank, are so widely different, as greatly to weaken the force of that consideration in reference to the latter. Almost every important case of legislation requires, towards a right decision, a general and accurate acquaintance with the affairs of the State, and habits of thinking seldom acquired but from a familiarity with public concerns. The administration of a bank, on the contrary, is regulated by a few simple fixed maxims, the application of which is not difficult to any man of judgment, especially if instructed in the principles of trade. It is, in general, a constant succession of the same details.

But, though this be the case, the idea of the advantages of experience is not to be slighted. Room ought to be left for the regular transmission of official information; and, for this purpose, the head of the direction ought to be excepted from the principle of rotation. With this exception, and with the aid of the information of the subordinate officers, there can be no danger of any ill effects from want of experience or knowledge; especially as the periodical exclusion ought not to reach the whole of the directors at one time.

The argument in favor of the principle of rotation is this: that, by lessening the danger of combinations among the directors, to make the institution subservient to party views, or to the accommodation, preferably, of any particular set of men, it will render the public confidence more firm, stable, and unqualified.

When it is considered that the directors of a bank are not elected by the great body of the community, in which a diversity of views will naturally prevail at different conjunctures, but by a small and select class of men, among whom it is far more easy to cultivate a steady adherence to the same persons and objects, and that those directors have it in their power so immediately to conciliate, by obliging the most influential of this class, it is easy to perceive that, without the principle of rotation, changes in that body can rarely happen, but as a concession which they may themselves think it expedient to make to public opinion.

The continual administration of an institution of this kind, by the same persons, will never fail, with or without cause, from their conduct, to excite distrust and discontent. The necessary secrecy of their transactions gives unlimited scope to imagination to infer that something is or may be wrong. And this *inevitable* mystery is a solid reason for inserting in the constitution of a bank the necessity of a change of men. As neither the mass of the parties interested, nor the public in general, can be permitted to be witnesses of the interior management of the directors, it is reasonable that both should have that check upon their conduct, and that security against the prevalency of a partial or pernicious system, which will be produced by the certainty of periodical changes. Such, too, is the delicacy of the credit of a bank, that every thing which can fortify confidence and repel suspicion, without injuring its operations, ought carefully to be sought after in its formation.

A further consideration in favor of a change, is the improper rule by which the right of voting for directors is regulated in the plan upon which the Bank of North America was originally constituted, namely, a vote for each share, and the want of a rule in the last charter; unless the silence of it, on that point, may signify that every stockholder is to have an equal and a single vote; which would be a rule in a different extreme, not less erroneous. It is of importance that a rule should be established on this head, as it is one of those things which ought not to be left to discretion; and it is, consequently, of equal importance that the rule should be a proper one.

A vote for each share renders a combination between a few principal stockholders, to monopolize the power and benefits of the bank, too easy. An equal vote to each stockholder, however great or small his interest in the institution, allows not that degree of weight to large stockholders which it is reasonable they should have, and which, perhaps, their security and that of the bank require. A prudent mean is to be preferred. A conviction of this has produced a by-law of the corporation of the Bank of North America, which evidently aims at such a mean. But a reflection arises here, that a like majority with that which enacted this law, may, at any moment, repeal it.

The last inducement which shall be mentioned, is the want of precautions to guard against a foreign influence insinuating itself into the direction of the bank. It seems scarcely reconcilable with a due caution, to permit that any but citizens should be eligible, as directors of a national bank, or that non-resident foreigners should be able to influence the appointment of directors by the votes of their proxies. In the event, however, of an incorporation of the Bank of North America in the plan, it may be necessary to qualify this principle, so as to leave the right of foreigners, who now hold shares of its stock, unimpaired; but without the power of transmitting the privilege in question to foreign alliances.

It is to be considered that such a bank is not a mere matter of private property, but a political machine, of the greatest importance to the State.

There are other variations from the constitution of the Bank of North America, not of inconsiderable moment, which appear desirable, but which are not of magnitude enough to claim a preliminary discussion. These will be seen in the plan which will be submitted in the sequel.

If the objections which have been stated to the constitution of the Bank of North America are admitted to be well founded, they will, nevertheless, not derogate from the merit of the main design, or of the services which that bank has rendered, or of the benefits which it has produced. The creation of such an institution, at the time it took place, was a measure dictated by wisdom. Its utility has been amply evinced by its fruits; American independence owes much to it. And it is very conceivable, that reasons of the moment may have rendered those features in it inexpedient, which a revision, with a permanent view, suggests as desirable.

The order of the subject leads next to an inquiry into the principles upon which a national bank ought to be organized.

The situation of the United States naturally inspires a wish that the form of the institution could admit of a plurality of branches. But

various considerations discourage from pursuing this idea. The complexity of such a plan would be apt to inspire doubts, which might deter from adventuring in it. And the practicability of a safe and orderly administration, though not to be abandoned as desperate, cannot be made so manifest in perspective, as to promise the removal of those doubts, or to justify the Government in adopting the idea as an original experiment. The most that would seem advisable, on this point, is to insert a provision which may lead to it hereafter, if experience shall more clearly demonstrate its utility, and satisfy those who may have the direction, that it may be adopted with safety. It is certain that it would have some advantages, both peculiar and important. Besides more general accommodations, it would lessen the danger of a run upon the bank.

The argument against it is, that each branch must be under a distinct, though subordinate direction, to which a considerable latitude of discretion must, of necessity, be intrusted. And, as the property of the whole institution would be liable for the engagements of each part, that and its credit would be at stake, upon the prudence of the directors of every part. The mismanagement of either branch might hazard serious disorder in the whole.

Another wish, dictated by the particular situation of the country, is, that the bank could be so constituted as to be made an immediate instrument of loans to the proprietors of land; but this wish also yields to the difficulty of accomplishing it. Land is, alone, an unfit fund for a bank circulation. If the notes issued upon it were not to be payable in coin, on demand, or at a short date, this would amount to nothing more than a repetition of the paper emissions, which are now exploded by the general voice. If the notes are to be payable in coin, the land must first be converted into it by sale, or mortgage. The difficulty of effecting the latter, is the very thing which begets the desire of finding another resource; and the former would not be practicable on a sudden emergency, but with sacrifices which would make the cure worse than the disease. Neither is the idea of constituting the fund partly of coin and partly of land, free from impediments. These two species of property do not, for the most part, unite in the same hands. Will the moneyed man consent to enter into a partnership with the landholder, by which *the latter* will share in the profits *which will be made by the money of the former*? The money, it is evident, will be the agent or efficient cause of the profits—the land can only be regarded as an additional security. It is not difficult to foresee, that an union on such terms, will not readily be formed. If the landholders are to procure the money by sale or mortgage of a part of their lands, this they can as well do when the stock consists wholly of money, as if it were to be compounded of money and land.

To procure for the landholders the assistance of loans, is the great desideratum. Supposing other difficulties surmounted, and a fund created, composed partly of coin and partly of land, yet the benefit contemplated could only then be obtained by the bank's advancing them its notes for the whole, or part, of the value of the lands they had subscribed to the stock. If this advance was small, the relief aimed at would not be given; if it was large, the quantity of notes issued would be a cause of *distrust*; and, if received at all, they would be likely to return speedily upon the bank for payment; which, after exhausting

its coin, might be under a necessity of turning its lands into money, at any price that could be obtained for them, to the irreparable prejudice of the proprietors.

Considerations of public advantage suggest a further wish, which is—that the bank could be established upon principles, that would cause the profits of it to redound to the immediate benefit of the State. This is contemplated by many who speak of a national bank, but the idea seems liable to insuperable objections. To attach full confidence to an institution of this nature, it appears to be an essential ingredient in its structure, that it shall be under a *private* not a *public* direction—under the guidance of *individual interest*, not of *public policy*; which would be supposed to be, and, in certain emergencies, under a feeble or too sanguine administration, would really be, liable to being too much influenced by *public necessity*. The suspicion of this would, most probably, be a canker that would continually corrode the vitals of the credit of the bank, and would be most likely to prove fatal in those situations in which the public good would require that they should be most sound and vigorous. It would, indeed, be little less than a miracle, should the credit of the bank be at the disposal of the Government, if, in a long series of time, there was not experienced a calamitous abuse of it. It is true, that it would be the real interest of the Government not to abuse it; its genuine policy to husband and cherish it with the most guarded circumspection, as an inestimable treasure. But what government ever uniformly consulted its true interests in opposition to the temptations of momentary exigencies? What nation was ever blessed with a constant succession of upright and wise administrators?

The keen, steady, and, as it were, magnetic sense of their own interest as proprietors, in the directors of a bank, pointing invariably to its true pole—the prosperity of the institution—is the only security that can always be relied upon for a careful and prudent administration. It is, therefore, the only basis on which an enlightened, unqualified, and permanent confidence can be expected to be erected and maintained.

The precedents of the banks established in several cities of Europe, Amsterdam, Hamburg, and others, may seem to militate against this position. Without a precise knowledge of all the peculiarities of their respective constitutions, it is difficult to pronounce how far this may be the case. That of Amsterdam, however, which we best know, is rather under a municipal than a governmental direction. Particular magistrates of the city, not officers of the republic, have the management of it. It is also a bank of deposit, not of loan, or circulation; consequently, less liable to abuse, as well as less useful. Its general business consists in receiving money for safe keeping, which if not called for within a certain time, becomes a part of its stock, and irclaimable. But a credit is given for it on the books of the bank, which, being transferable, answers all the purposes of money.

The directors being magistrates of the city, and the stockholders in general its most influential citizens, it is evident that the principle of private interest must be prevalent in the management of the bank. And it is equally evident, that, from the nature of its operations, that principle is less essential to it than to an institution constituted with a view to the accommodation of the public and individuals, by direct loans and a paper circulation.

As far as may concern the aid of the bank, within the proper limits, a good government has nothing more to wish for than it will always possess, though the management be in the hands of private individuals. As the institution, if rightly constituted, must depend for its renovation, from time to time, on the pleasure of the Government, it will not be likely to feel a disposition to render itself, by its conduct, unworthy of public patronage. The Government, too, in the administration of its finances, has it in its power to reciprocate benefits to the bank, of not less importance than those which the bank affords to the Government, and which, besides, are never unattended with an immediate and adequate compensation. Independent of these more particular considerations, the natural weight and influence of a good government will always go far towards procuring a compliance with its desires; and, as the directors will usually be composed of some of the most discreet, respectable, and well informed citizens, it can hardly ever be difficult to make them sensible of the force of the inducements which ought to stimulate their exertions.

It will not follow, from what has been said, that the State may not be the holder of a part of the stock of a bank, and consequently a sharer in the profits of it. It will only follow that it ought not to desire any participation in the direction of it, and, therefore, ought not to own the whole or a principal part of the stock: for, if the mass of the property should belong to the public, and if the direction of it should be in private hands, this would be to commit the interests of the State to persons not interested, or not enough interested in their proper management.

There is one thing, however, which the Government owes to itself and to the community—at least, to all that part of it who are not stockholders—which is, to reserve to itself a right of ascertaining, as often as may be necessary, the state of the bank; excluding, however, all pretension to control. This right forms an article in the primitive constitution of the Bank of North America; and its propriety stands upon the clearest reasons. If the paper of a bank is to be permitted to insinuate itself into all the revenues and receipts of a country; if it is even to be tolerated as the substitute for gold and silver in all the transactions of business; it becomes, in either view, a national concern of the first magnitude. As such, the ordinary rules of prudence require that the Government should possess the means of ascertaining, whenever it thinks fit, that so delicate a trust is executed with fidelity and care. A right of this nature is not only desirable, as it respects the Government, but it ought to be equally so to all those concerned in the institution, as an additional title to public and private confidence, and as a thing which can only be formidable to practices that imply mismanagement. The presumption must always be, that the characters who would be intrusted with the exercise of this right, on behalf of the Government, will not be deficient in the discretion which it may require; at least, the admitting of this presumption cannot be deemed too great a return of confidence for that very large portion of it which the Government is required to place in the bank.

Abandoning, therefore, ideas which, however agreeable or desirable, are neither practicable nor safe, the following plan, for the constitution of a National Bank, is respectfully submitted to the consideration of the House.

1. The capital stock of the bank shall not exceed ten millions of dollars, divided into twenty-five thousand shares, each share being four hundred dollars; to raise which sum, subscriptions shall be opened on the first Monday of April next, and shall continue open until the whole shall be subscribed. Bodies politic as well as individuals may subscribe.

2. The amount of each share shall be payable, one-fourth in gold and silver coin, and three-fourths in that part of the public debt, which, according to the loan proposed by the act making provision for the debt of the United States, shall bear an accruing interest, at the time of payment, of six per centum per annum.

3. The respective sums subscribed shall be payable in four equal parts, as well specie as debt, in succession, and at the distance of six calendar months from each other; the first payment to be made at the time of subscription. If there shall be a failure in any subsequent payment, the party failing shall lose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

4. The subscribers to the bank, and their successors, shall be incorporated, and shall so continue until the final redemption of that part of its stock which shall consist of the public debt.

5. The capacity of the corporation to hold real and personal estate, shall be limited to fifteen millions of dollars, including the amount of its capital, or original stock. The lands and tenements which it shall be permitted to hold, shall be only such as shall be requisite for the immediate accommodation of the institution, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted, in the usual course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

6. The totality of the debts of the company, whether by bond, bill, note, or other contract, (credits for deposits excepted) shall never exceed the amount of its capital stock. In case of excess, the directors, under whose administration it shall happen, shall be liable for it in their private or separate capacities. Those who may have dissented may excuse themselves from this responsibility, by immediately giving notice of the fact, and their dissent, to the President of the United States, and to the stockholders, at a general meeting, to be called by the President of the bank, at their request.

7. The company may sell or demise its lands and tenements, or may sell the whole, or any part of the public debt, whereof its stock shall consist; but shall *trade* in nothing except bills of exchange, gold and silver bullion, or in the sale of goods pledged for money lent; nor shall take more than at the rate of six per centum per annum, upon its loans or discounts.

8. No loan shall be made by the bank for the use, or on account, of the Government of the United States, or of either of them, to an amount exceeding fifty thousand dollars, or of any foreign prince or State, unless previously authorized by a law of the United States.

9. The stock of the bank shall be transferable, according to such rules as shall be instituted by the company in that behalf.

10. The affairs of the bank shall be under the management of twenty-five directors, one of whom shall be the President; and there shall be,

on the first Monday of January, in each year, a choice of directors, by a plurality of suffrages of the stockholders, to serve for a year. The directors, at their first meeting after each election, shall choose one of their number as President.

11. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the proportions following, that is to say: For one share, and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote; but no person, co-partnership, or body politic, shall be entitled to a greater number than thirty votes. And, after the first election, no share or shares shall confer a right of suffrage, which shall not have been holden three calendar months previous to the day of election. Stockholders actually resident within the United States, and none other, may vote in the elections by proxy.

12. Not more than three-fourths of the directors in office, exclusive of the President, shall be eligible for the next succeeding year. But the director who shall be President at the time of an election, may always be re-elected.

13. None but a stockholder, being a citizen of the United States, shall be eligible as a director.

14. Any number of stockholders, not less than sixty, who, together, shall be proprietors of two hundred shares, or upwards, shall have power, at any time, to call a general meeting of the stockholders, for purposes relative to the institution; giving at least six weeks notice, in two public gazettes, of the place where the bank is kept, and specifying, in such notice, the object of the meeting.

15. In case of the death, resignation, absence from the United States, or removal, of a director, by the stockholders, his place may be filled by a new choice for the remainder of the year.

16. No director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting. The stockholders shall make such compensation to the President, for his extraordinary attendance at the bank, as shall appear to them reasonable.

17. Not less than seven directors shall constitute a board for the transaction of business.

18. Every cashier or treasurer, before he enters on the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than twenty thousand dollars, with condition for his good behavior.

19. Half-yearly dividends shall be made of so much of the profits of the bank, as shall appear to the directors advisable. And, once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid, after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of profit, if any, after deducting losses and dividends.

20. The bills and notes of the bank, originally made payable, or which shall have become payable, on demand, in gold and silver coin, shall be receivable in all payments to the United States.

21. The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the bank, and of the debts due to the same, of the moneys deposited therein, of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statements; provided that this shall not be construed to imply a right of inspecting the account of any private individual or individuals, with the bank.

22. No similar institution shall be established by any future act of the United States, during the continuance of the one hereby proposed to be established.

23. It shall be lawful for the directors of the bank to establish offices wheresoever they shall think fit, within the United States, for the purposes of discount and deposit, only, and upon the same terms, and in the same manner, as shall be practised at the bank, and to commit the management of the said offices, and the making of the said discounts, either to agents specially appointed by them, or to such persons as may be chosen by the stockholders residing at the place where any such office shall be, under such agreements, and subject to such regulations, as they shall deem proper, not being contrary to law, or to the constitution of the bank.

24. And lastly, the President of the United States shall be authorized to cause a subscription to be made to the stock of the said company, on behalf of the United States, to an amount not exceeding two millions of dollars, to be paid out of the moneys which shall be borrowed by virtue of either of the acts, the one, entitled "An act making provision for the debt of the United States;" and the other, entitled "An act making provision for the reduction of the public debt;" borrowing of the bank an equal sum, to be applied to the purposes for which the said moneys shall have been procured, reimbursable in ten years, by equal annual instalments; or at any time sooner, or in any greater proportions, that the Government may think fit.

The reasons for the several provisions contained in the foregoing plan, have been so far anticipated, and will, for the most part, be so readily suggested by the nature of those provisions, that any comments which need further be made, will be both few and concise.

The combination of a portion of the public debt, in the formation of the capital, is the principal thing of which an explanation is requisite. The chief object of this is to enable the creation of a capital sufficiently large to be the basis of an extensive circulation, and an adequate security for it. As has been elsewhere remarked, the original plan of the Bank of North America contemplated a capital of ten millions of dollars, which is certainly not too broad a foundation for the extensive operations to which a national bank is destined. But to collect such a sum in this country, in gold and silver, into one depository, may, without hesitation, be pronounced impracticable. Hence the necessity of an auxiliary, which the public debt at once presents.

This part of the fund will be always ready to come in aid of the specie; it will more and more command a ready sale; and can, therefore, expeditiously be turned into coin, if an exigency of the bank should at any time require it. This quality of prompt convertibility into coin, renders it an equivalent for that necessary agent of bank circulation, and distinguishes it from a fund in land, of which the sale would generally be far less compendious, and at great disadvantage. The quarter-yearly receipts of interest will also be an actual addition to the specie fund, during the intervals between them and the half-yearly dividends of profits. The objection to combining land with specie, resulting from their not being generally in possession of the same persons, does not apply to the debt, which will always be found in considerable quantity among the moneyed and trading people.

The debt composing part of the capital, besides its collateral effect in enabling the bank to extend its operations, and consequently to enlarge its profits, will produce a direct annual revenue of six per centum from the Government, which will enter into the half-yearly dividends received by the stockholders.

When the present price of the public debt is considered, and the effect which its conversion into bank stock, incorporated with a specie fund, would, in all probability, have to accelerate its rise to the proper point, it will easily be discovered that the operation presents, in its outset, a very considerable advantage to those who may become subscribers; and from the influence which that rise would have on the general mass of the debt, a proportional benefit to all the public creditors, and, in a sense which has been more than once adverted to, to the community at large.

There is an important fact, which exemplifies the fitness of the public debt for a bank fund, and which may serve to remove doubts in some minds on this point: it is this, that the Bank of England, in its first erection, rested wholly on that foundation. The subscribers to a loan to Government of one million two hundred thousand pounds sterling, were incorporated as a bank, of which the debt, created by the loan and the interest upon it, were the sole fund. The subsequent augmentations of it capital, which now amounts to between eleven and twelve millions of pounds sterling, have been of the same nature.

The confining of the right of the bank to contract debts to the amount of its capital, is an important precaution, which is not to be found in the constitution of the Bank of North America, and which, while the fund consists wholly of coin, would be a restriction attended with inconveniences, but would be free from any, if the composition of it should be such as it is now proposed. The restriction exists in the establishment of the Bank of England, and, as a source of security, is worthy of imitation. The consequence of exceeding the limit, there, is, that each stockholder is liable for the excess, in proportion to his interest in the bank. When it is considered that the directors owe their appointments to the choice of the stockholders, a responsibility of this kind, on the part of the latter, does not appear unreasonable; but, on the other hand, it may be deemed a hardship upon those who may have dissented from the choice. And there are many among us, whom it might perhaps discourage from becoming concerned in the institution. These reasons have induced the placing of the responsibility upon the directors by whom the limit prescribed should be transgressed.

The interdiction of loans on account of the United States, or of any particular State, beyond the moderate sum specified, or of any foreign Power, will serve as a barrier to Executive encroachments, and to combinations inauspicious to the safety, or contrary to the policy of the Union.

The limitation of the rate of interest is dictated by the consideration, that different rates prevail in different parts of the Union; and as the operations of the bank may extend through the whole, some rule seems to be necessary. There is room for a question, whether the limitation ought not rather to be to five than to six per cent., as proposed. It may, with safety, be taken for granted, that the former rate would yield an ample dividend, perhaps as much as the latter, by the extension which it would give to business. The natural effect of low interest is to increase trade and industry; because undertakings of every kind can be prosecuted with greater advantage. This is a truth generally admitted; but it is requisite to have analyzed the subject in all its relations, to be able to form a just conception of the extent of that effect. Such an analysis cannot but satisfy an intelligent mind, that the difference of one per cent. in the rate at which money may be had, is often capable of making an essential change for the better in the situation of any country or place.

Every thing, therefore, which tends to lower the rate of interest, is peculiarly worthy of the cares of legislators. And through laws, which violently sink the legal rate of interest greatly below the market level, are not to be commended, because they are not calculated to answer their aim, yet, whatever has a tendency to effect a reduction, without violence to the natural course of things, ought to be attended to and pursued. Banks are among the means most proper to accomplish this end; and the moderation of the rate at which their discounts are made, is a material ingredient towards it; with which their own interest, viewed on an enlarged and permanent scale, does not appear to clash.

But, as the most obvious ideas are apt to have greater force than those which depend on complex and remote combinations, there would be danger that the persons whose funds must constitute the stock of the bank, would be diffident of the sufficiency of the profits to be expected, if the rate of loans and discounts were to be placed below the point to which they have been accustomed, and might, on this account, be indisposed to embarking in the plan. There is, it is true, one reflection, which, in regard to men, actively engaged in trade, ought to be a security against this danger; it is this: That the accommodations which they might derive in the way of their business, at a low rate, would more than indemnify them for any difference in the dividend, supposing even that some diminution of it were to be the consequence. But, upon the whole, the hazard of contrary reasoning among the mass of moneyed men, is a powerful argument against the experiment. The institutions of the kind already existing, add to the difficulty of making it. Mature reflection and a large capital, may, of themselves, lead to the desired end.

The last thing which requires any explanatory remark, is, the authority proposed to be given to the President, to subscribe the amount of two millions of dollars on account of the public. The main design of this is, to enlarge the specie fund of the bank, and

to enable it to give a more early extension to its operations. Though it is proposed to borrow with one hand what is lent with the other, yet the disbursement of what is borrowed, will be progressive, and bank notes may be thrown into circulation, instead of the gold and silver. Besides, there is to be an annual reimbursement of a part of the sum borrowed, which will finally operate as an actual investment of so much specie. In addition to the inducements to this measure, which results from the general interest of the Government to enlarge the sphere of the utility of the bank, there is this more particular consideration, to wit: That, as far as the dividend on the stock shall exceed the interest paid on the loan, there is a positive profit.

The Secretary begs leave to conclude with this general observation: That, if the Bank of North America shall come forward with any propositions which have for their objects, the engrafting upon that institution, the characteristics which shall appear to the Legislature necessary to the due extent and safety of a National Bank, there are, in his judgment, weighty inducements to giving every reasonable facility to the measure. Not only the pretensions of that institution, from its original relation to the Government of the United States, and from the services it has rendered, are such as to claim a disposition favorable to it, if those who are interested in it are willing, on their part, to place it on a footing satisfactory to the Government, and equal to the purposes of a bank of the United States, but its co-operation would materially accelerate the accomplishment of the great object, and the collision, which might otherwise arise, might, in a variety of ways, prove equally disagreeable and injurious. The incorporation or union here contemplated, may be effected in different modes, under the auspices of an act of the United States, if it shall be desired by the Bank of North America, upon terms which shall appear expedient to the Government.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

Opinion on Constitutionality of a National Bank

EDMUND RANDOLPH, ATTORNEY GENERAL, TO PRESIDENT WASHINGTON

[Source: Letter book copy, papers of George Washington, Library of Congress]

No. 1

The Attorney General of the United States in obedience to the order of the President of the United States, has had under consideration the Bill, entitled "An Act to incorporate the subscribers to the Bank of the United States," and reports on it, in point of constitutionality as follows:

It must be acknowledged, that, if any part of the bill does either encounter the Constitution, or is not warranted by it, the clause of incorporation is the only one.

The legal properties of this Corporation would be,
1st. To have succession until the 4th of March 1811.

2d. To purchase, receive, & retain, real and personal property to an amount not exceeding, fifteen millions of Dollars, including the Capital stock:

3d. To sell & dispose of the property.

4. To sue & be sued.

5. To have a Common seal; and

6. To make by-Laws, and do all Acts, appertaining to the Corporation, under certain restrictions prescribed in the Act.

These properties with different modifications in some instances, belong to all Corporations: their importance strikes the eye.

That the power of creating Corporations is not *expressly* given to Congress, is obvious.

If it can be exercised by them, it must be;

1st. because the nature of the Federal government implies it; or

2d. because it is involved in some of the specified powers of Legislation: or

3. because it is necessary and proper to carry into execution some of the specified powers;

1. To be implied in the nature of the Federal government would beget a doctrine so indefinite, as to grasp every power.

Governments, having no *written* constitution, may perhaps claim a latitude of power, not always easy to be determined. Those, which have written constitutions, are circumscribed by a just interpretation of the words contained in them—nay farther; a legislature instituted even by a written constitution, but without a special demarkation of powers, may perhaps be presumed to be left at large, as to all authority, which is communicable by the people, and does not affect any of those paramount rights, which a free people cannot be supposed to confide even to their representatives. Essentially otherwise is the condition of a legislature, whose powers are described. An example of the former is in the State Legislatures; of the latter, in the Legislature of the federal government, the characteristic of which has been confessed by Congress in the twelfth amendment, to be, that it claims no powers which are not delegated to it.

This last observation straitens the federal powers, and opposes an opinion, not unpatronized, that Congress may exercise all authority, to which the States are individually incompetent.

If any subject of government, from which the states are not excluded by the Constitution, be beyond their jurisdiction within their own limits, let it be shewn: it cannot be easily conceived.

But what, if such a subject should really exist? Is the argument less conclusive to say, that the States must *retain* it, because it is not given to the federal government, than that the latter although limited in itself possesses it, because it is not within the verge of a State constitution? While, on the one hand, it ought not to be denied that the federal government superintends the general welfare of the States, it ought not to be forgotten, on the other, that it superintends it according to the dictates of the constitution.

The opinion, above alluded to, can have only one other object; namely, that every institution, to which a single State can give efficacy, only within its own boundaries, devolves on Congress. But the extravagance of such a position is manifested by a single circumstance, that the cutting of canals thro' two or more States, at the will of Congress, is one of its least consequences.

2. We ask then, in the second place, whether upon any principle of fair construction, the specified powers of legislation involve the power of granting charters of incorporation? We say charters of incorporation, without confining the question to the Bank; because the admission of it in that instance, is an admission of it in every other, in which Congress may think the use of it equally expedient.

There is a real difference between the rule of interpretation, applied to a law and a constitution. The one comprises a summary of matter, for the detail of which numberless laws will be necessary; the other is the very detail. The one is therefore to be construed with a discreet liberality; the other with a closer adherence to the literal meaning.

But when we compare the modes of construing a State, and the federal, constitution, we are admonished to be stricter with regard to the latter, because there is a greater danger of error in defining partial than general powers.

The rule therefore for interpreting the specified powers seems to be, that, as each of them includes those details which properly constitute the whole of the subject, to which the power relates, the details themselves must be fixed by reasoning. And the appeal may on this occasion be made to common sense & common language.

Those powers, then, which bear any analogy to that of incorporation, shall be examined separately in their constituent parts; and afterwards in those traits, which are urged to have the strongest resemblance to the favorite power.

1. Congress have power to lay & collect taxes &c.—the heads of this power are,

1. to ascertain the subject of taxation &c.
2. to declare the quantum of taxation &c.
3. to prescribe the mode of collection; &
4. to ordain the manner of accounting for the Taxes &c :

2dly. Congress have also power to borrow money on the credit of the United States—the heads of this power are,

1. to stipulate a sum to be lent
2. to stipulate an interest, or no interest to be paid, &
3. to stipulate the time & manner of repayment, unless the Loan be placed on an irredeemable fund.

3. Congress have also power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

The heads of this power with respect to foreign nations, are,

1. to prohibit them or their commodities from our ports.
2. to impose duties on them, where none existed before, or to increase existing duties on them.
3. to subject them to any species of custom house regulations: or
4. to grant them any exemptions or privileges which policy may suggest.

The heads of this power with respect to the several States, are little more, than to establish the *forms* of commercial intercourse between them, & to keep the prohibitions, which the constitution imposes on that intercourse, undiminished in their operation: that is, to prevent taxes on imports or exports; preferences to one port over another by any regulation of commerce or revenue; and duties upon the entering or clearing of the vessels of one State in the ports of another.

The heads of this power with respect to the Indian Tribes are

1. to prohibit the Indians from coming into, or trading within, the United States.
 2. to admit them with or without restrictions.
 3. to prohibit citizens of the United States from trading with them; or
 4. to permit with or without restrictions.
4. Congress have also power to dispose of, & make all needful rules and regulations, respecting the territory or other property belonging to the United States: the heads of this power are,
1. to exert an ownership over the territory of the United States, which may be properly called the property of the United States, as is the western Territory; and to institute a government therein; or
 2. to exert an ownership over the other property of the United States.

This property may signify,

1. Personal property of the United States howsoever acquired; or
2. real property, not aptly denominated territory, acquired by cession or otherwise.

It cannot signify,

1. *Debts* due from the United States.
 2. Nor money, arising from the sources of revenue, pointed out in the Constitution. The disposal and regulation of money is the final cause for raising it by taxes &c.
5. The preamble to the Constitution has also been relied on, as a source of power.

To this it will be here remarked, once for all, that the preamble, if it be operative is a full constitution of itself; and the body of the Constitution is useless; but that it is declarative only of the views of the convention, which they supposed would be best fulfilled by the powers delineated; and that such is the legitimate nature of preambles.

With this analysis of the foregoing specified powers, compare each of the corporate powers: and where is the similitude? It lies, say the advocates of the Bill; in the power to lay & collect taxes &c.; because it facilitates the payment of them:—in that of borrowing money; because it creates an ability to lend: in that of regulating commerce; because it increases the medium of circulation; and thus encourages activity & industry.—In that of disposing and regulating property; because the contributions, and the interest of the United States in the Bank, are property of the United States.—Of each of these reasons something will be said in their order.

The incorporation of a Bank can facilitate the payment of taxes, only by creating a faculty to pay, or by supplying a deficient medium, or by rendering the transportation of money to the Seat of government more convenient. But to lay and collect taxes is in fact to demand & receive a public Debt, resting the mode of procuring the money on the resources of the debtors; and as to its transportation, surely there are many other vehicles besides bank-bills.

To borrow money presupposes the accumulation of a fund to be lent; and is secondary to the creation of an ability to lend.

By regulating commerce, in order to increase the medium of circulation cannot be intended any of the commercial powers, designated

above; these being very remote from the incorporation of a bank. Nor can it be imagined, that it is intended to reach the emission of paper money. What construction remains, by which to regulate commerce can increase the medium? Only the emission of coin, which is licenced in terms by another clause.

To dispose of, or to regulate property, even bank stock itself, is utterly distinct from the incorporation of a bank; for the contributions on which the bank-stock arises, go upon the principle, that a bank already exists; how else can contributions be made to it?

But, in truth, the serious alarm is in the centered force of these sentiments. If the laying and collecting of taxes brings with it every thing, which, in the opinion of Congress, may facilitate the payment of taxes: if to borrow money sets political speculation loose, to conceive what may create an ability to lend: if to regulate commerce, is to range in the boundless mazes of projects for the apparently best scheme to invite from abroad, or to diffuse at home the precious metals: if to dispose of, or to regulate property of the United States, is to incorporate a bank, that stock may be subscribed to it by them; it may without exaggeration be affirmed, that a similar construction on every specified federal power will stretch the arm of Congress into the whole circle of State Legislation.

The general qualities of the federal government, independent of the Constitution, and the specified powers, being thus insufficient to uphold the incorporation of a bank; we come to the last enquiry, which has been already anticipated, whether it be sanctified by the power to make all Laws which shall be necessary and proper for carrying into execution the powers, vested by the Constitution. To be necessary is to be incidental, or in other words may be denominated the natural means of executing a power.

The phrase, "and proper," if it has any meaning, does not enlarge the powers of Congress, but rather restricts them. For no power is to be assumed under the general clause, but such as is not only necessary but proper, or perhaps expedient also: but, as the friends to the bill ought not to claim any advantage from this clause, so ought not the enemies to it, to quote the clause as having a restrictive effect: both ought to consider it, as among the surplusage, which as often proceeds from inattention, as caution.

However, let it be propounded as an eternal question to those, who build new powers on this clause, whether the latitude of construction which they arrogate, will not terminate in an unlimited power in Congress?

In every aspect therefore under which the attorney general can view the act, so far as it incorporates the bank, he is bound to declare his opinion to be against its constitutionality.

(Signed) EDM. RANDOLPH,
February 12th, 1791.

No. 2.

The attorney general, holding it to be his duty to address to the President of the United States, as the grounds of an official opinion, no arguments, the truth of which he does not acknowledge; has reserved for this paper several topics, which have more or less influenced

the friends & enemies of the bank-bill; and which ought therefore to be communicated to the President.

1. The enemies of the bill have contended, that a rule of construction, adverse to the power of incorporation, springs out of the constitution, itself; that after the grant of certain powers to Congress, the Constitution, as if cautious, against usurpation, specially grants several other powers, more akin to those before given, than the incorporation of a bank is to any of those, from which it is deduced.

This position they say, has been exemplified in four instances:

1. A Power is given to regulate commerce; and yet is added a power to establish uniform laws on the subject of Bankruptcies throughout the United States: to fix the standard of weights & measures; and to establish post offices and post roads.

2. A Power is given to coin money; and yet is added a power to regulate the value thereof and of foreign coin; and to provide for the punishment of counterfeiting the current coin of the United States.

3. A Power is given to declare war; & yet is added a power to grant letters of marque and reprisal: to make rules concerning captures on land & water; to raise & support armies; to provide & maintain a Navy; and to make rules for the government & regulation of the Land & naval forces.

4. A Power is given to provide for calling forth the militia, to execute the Laws of the Union; and yet is added a power to call them forth to suppress insurrections.

Whosoever will attentively inspect the Constitution, will readily perceive the force of what is expressed in the letter of the convention; "That the Constitution was the result of a spirit of amity, and mutual deference & concession." To argue, then, from its Style or arrangement, as being logically exact, is perhaps a scheme of reasoning not absolutely precise.

But if the Constitution were ever so perfect, considered even as a composition, the difficulties, which the above Doctrine has started may be solved by the following remarks.

These similar powers, on which stress is laid, are either incidental, or substantive, that is, independent powers.

If they be incidental powers, and the conclusion be, that because some incidental powers are expressed, no others are admissible; it would not only be contrary to the common forms of construction, but would reduce the present Congress to the feebleness of the old one, which could exercise no powers, not expressly delegated. So that the advocates for the power of incorporation on the principle of incidentality to some specified power, would, notwithstanding this supposed rule of interpretation, be as much at liberty to insist on its being an incidental power as ever.

If these similar powers be substantive and independant (as on many occasions they are, that is, as they can be conceived to be capable of being used, independently of what is called the principal power) it ought not to be inferred, that they were inserted for any other purpose, than to bestow an independent power, where it would not otherwise have existed.

The only remaining signification, which the Doctrine now controverted can have, is, that the incorporation of a bank being more

wide from a connection with the specified powers of legislation, than the additional ones were from the principal powers, to which they were supposed to belong; the power of incorporation being omitted, or rather not specially mentioned, cannot be assumed. Even this answer is not adequate to those, who derive the power of incorporation from the nature of the federal government.

Hence the rule contended for by the enemies of the bill is defective every way. It would be still more so with respect to those (if any such there be), who construe the words, "*necessary and proper*," so as to embrace every expedient power.

2. An appeal has been also made by the enemies of the bill, to what passed in the federal convention on this subject. But ought not the Constitution to be decided on by the import of its own expressions? What may not be the consequence, if an almost unknown history should govern the construction?

3. The opinions too of several respectable characters have been cited, as delivered in the State conventions. As these have no authoritative influence; so ought it to be remembered, that observations were uttered by the advocates of the Constitution, before its adoption, to which they will not, and in many cases, ought not to adhere.

4. On the other hand the friends to the bill have relied on the Congressional Acts as to Westpoint, the Government of the Western Territory, and the power of removal from office, given to the President.

The two first are within express powers, as will occur, by adverting to the power to exercise authority over places purchased for forts &c; and to the power to dispose of, and make needful rules and regulations respecting the property of the United States: the last is a point with a great weight of reason on each side. If it be founded on the general *nature* of executive authority, the power is probably not tenable, without resorting to the Doctrines of the friends to the Bill. But it appears to be a power not specially given to any person (except on an impeachment) and may therefore incidentally belong to Congress to confer on the President: however if this step be an error, it is never too late to correct it.

5. It has been also pretended, that even the infirm old Congress incorporated a bank; and can a less power be presumed to be vested in the federal government, which has been formed to remedy their weakness? This argument is so indefinite; the time of the incorporation was so pressing and the States had such an unlimited command over Congress and their acts, that the public acquiescence ought not to be the basis of such a power under the present circumstances.

6. Congress it is farther said, may provide for the general welfare, and this includes the power of incorporation: but they are to provide for the general welfare in laying & collecting taxes. Is the incorporation of a bank a tax bill? The meaning of the power taken together, seems to be, that Congress may lay taxes for the purpose of expending money for the public welfare, even to subscribe it to a bank. But is this like the *creation* of bank? It implies that a bank has been already created.

7. It has been also asserted, that Congress have an exclusive legislation at the seat of government. This will not be true, until they go to the place of the permanent residence.

The attorney general has not collected any other information upon this subject; altho' more may perhaps have been said by the partizans for & against the Bank than is here noticed.

(Signed) EDM. RANDOLPH,
Feb'y. 12th, 1791.

Opinion on Constitutionality of a National Bank

THOMAS JEFFERSON, SECRETARY OF STATE, TO PRESIDENT WASHINGTON

[Source: Paul Leicester Ford, *The Writings of Thomas Jefferson*,
Vol. 5, pp. 284-289]

February 15, 1791.

The bill for establishing a National Bank undertakes among other things:—

1. To form the subscribers into a corporation.
2. To enable them in their corporate capacities to receive grants of land; and so far is against the laws of *Mortmain*.¹
3. To make alien subscribers capable of holding lands; and so far is against the laws of *Alienage*.
4. To transmit these lands, on the death of a proprietor, to a certain line of successors; and so far changes the course of *Descents*.
5. To put the lands out of the reach of forfeiture or escheat; and so far is against the laws of *Forfeiture and Escheat*.
6. To transmit personal chattels to successors in a certain line; and so far is against the laws of *Distribution*.
7. To give them the sole and exclusive right of banking under the national authority; and so far is against the laws of *Monopoly*.
8. To communicate to them a power to make laws paramount to the laws of the States: for so they must be construed, to protect the institution from the control of the State legislatures; and so, probably, they will be construed.

I consider the foundation of the Constitution as laid on this ground: That "all powers not delegated to the United States, by the Constitution, nor prohibited by it to the States, are reserved to the States or to the people." [XIIth amendment.] To take a single step beyond the boundaries thus specially drawn around the powers of Congress, is to take possession of a boundless field of power, no longer susceptible of any definition.

The incorporation of a bank, and the powers assumed by this bill, have not, in my opinion, been delegated to the United States, by the Constitution.

I. They are not among the powers specially enumerated: for these are: 1st. A power to lay taxes for the purpose of paying the debts of the United States; but no debt is paid by this bill, nor any tax laid. Were it a bill to raise money, its origination in the Senate would condemn it by the Constitution.

2d. "To borrow money." But this bill neither borrows money nor ensures the borrowing it. The proprietors of the bank will be just as

¹ Though the Constitution controls the laws of *Mortmain* so far as to permit Congress itself to hold land for certain purposes, yet not so far as to permit them to communicate a similar right to other corporate bodies.—T. J.

free as any other money holders, to lend or not to lend their money to the public. The operation proposed in the bill, first, to lend them two millions, and then to borrow them back again, cannot change the nature of the latter act, which will still be a payment, and not a loan, call it by what name you please.

3. To "regulate commerce with foreign nations, and among the States, and with the Indian tribes." To erect a bank, and to regulate commerce, are very different acts. He who erects a bank, creates a subject of commerce in its bills; so does he who makes a bushel of wheat, or digs a dollar out of the mines; yet neither of these persons regulates commerce thereby. To make a thing which may be bought and sold, is not to prescribe regulations for buying and selling. Besides, if this was an exercise of the power of regulating commerce, it would be void, as extending as much to the internal commerce of every State, as to its external. For the power given to Congress by the Constitution does not extend to the internal regulation of the commerce of a State, (that is to say of the commerce between citizen and citizen,) which remain exclusively with its own legislature; but to its external commerce only, that is to say, its commerce with another State, or with foreign nations, or with the Indian tribes. Accordingly the bill does not propose the measure as a regulation of trade, but as "productive of considerable advantages to trade." Still less are these powers covered by any other of the special enumerations.

II. Nor are they within either of the general phrases, which are the two following:—

1. To lay taxes to provide for the general welfare of the United States, that is to say, "to lay taxes for *the purpose* of providing for the general welfare." For the laying of taxes is the *power*, and the general welfare the *purpose* for which the power is to be exercised. They are not to lay taxes *ad libitum* for any purpose they please; but only to pay the debts or provide for the welfare of the Union. In like manner, they are not to do anything they please to provide for the general welfare, but only to lay taxes for that purpose. To consider the latter phrase, not as describing the purpose of the first, but as giving a distinct and independent power to do any act they please, which might be for the good of the Union, would render all the preceding and subsequent enumerations of power completely useless.

It would reduce the whole instrument to a single phrase, that of instituting a Congress with power to do whatever would be for the good of the United States; and, as they would be the sole judges of the good or evil, it would be also a power to do whatever evil they please.

It is an established rule of construction where a phrase will bear either of two meanings, to give it that which will allow some meaning to the other parts of the instrument, and not that which would render all the others useless. Certainly no such universal power was meant to be given them. It was intended to lace them up straitly within the enumerated powers, and those without which, as means, these powers could not be carried into effect. It is known that the very power now proposed as a means was rejected as an end by the Convention which formed the Constitution. A proposition was made to them to authorize Congress to open canals, and an amendatory one to empower them to incorporate. But the whole was rejected, and one of the reasons for rejection urged in debate was, that then they would have a power to

erect a bank, which would render the great cities, where there were prejudices and jealousies on the subject, adverse to the reception of the Constitution.

2. The second general phrase is, "to make all laws *necessary* and proper for carrying into execution the enumerated powers." But they can all be carried into execution without a bank. A bank therefore is not *necessary*, and consequently not authorized by this phrase.

It has been urged that a bank will give great facility or convenience in the collection of taxes. Suppose this were true: yet the Constitution allows only the means which are "*necessary*," not those which are merely "convenient" for effecting the enumerated powers. If such a latitude of construction be allowed to this phrase as to give any non-enumerated power, it will go to every one, for there is not one which ingenuity may not torture into a *convenience* in some instance *or other*, to *some one* of so long a list of enumerated powers. It would swallow up all the delegated powers, and reduce the whole to one power, as before observed. Therefore it was that the Constitution restrained them to the *necessary* means, that is to say, to those means without which the grant of power would be nugatory.

But let us examine this convenience and see what it is. The report on this subject, page 3, states the only *general* convenience to be, the preventing the transportation and re-transportation of money between the States and the treasury, (for I pass over the increase of circulating medium, ascribed to it as a want, and which, according to my ideas of paper money, is clearly a demerit.) Every State will have to pay a sum of tax money into the treasury; and the treasury will have to pay, in every State, a part of the interest on the public debt, and salaries to the officers of government resident in that State. In most of the States there will still be a surplus of tax money to come up to the seat of government for the officers residing there. The payments of interest and salary in each State may be made by treasury orders on the State collector. This will take up the greater part of the money he has collected in his State, and consequently prevent the great mass of it from being drawn out of the State. If there be a balance of commerce in favor of that State against the one in which the government resides, the surplus of taxes will be remitted by the bills of exchange drawn for that commercial balance. And so it must be if there was a bank. But if there be no balance of commerce, either direct or circuitous, all the banks in the world could not bring up the surplus of taxes but in the form of money. Treasury orders then, and bills of exchange may prevent the displacement of the main mass of the money collected, without the aid of any bank; and where these fail, it cannot be prevented even with that aid.

Perhaps, indeed, bank bills may be a more *convenient* vehicle than treasury orders. But a little *difference* in the degree of *convenience*, cannot constitute the necessity which the constitution makes the ground for assuming any non-enumerated power.

Besides; the existing banks will, without a doubt, enter into arrangements for lending their agency, and the more favorable, as there will be a competition among them for it; whereas the bill delivers us up bound to the national bank, who are free to refuse all arrangement, but on their own terms, and the public not free, on such refusal, to employ any other bank. That of Philadelphia, I believe, now does this busi-

ness, by their post-notes, which, by an arrangement with the treasury, are paid by any State collector to whom they are presented. This expedient alone suffices to prevent the existence of that *necessity* which may justify the assumption of a non-enumerated power as a means for carrying into effect an enumerated one. The thing may be done, and has been done, and well done, without this assumption; therefore, it does not stand on that degree of *necessity* which can honestly justify it.

It may be said that a bank whose bills would have a currency all over the States, would be more convenient than one whose currency is limited to a single State. So it would be still more convenient that there should be a bank, whose bills should have a currency all over the world. But it does not follow from this superior conveniency, that there exists anywhere a power to establish such a bank; or that the world may not go on very well without it.

Can it be thought that the Constitution intended that for a shade or two of *convenience*, more or less, Congress should be authorised to break down the most ancient and fundamental laws of the several States; such as those against Mortmain, the laws of Alienage, the rules of descent, the acts of distributions, the laws of escheat and forfeiture, the laws of monopoly? Nothing but a necessity invincible by any other means, can justify such a prostitution of laws, which constitute the pillars of our whole system of jurisprudence. Will Congress be too straight-laced to carry the constitution into honest effect, unless they may pass over the foundation-laws of the State government for the slightest convenience of theirs?

The negative of the President is the shield provided by the constitution to protect against the invasions of the legislature: 1. The right of the Executive. 2. Of the Judiciary. 3. Of the States and State legislatures. The present is the case of a right remaining exclusively with the States, and consequently one of those intended by the Constitution to be placed under its protection.

It must be added, however, that unless the President's mind on a view of everything which is urged for and against this bill, is tolerably clear that it is unauthorised by the Constitution; if the pro and the con hang so even as to balance his judgment, a just respect for the wisdom of the legislature would naturally decide the balance in favor of their opinion. It is chiefly for cases where they are clearly misled by error, ambition, or interest, that the Constitution has placed a check in the negative of the President.

Opinion on Constitutionality of a National Bank

ALEXANDER HAMILTON, SECRETARY OF TREASURY, TO PRESIDENT
WASHINGTON

[Source: John C. Hamilton, *The Works of Alexander Hamilton*,
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February 23d, 1791.

The Secretary of the Treasury having perused with attention the papers containing the opinions of the Secretary of State and Attorney-General, concerning the constitutionality of the bill for establishing a National Bank, proceeds, according to the order of the Presi-

dent, to submit the reasons which have induced him to entertain a different opinion.

It will naturally have been anticipated, that in performing this task, he would feel uncommon solicitude. Personal considerations alone, arising from the reflection that the measure originated with him, would be sufficient to produce it. The sense which he has manifested of the great importance of such an institution to the successful administration of the department under his particular care, and an expectation of serious ill consequences to result from a failure of the measure, do not permit him to be without anxiety on public accounts. But the chief solicitude arises from a firm persuasion, that principles of construction like those espoused by the Secretary of State and Attorney-General, would be fatal to the just and indispensable authority of the United States.

In entering upon the argument, it ought to be premised that the objections of the Secretary of State and Attorney-General are founded on a general denial of the authority of the United States to erect corporations. The latter, indeed, expressly admits, that if there be any thing in the bill which is not warranted by the Constitution, it is the clause of incorporation.

Now it appears to the Secretary of the Treasury that this *general principle* is *inherent* in the very *definition* of government, and *essential* to every step of the progress to be made by that of the United States, namely: That every power vested in a government is in its nature *sovereign*, and includes, by *force* of the *term*, a right to employ all the *means* requisite and fairly applicable to the attainment of the *ends* of such power, and which are not precluded by restrictions and exceptions specified in the Constitution, or not immoral, or not contrary to the *essential ends* of political society.

This principle, in its application to government in general, would be admitted as an axiom; and it will be incumbent upon those who may incline to deny it, to prove a distinction, and to show that a rule which, in the general system of things, is essential to the preservation of the social order, is inapplicable to the United States.

The circumstance that the powers of sovereignty are in this country divided between the National and State governments, does not afford the distinction required. It does not follow from this, that each of the portion of *powers* delegated to the one or to the other, is not sovereign with regard to its *power objects*. It will only follow from it, that each has sovereign power as to *certain things*, and not as to *other things*. To deny that the government of the United States has sovereign power, as to its declared purposes and trusts, because its power does not extend to all cases, would be equally to deny that the State governments have sovereign power in any case, because their power does not extend to every case. The tenth section of the first article of the Constitution exhibits a long list of very important things which they may not do. And thus the United States would furnish the singular spectacle of a *political society* without *sovereignty*, or of a *people governed*, without *government*.

If it would be necessary to bring proof to a proposition so clear, as that which affirms that the powers of the federal government, as to its *objects*, were sovereign, there is a clause of its Constitution which would be decisive. It is that which declares that the Constitution, and

the laws of the United States made in pursuance of it, and all treaties made, or which shall be made under their authority, shall be the *supreme law of the land*. The power which can create the *supreme law of the land* in any case, is doubtless *sovereign* as to such case.

This general and indisputable principle puts at once an end to the *abstract* question, whether the United States have power to erect a *corporation*; that is to say, to give a *legal or artificial capacity* to one or more persons, distinct from the *natural*. For it is unquestionably incident to *sovereign power* to erect corporations, and consequently to that of the United States, in relation to the *objects* intrusted to the management of the government. The difference is this: where the authority of the government is general, it can create corporations in *all cases*; where it is confined to certain branches of legislation, it can create corporations *only* in those cases.

Here then, as far as concerns the reasonings of the Secretary of State and the Attorney-General, the affirmative of the constitutionality of the bill might be permitted to rest. It will occur to the President, that the principle here advanced has been untouched by either of them.

For a more complete elucidation of the point, nevertheless, the arguments which they had used against the power of the government to erect corporations, however foreign they are to the great and fundamental rule which has been stated, shall be particularly examined. And after showing that they do not tend to impair its force, it shall also be shown that the power of incorporation, incident to the government in certain cases, does fairly extend to the particular case which is the object of the bill.

The first of these arguments is, that the foundation of the Constitution is laid on this ground: "That all powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved for the States, or to the people." Whence it is meant to be inferred, that Congress can in no case exercise any power not included in those not enumerated in the Constitution. And it is affirmed, that the power of erecting a corporation is not included in any of the enumerated powers.

The main proposition here laid down, in its true signification is not to be questioned. It is nothing more than a consequence of this republican maxim, that all government is a delegation of power. But how much is delegated in each case, is a question of fact, to be made out by fair reasoning and construction, upon the particular provisions of the Constitution, taking as guides the general principles and general ends of governments.

It is not denied that there are *implied*, as well as *express powers*, and that the *former* are as effectually delegated as the *latter*. And for the sake of accuracy it shall be mentioned, that there is another class of powers, which may be properly denominated *resulting powers*. It will not be doubted, that if the United States should make a conquest of any of the territories of its neighbors, they would possess sovereign jurisdiction over the conquered territory. This would be rather a result, from the whole mass of the powers of the government, and from the nature of political society, than a consequence of either of the powers specially enumerated.

But be this as it may, it furnishes a striking illustration of the general doctrine contended for; it shows an extensive case, in which a power of erecting corporations is either implied in, or would result from, some or all of the powers vested in the national government. The jurisdiction acquired over such conquered country would certainly be competent to any species of legislation.

To return:—It is conceded that *implied powers* are to be considered as delegated equally with *express ones*. Then it follows, that as a power of erecting a corporation may as well be *implied* as any other thing, it may as well be employed as an *instrument* or *mean* of carrying into execution any of the specified powers, as any other *instrument* or *mean* whatever. The only question must be, in this, as in every other case, whether the mean to be employed, or in this instance, the corporation to be erected, has a natural relation to any of the acknowledged objects or lawful ends of the government. Thus a corporation may not be erected by Congress for superintending the police of the city of Philadelphia, because they are not authorized to *regulate* the *police* of that city. But one may be erected in relation to the collection of taxes, or to the trade with foreign countries, or to the trade between the States, or with the Indian tribes; because it is the province of the federal government to *regulate those objects*, and because it is incident to a general *sovereign* or *legislative* power to *regulate* a thing, to employ all the means which relate to its regulation to the best and greatest advantage.

A strange fallacy seems to have crept into the manner of thinking and reasoning upon the subject. Imagination appears to have been unusually busy concerning it. An incorporation seems to have been regarded as some *great independent substantive thing*; as a political end of peculiar magnitude and moment; whereas it is truly to be considered as a *quality, capacity, or mean* to an end. Thus a mercantile company is formed, with a certain capital, for the purpose of carrying on a particular branch of business. Here the business to be prosecuted is the end. The association, in order to form the requisite capital, is the primary mean. Suppose that an incorporation were added to this, it would only be to add a new *quality* to that association, to give it an artificial capacity, by which it would be enabled to prosecute the business with more safety and convenience.

That the importance of the power of incorporation has been exaggerated, leading to erroneous conclusion, will further appear from tracing it to its origin. The Roman law is the source of it, according to which a *voluntary* association of individuals, at *any time*, or for any purpose, was capable of producing it. In England, whence our notions of it are immediately borrowed, it forms part of the executive authority, and the exercise of it has been often *delegated* by that authority. Whence, therefore, the ground of the supposition that it lies beyond the reach of all those very important portions of sovereign power, legislative as well as executive, which belongs to the government of the United States?

Through this mode of reasoning respecting the right of employing all the means requisite to the execution of the specified powers of the government, it is objected, that none but necessary and proper means are to be employed; and the Secretary of State maintains, that no means are to be considered as *necessary* but those without which the

grant of the power would be *nugatory*. Nay, so far does he go in his restrictive interpretation of the *word*, as even to make the case of *necessity* which shall warrant the constitutional exercise of the power to depend on *casual* and *temporary* circumstances; an idea which alone refutes the construction. The *expediency* of exercising a particular power, at a particular time, must, indeed, depend on circumstances; but the constitutional right of exercising it must be uniform and invariable, the same to-day as to-morrow.

All the arguments, therefore, against the constitutionality of the bill derived from the accidental existence of certain State banks,—institutions which happen to exist to-day, and, for aught that concerns the government of the United States, may disappear to-morrow,—must not only be rejected as fallacious, but must be viewed as demonstrative that there is a *radical* source of error in the reasoning.

It is essential to the being of the national government, that so erroneous a conception of the meaning of the word *necessary* should be exploded.

It is certain, that neither the grammatical nor popular sense of the term requires that construction. According to both, *necessary* often means no more than *needful*, *requisite*, *incidental*, *useful*, or *conducive to*. It is a common mode of expression to say, that it is *necessary* for a government or a person to do this or that thing, when nothing more is intended or understood, than that the interests of the government or person require, or will be promoted by, the doing of this or that thing. The imagination can be at no loss for exemplifications of the use of the word in this sense. And it is the true one in which it is to be understood as used in the Constitution. The whole turn of the clause containing it indicates, that it was the intent of the Convention, by that clause, to give a liberal latitude to the exercise of the specified powers. The expression have peculiar comprehensiveness. They are, "to make all *laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the government of the United States, or in any department or officer thereof.*"

To understand the word as the Secretary of State does, would be to depart from its obvious and popular sense, and to give it a restrictive operation, an idea never before entertained. It would be to give it the same force as if the word *absolutely* or *indispensably* had been prefixed to it.

Such a construction would beget endless uncertainty and embarrassment. The cases must be palpable and extreme, in which it could be pronounced, with certainty, that a measure was absolutely necessary, or one, without which, the exercise of a given power would be nugatory. There are few measures of any government which would stand so severe a test. To insist upon it, would be to make the criterion of the exercise of any implied power, a *case of extreme necessity*; which is rather a rule to justify the overleaping of the bounds of constitutional authority, than to govern the ordinary exercise of it.

It may be truly said of every government, as well as of that of the United States, that it has only a right to pass such laws as are necessary and proper to accomplish the object intrusted to it. For no government has a right to do *merely what it pleases*. Hence, by a process of reasoning similar to that of the Secretary of State, it might be

proved that neither of the State governments has a right to incorporate a bank. It might be shown that all the public business of the state could be performed without a bank, and inferring thence that it was unnecessary, it might be argued that it could not be done, because it is against the rule which has been just mentioned. A like mode of reasoning would prove that there was no power to incorporate the inhabitants of a town, with a view to a more perfect police. For it is certain that an incorporation may be dispensed with, though it is better to have one. It is to be remembered that there is no *express* power in any State constitution to erect corporations.

The *degree* in which a measure is necessary, can never be a *test* of the legal right to adopt it; that must be a matter of opinion, and can only be a *test* of expediency. The *relation* between the *measure* and the *end*; between the *nature* of the *mean* employed towards the execution of a power, and the object of that power, must be the criterion of constitutionality, not the more or less of *necessity* or *utility*.

The practice of the government is against the rule of construction advocated by the Secretary of State. Of this, the Act concerning light-houses, beacons, buoys, and public piers, is a decisive example. This, doubtless, must be referred to the powers of regulating trade, and is fairly relative to it. But it cannot be affirmed that the exercise of that power in this instance was strictly *necessary*, or that the power itself would be *nugatory*, without that of regulating establishments of this nature.

This restrictive interpretation of the word *necessary* is also contrary to this sound maxim of construction; namely, that the powers contained in a constitution of government, especially those which concern the general administration of the affairs of a country, its finances, trade, defence, &c., ought to be construed liberally in advancement of the public good. This rule does not depend on the particular form of a government, or on the particular demarkation of the boundaries of its powers, but on the nature and objects of government itself. The means by which national exigencies are to be provided for, national inconveniences obviated, national prosperity promoted, are of such infinite variety, extent, and complexity, that there must of necessity be great latitude of discretion in the selection and application of those means. Hence, consequently, the necessity and propriety of exercising the authorities intrusted to a government on principles of liberal construction.

The Attorney-General admits the *rule*, but takes a distinction between a State and the Federal Constitution. The latter, he thinks, ought to be construed with greater strictness, because there is more danger of error in defining *partial* than *general* powers. But the reason of the *rule* forbids such a distinction. This reason is, the variety and extent of public exigencies, a far greater proportion of which, and of a far more critical kind, are objects of *National* than of *State* administration. The greater danger of error, as far as it is supposable, may be a prudential reason for caution in practice, but it cannot be a rule of restrictive interpretation.

In regard to the clause of the Constitution immediately under consideration, it is admitted by the Attorney-General, that no *restrictive* effect can be ascribed to it. He defines the word *necessary* thus: "To be *necessary* is to be *incidental*, and may be denominated the natural means of executing a power."

But while on the one hand the construction of the Secretary of State is deemed inadmissible, it will not be contended, on the other, that the clause in question gives any *new* or *independent* power. But it gives an explicit sanction to the doctrine of *implied powers*, and is equivalent to an admission of the proposition that the government, as to its *specified powers* and *objects*, has plenary and sovereign authority, in some cases paramount to the States; in others, co-ordinate with it. For such is the plain import of the declaration, that it may pass all *laws* necessary and proper to carry into execution those powers.

It is no valid objection to the doctrine to say, that it is calculated to extend the power of the general government throughout the entire sphere of State legislation. The same thing has been said, and may be said, with regard to every exercise of power by *implication* or *construction*.

The moment the literal meaning is departed from, there is a chance of error and abuse. And yet an adherence to the letter of its powers would at once arrest the motions of government. It is not only agreed, on all hands, that the exercise of constructive powers is indispensable, but every act which has been passed is more or less an exemplification of it. One has been already mentioned—that relating to light-houses, &c.—that which declares the power of the President to remove officers at pleasure, acknowledges the same truth in another and a signal instance.

The truth is, that difficulties on this point are inherent in the nature of the Federal Constitution; they result inevitably from a division of the legislative power. The consequence of this division is, that there will be cases clearly within the power of the national government; others, clearly without its powers; and a third class, which will leave room for controversy and difference of opinion, and concerning which a reasonable latitude of judgment must be allowed.

But the doctrine which is contended for is not chargeable with the consequences imputed to it. It does not affirm that the national government is sovereign in all respects, but that it is sovereign to a certain extent; that is, to the extent of the objects of its specified powers.

It leaves, therefore, a criterion of what is constitutional, and of what is not so. This criterion is the *end*, to which the measure relates as a *mean*. If the *end* be clearly comprehended within any of the specified powers, and if the measure have an obvious relation to that *end*, and is not forbidden by any particular provision of the Constitution, it may safely be deemed to come within the compass of the national authority. There is also this further criterion, which may materially assist the decision: Does the proposed measure abridge a pre-existing right of any State or of any individual? If it does not, there is a strong presumption in favor of its constitutionality, and slighter relations to any declared object of the Constitution may be permitted to turn the scale.

The general objections, which are to be inferred from the reasonings of the Secretary of State and Attorney-General, to the doctrine which has been advanced, have been stated, and it is hoped satisfactorily answered. Those of a more particular nature will now be examined.

The Secretary of State introduces his opinion with an observation, that the proposed incorporation undertakes to create certain capacities, properties, or attributes, which are against the laws of *alienage*.

descents, escheat, and forfeiture, distribution and monopoly, and to confer a power to make laws paramount to those of the States. And nothing, says he, in another place, but *necessity, invincible by other means*, can justify such a *prostration* of laws, which constitute the pillars of our whole system of jurisprudence, and are the foundation laws of the State governments. If these are truly the foundation laws of the several States, then have most of them subverted their own foundations. For there is scarcely one of them which has not, since the establishment of its particular constitution, made material alterations in some of those branches of its jurisprudence, especially the law of descents. But it is not conceived how any thing can be called the fundamental law of a State government which is not established in its constitution, unalterable by the ordinary legislature. And, with regard to the question of necessity, it has been shown that this can only constitute a question of expediency, not of right.

To erect a corporation, is to substitute a *legal* or *artificial* to a *natural* person, and where a number are concerned, to give them *individuality*. To that *legal* or *artificial* person, once created, the common law of every State, of itself, annexes all those incidents and attributes which are represented as a prostration of the main pillars of their jurisprudence.

It is certainly not accurate to say, that the erection of a corporation is *against* those different *heads* of the State laws; because it is rather to create a kind of person or entity, to which they are inapplicable, and to which the general rule of those laws assign a different regimen. The laws of alienage cannot apply to an artificial person, because it can have no country; those of descent cannot apply to it, because it can have no heirs; those of escheat are foreign from it, for the same reason; those of forfeiture, because it cannot commit a crime; those of distribution, because, though it may be dissolved, it cannot die.

As truly might it be said, that the exercise of the power of prescribing the rule by which foreigners shall be naturalized, is against the law of alienage, while it is, in fact, only to put them in a situation to cease to be the subject of that law. To do a thing which is against a law, is to do something which it forbids, or which is a violation of it.

But if it were even to be admitted that the erection of a corporation is a direct alteration of the stated laws, in the enumerated particulars, it would do nothing towards proving that the measure was unconstitutional. If the government of the United States can do no act which amounts to an alteration of a State law, all its powers are nugatory; for almost every new law is an alteration, in some way or other, of an *old law*, either *common* or *statute*.

There are laws concerning bankruptcy in some States. Some States have laws regulating the values of foreign coins. Congress are empowered to establish uniform laws concerning bankruptcy throughout the United States, and to regulate the values of foreign coins. The exercise of either of these powers by Congress, necessarily involves an alteration of the laws of those States.

Again. Every person, by the common law of each State, may export his property to foreign countries, at pleasure. But Congress, in pursuance of the power of regulating trade, may *prohibit* the exportation of commodities; in doing which, they would alter the common law of each State, in abridgment of individual right.

It can therefore never be good reasoning to say this or that act is unconstitutional, because it alters this or that law of a State. It must be shown that the act which makes the alteration is unconstitutional on other accounts; not *because* it makes the alteration.

There are two points in the suggestions of the Secretary of State, which have been noted, that are peculiarly incorrect. One is, that the proposed incorporation is against the laws of monopoly, because it stipulates an exclusive right of banking under the national authority; the other, that it gives power to the institution to make laws paramount to those of the States.

But with regard to the first point: The bill neither prohibits any State from erecting as many banks as they please, nor any number of individuals from associating to carry on the business, and consequently, is free from the charge of establishing a monopoly; for monopoly implies a *legal impediment* to the carrying on of the trade by others than those to whom it is granted.

And with regard to the second point, there is still less foundation. The by-laws of such an institution as a bank can operate only on its own members—can only concern the disposition of its own property, and must essentially resemble the rules of a private mercantile partnership. They are expressly not to be contrary to law; and law must here mean the law of a State, as well as of the United States. There never can be a doubt, that a law of a corporation, if contrary to a law of a State, must be overruled as void, unless the law of the State is contrary to that of the United States, and then the question will not be between the law of the State and that of the corporation, but between the law of the State and that of the United States.

Another argument made use of by the Secretary of State is, the rejection of a proposition by the Convention to empower Congress to make corporations, either generally, or for some special purpose.

What was the precise nature or extent of this proposition, or what the reasons for refusing it, is not ascertained by any authentic document, or even by accurate recollection. As far as any such document exists, it specifies only canals. If this was the amount of it, it would at most, only prove that it was thought inexpedient to give a power to incorporate for the purpose of opening canals, for which purpose a special power would have been necessary, except with regard to the western territory, there being nothing in any part of the Constitution respecting the regulation of canals. It must be confessed, however, that very different accounts are given of the import of the proposition, and of the motives for rejecting it. Some affirm, that it was confined to the opening of canals and obstruction in rivers; others that it embraced banks; and others, that it extended to the power of incorporating generally. Some, again, allege, that it was disagreed to because it was thought improper to vest in Congress a power of erecting corporations. Others, because it was thought unnecessary to *specify* the power, and inexpedient to furnish an additional topic of objection to the Constitution. In this state of the matter, no inference whatever can be drawn from it.

But whatever may have been the nature of the proposition, or the reasons for rejecting it, includes nothing in respect to the real merits of the question. The Secretary of State will not deny, that whatever may have been the intention of the framers of a constitution,

or of a law, that intention is to be sought for in this instrument itself, according to the usual and established rules of construction. Nothing is more common than for laws to *express* and *effect* more or less than was intended. If, then, a power to erect a corporation in any case be deducible, by fair inference, from the whole or any part of the numerous provisions of the Constitution of the United States, arguments drawn from extrinsic circumstances regarding the intention of the Convention must be rejected.

Most of the arguments of the Secretary of State, which have not been considered in the foregoing remarks, are of a nature rather to apply to the expediency than to the constitutionality of the bill. They will, however, be noticed in the discussions which will be necessary in reference to the particular heads of the powers of the government which are involved in the question.

Those of the Attorney-General will now properly come under view.

His first objection is, that the power of incorporation is not *expressly* given to Congress. This shall be conceded, but in *the sense only*, that it is not declared in *express terms* that Congress may erect a corporation. But this cannot mean, that there are not certain *express powers* which *necessarily* include it. For instance, Congress have express power to exercise exclusive legislation, in all cases whatsoever, over such *district* (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States; and to exercise *like authority* over all places purchased, by consent of the legislature of the State in which the same shall be, for the erection of forts, arsenals, dock-yards, and other needful buildings. Here, then, is express power to exercise *exclusive legislation*, in *all cases whatsoever*, over *certain places*; that is, to do, in respect to those places, all that any government whatsoever may do. For language does not afford a more complete designation of sovereign power than in those comprehensive terms. It is, in other words, a power to pass all laws whatsoever, and, consequently, to pass laws for erecting corporations, as well as for any other purpose which is the proper object of law in a free government.

Surely it can never be believed that Congress, with *exclusive powers of legislation in all cases* whatsoever, cannot erect a corporation within the district which shall become the seat of government, for the better regulation of its police. And yet there is an unqualified denial of the power to erect corporations in every case, on the part both of the Secretary of State and of the Attorney-General; the former, indeed, speaks of that power in these emphatical terms: That it is a *right remaining exclusively with the States*.

As far, then, as there is an *express power* to do any *particular act of legislation*, there is an *express one* to erect a corporation in the case above described. But, accurately speaking, no *particular power* is more than *that implied in a general one*. Thus the power to lay a duty on a *gallon of rum* is only a particular *implied* in the general power to lay and collect taxes, duties, imposts, and excises. This serves to explain in what sense it may be said that Congress have not an express power to make corporations.

This may not be an improper place to take notice of an argument which was used in debate in the House of Representatives. It was

there argued, that if the Constitution intended to confer so important a power as that of erecting corporations, it would have been expressly mentioned. But the case which has been noticed is clearly one in which such a power exists, and yet without any specification or express grant of it, further than as every *particular implied* in a general power can be said to be so granted.

But the argument itself is founded upon an exaggerated and erroneous conception of the nature of the power. It has been shown that it is not of so transcendent a kind as the reasoning supposes, and that, viewed in a just light, it is a mean, which ought to have been left to *implication*, rather than an *end*, which ought to have been expressly granted.

Having observed that the power of erecting corporations is not expressly granted to Congress, the Attorney-General proceeds thus:—

“If it can be exercised by them, it must be—

“1. Because the nature of the federal government implies it.

“2. Because it is involved in some of the specified powers of legislation.

“3. Because it is necessary and proper to carry into execution some of the specified powers.”

To be implied in the *nature* of the *federal government*, says he, would beget a doctrine so indefinite as to grasp at every power.

This proposition, it ought to be remarked, is not precisely, or even substantially, that which has been relied upon. The proposition relied upon is, that the *specified powers of Congress* are in their nature *sovereign*. That it is incident to sovereign power to erect corporations, and that therefore Congress have a right, within the *sphere* and in *relation* to the *objects of their power*, to *erect corporations*. It shall, however, be supposed that the Attorney-General would consider the two propositions in the same light, and that the objection made to the one would be made to the other.

To this objection an answer has been already given. It is this that the doctrine is stated with this *express qualification*, that the right to erect corporations does *only* extend to *cases* and *objects* within the *sphere* of the *specified powers* of the *government*. A *general* legislative authority implies a power to erect corporations in *all cases*. A *particular* legislative power implies authority to erect corporations in relation to cases arising under *that power only*. Hence the affirming that, as *incident* to sovereign power, Congress may erect a corporation in relation to the *collection* of their taxes, is no more than to affirm that they may do whatever else they please,—than the saying that they have a power to regulate trade, would be to affirm that they have a power to regulate religion; or than the maintaining that they have sovereign power as to taxation, would be to maintain that they have sovereign power as to every thing else.

The Attorney-General undertakes in the next place to show, that the power of erecting corporations is not involved in any of the specified powers of legislation confided to the national government. In order to this, he has attempted an enumeration of the particulars, which he supposes to be comprehended under the several heads of the *powers* to lay and collect taxes, &c.; to borrow money on the credit of the United States; to regulate commerce with sovereign nations; between the States, and with the Indian tribes; to dispose of and

make all needful rules and regulations respecting the territory or other property belonging to the United States. The design of which enumeration is to show, *what* is included under those different heads of power, and negatively, that the power of erecting corporations is not included.

The truth of this inference or conclusion must depend on the accuracy of the enumeration. If it can be shown that the enumeration is *defective*, the inference is destroyed. To do this will be attended with no difficulty.

The heads of the power to lay and collect taxes are stated to be:

1. To stipulate the sum to be lent.
2. An interest or no interest to be paid.
3. The time and manner of repaying, unless the loan be placed on an irredeemable fund.

This enumeration is liable to a variety of objections. It omits in the first place, the *pledging or mortgaging* of a fund for the security of the money lent, an usual, and in most cases an essential ingredient.

The idea of a stipulation of an *interest* or no *interest* is too confined. It should rather have been said, to stipulate the *consideration* of the loan. Individuals often borrow on considerations other than the payment of interest, so may governments, and so they often find it necessary to do. Every one recollects the lottery tickets and other *douceurs* often given in Great Britain as collateral inducements to the lending of money to the government. There are also frequently collateral conditions, which the enumeration does not contemplate. Every contract which has been made for moneys borrowed in Holland, induces stipulations that the sum due shall be *free from taxes*, and from sequestration in time of war, and mortgages all the land and property of the United States for the reimbursement.

It is also known that a lottery is a common expedient for borrowing money, which certainly does not fall under either of the enumerated heads.

The heads of the power to regulate commerce with foreign nations, are stated to be:

1. To prohibit them or their commodities from our ports.
2. To impose duties on *them*, where none existed before, or to increase *existing* duties on them.
3. To subject *them* to any species of custom-house regulation.
4. To grant *them* any exemptions or privileges which policy may suggest.

This enumeration is far more exceptionable than either of the former. It omits *every thing* that relates to the *citizens' vessels*, or *commodities* of the United States.

The following palpable omissions occur at once:

1. Of the power to prohibit the exportation of commodities, which not only exists at all times, but which in time of war it would be necessary to exercise, particularly with relation to naval and warlike stores.
2. Of the power to prescribe rules concerning the *characteristics* and *privileges* of an American bottom; how she shall be navigated, or whether by citizens or foreigners, or by a proportion of each.
3. Of the power of regulating the manner of contracting with seamen; the police of ships on their voyages, &c., of which the Act for

the government and regulation of seamen, in the merchants' service, is a specimen.

That the three preceding articles are omissions, will not be doubted—there is a long list of items in addition, which admit of little, if any question, of which a few samples shall be given.

1. The granting of bounties to certain kinds of vessels, and certain species of merchandise of this nature, is the allowance on dried and pickled fish and salted provisions.

2. The prescribing of rules concerning the *inspection* of commodities to be exported. Though the States individually are competent to this regulation, yet there is no reason, in point of authority at least, why a general system might not be adopted by the United States.

3. The regulation of policies of insurance; of salvage upon goods found at sea, and the disposition of such goods.

4. The regulation of pilots.

5. The regulation of bills of exchange drawn by a merchant of *one State* upon a merchant of *another State*. This last rather belongs to the regulation of trade between the States, but is equally omitted in the specification under that head.

The last enumeration relates to the power to dispose of, and make all *needful rules and regulations* respecting the territory or *other property* belonging to the United States.

The heads of this power are said to be:

1. To exert an ownership over the territory of the United States, which may be properly called the property of the United States, as in the western territory, and to *institute a government therein*, or

2. To exert an ownership over the other property of the United States.

The idea of exerting an ownership over the territory or other property of the United States, is particularly indefinite and vague. It does not at all satisfy the conception of what must have been intended by a power to make all *needful rules and regulations*, nor would there have been any use for a special clause, which authorized nothing more. For the right of exerting an ownership is implied in the very definition of property. It is admitted, that in regard to the western territory, something more is intended; even the institution of a government, that is, the creation of a body politic, or corporation of the highest nature; one which, in its maturity, will be able itself to create other corporations. Why, then, does not the same clause authorize the erection of a corporation, in respect to the regulation or disposal of any other of the property of the United States?

This idea will be enlarged upon in another place.

Hence it appears, that the enumerations which have been attempted by the Attorney-General, are so imperfect, as to authorize no conclusion whatever; they therefore have no tendency to disprove that each and every of the powers, to which they relate, includes that of erecting corporations, which they certainly do, as the subsequent illustrations will more and more evince.

It is presumed to have been satisfactorily shown in the course of the preceding observations:

1. That the power of the government, *as to the objects intrusted to its management*, is, in its nature, sovereign.

2. That the right of erecting corporations is one inherent in, and inseparable from, the idea of sovereign power.

3. That the position, that the government of the United States can exercise no power but such as is delegated to it by its Constitution, does not militate against this principle.

4. That the word *necessary*, in the general clause, can have no *restrictive* operation derogating from the force of this principle; indeed, that the degree in which a measure is or is not *necessary*, cannot be a *test* of *constitutional right*, but of *expediency only*.

5. That the power to erect corporations is not to be considered as an *independent* or *substantative* power, but as an *incidental* and *auxiliary* one, and was therefore more properly left to implication, than expressly granted.

6. That the principle in question does not extend the power of the government beyond the prescribed limits, because it only affirms a power to *incorporate* for purposes *within the sphere* of the *specified powers*.

And lastly, that the right to exercise such a power in certain cases is unequivocally granted in the most *positive* and *comprehensive* terms. To all which it only remains to be added, that such a power has actually been exercised in two very eminent instances; namely, in the erection of two governments; one northwest of the River Ohio, and the other southwest—the last independent of any antecedent compact. And these result in a full and complete demonstration, that the Secretary of State and Attorney-General are mistaken when they deny generally the power of the national government to erect corporations.

It shall now be endeavored to be shown that there is a power to erect one of the kind proposed by the bill. This will be done by tracing a natural and obvious relation between the institution of a bank and the objects of several of the enumerated powers of the government; and by showing that, *politically* speaking, it is necessary to the effectual execution of one or more of those powers.

In the course of this investigation, various instances will be stated, by way of illustration of a right to erect corporations under those powers.

Some preliminary observations may be proper.

The proposed bank is to consist of an association of persons, for the purpose of creating a joint capital, to be employed chiefly and essentially in loans. So far the object is not only lawful, but it is the mere exercise of a right which the law allows to every individual. The Bank of New York, which is not incorporated, is an example of such an association. The bill proposes in addition, that the government shall become a joint proprietor in this undertaking, and that it shall permit the bills of the company, payable on demand, to be receivable in its revenues; and stipulates that it shall not grant privileges, similar to those which are to be allowed to this company, to any others. All this is incontrovertibly within the compass of the discretion of the government. The only question is, whether it has a right to incorporate this company, in order to enable it the more effectually to accomplish ends which are in themselves lawful.

To establish such a right, it remains to show the relation of such an institution to one or more of the specified powers of the government.

Accordingly it is affirmed that it has a relation, more or less direct, to the power of collecting taxes, to that of borrowing money, to that of regulating trade between the States, and to those of raising and maintaining fleets and armies. To the two former the relation may be said to be immediate; and in the last place it will be argued, that it is clearly within the provision which authorizes the making of all *needful rules and regulations* concerning the *property* of the United States, as the same has been practised upon by the government.

A bank relates to the collection of taxes in two ways—*indirectly*, by increasing the quantity of circulating medium and quickening circulation, which facilitates the means of paying directly, by creating a *convenient species* of medium in which they are to be paid.

To designate or appoint the *money* or *thing* in which taxes are to be paid, is not only a proper, but a *necessary exercise* of the power of collecting them. Accordingly Congress, in the law concerning the collection of the duties on imposts and tonnage, have provided that they shall be paid in gold and silver. But while it was an indispensable part of the work to say in what they should be paid, the choice of the specific thing was mere matter of discretion. The payment might have been required in the commodities themselves. Taxes in kind, however ill-judged, are not without precedents, even in the United States; or it might have been in the paper money of the several States, or in the bills of the Bank of North America, New York and Massachusetts. all or either of them; or it might have been in bills issued under the authority of the United States.

No part of this can, it is presumed, be disputed. The appointment, then, of the *money* or *thing* in which the taxes are to be paid, is an incident to the power of collection. And among the expedients which may be adopted, is that of bills issued under the authority of the United States.

Now the manner of issuing these bills is again matter of discretion. The government might doubtless proceed in the following manner:

It might provide that they should be issued under the direction of certain officers, payable on demand; and, in order to support their credit, and give them a ready circulation, it might, besides giving them a currency in its taxes, set apart, out of any moneys in its treasury, a given sum, and appropriate it, under the direction of those officers, as a fund for answering the bills, as presented for payment.

The constitutionality of all this would not admit of a question, and yet it would amount to the institution of a bank, with a view to the more convenient collection of taxes. For the simplest and most precise idea of a bank is, a deposit of coin, or other property, as a fund for *circulating a credit* upon it, which is to answer the purpose of money. That such an arrangement would be equivalent to the establishment of a bank, would become obvious, if the place where the fund to be set apart was kept should be made a receptacle of the moneys of all other persons who should incline to deposit them there for safe-keeping; and would become still more so, if the officers charged with the direction of the fund were authorized to make discounts at the usual rate of interest, upon good security. To deny the power of the

government to add these ingredients to the plan, would be to refine away all government.

A further process will still more clearly illustrate the point. Suppose, when the species of bank which has been described was about to be instituted, it was to be urged that, in order to secure to it a due degree of confidence, the fund ought not only to be set apart and appropriated generally, but ought to be specifically vested in the officers who were to have the direction of it, and in their *successors* in office, to the end that it might acquire the character of *private property*, incapable of being resumed without a violation of the sanctions by which the rights of property are protected, and occasioning more serious and general alarm—the apprehension of which might operate as a check upon the government. Such a proposition might be opposed by arguments against the expediency of it, or the solidity of the reason assigned for it, but it is not conceivable what could be urged against its constitutionality; and yet such a disposition of the thing would amount to the erection of a corporation; for the true definition of a corporation seems to be this: It is a *legal* person, or a person created by act of law, consisting of one or more natural persons authorized to hold property, or a franchise in succession, in a legal, as contradistinguished from natural, capacity.

Let the illustration proceed a step further. Suppose a bank of the nature which has been described, with or without incorporation, had been instituted, and that experience had evinced, as it probably would, that, being wholly under a public direction, it possessed not the confidence requisite to the credit of the bills. Suppose, also, that, by some of those adverse conjunctures which occasionally attend nations, there had been a very great drain of the specie of the country, so as not only to cause general distress for want of an adequate medium of circulation, but to produce, in consequence of that circumstance, considerable defalcations in the public revenues. Suppose, also, that there was no bank instituted in any State; in such a posture of things, would it not be most manifest, that the incorporation of a bank like that proposed by the bill would be a measure immediately relative to the *effectual* collection of the taxes, and completely within the province of the sovereign power of providing, by all laws necessary and proper, for that collection? If it be said, that such a state of things would render that necessary, and therefore constitutional, which is not so now, the answer to this, and a solid one it doubtless is, must still be that which has been already stated—circumstances may affect the expediency of the measure, but they can neither add to nor diminish its constitutionality.

A bank has a direct relation to the power of borrowing money, because it is an usual, and in sudden emergencies an essential, instrument in the obtaining of loans to government.

A nation is threatened with a war; large sums are wanted on a sudden to make the requisite preparations. Taxes are laid for the purpose, but it requires time to obtain the benefit of them. Anticipation is indispensable. If there be a bank, the supply can at once be had. If there be none, loans from individuals must be sought. The progress of these is often too slow for the exigency; in some situations they are not

practicable at all. Frequently, when they are, it is of great consequence to be able to anticipate the product of them by advance from a bank.

The essentiality of such an institution as an instrument of loans, is exemplified at this very moment. An Indian expedition is to be prosecuted. The only fund, out of which the money can arise, consistently with the public engagements, is a tax, which only begins to be collected in July next. The preparations, however, are instantly to be made. The money must, therefore, be borrowed—and of whom could it be borrowed if there were no public banks?

It happens that there are institutions of this kind, but if there were none, it would be indispensable to create one.

Let it then be supposed that the necessity existed, (as but for a casualty would be the case,) that proposals were made for obtaining a loan; that a number of individuals came forward and said, we are willing to accommodate the government with the money; with what we have in hand, and the credit we can raise upon it, we doubt not of being able to furnish the sum required; but in order to this, it is indispensable that we should be incorporated as a bank. This is essential towards putting it in our power to do what is desired, and we are obliged on that account to make it the *consideration* or *condition* of the loan.

Can it be believed that a compliance with this proposition would be unconstitutional? Does not this alone evince the contrary? It is a necessary part of a power to borrow, to be able to stipulate the consideration or conditions of a loan. It is evident, as has been remarked elsewhere, that this is not confined to the mere stipulation of a *franchise*. If it may, and it is not perceived why it may not, then the grant of a corporate capacity may be stipulated as a consideration of the loan. There seems to be nothing unfit or foreign from the nature of the thing in giving individuality, or a corporate capacity to a number of persons, who are willing to lend a sum of money to the government, the better to enable them to do it, and make them an ordinary instrument of loans in future emergencies of the state. But the more general view of the subject is still more satisfactory. The legislative power of borrowing money, and of making all laws necessary and proper for carrying into execution that power, seems obviously competent to the appointment of the *organ*, through which the abilities and wills of individuals may be most efficaciously exerted for the accommodation of the government by loans.

The Attorney-General opposes to this reasoning the following observation:—"Borrowing money presupposes the accumulation of a fund to be lent, and is secondary to the creation of an ability to lend." This is plausible in theory, but is not true in fact. In a great number of cases, a previous accumulation of a fund equal to the whole sum required does not exist. And nothing more can be actually presupposed, than that there exists resources, which, put into activity to the greatest advantage by the nature of the operation with the government, will be equal to the effect desired to be produced. All the

provisions and operations of government must be presumed to contemplate as they *really* are.

The institution of a bank has also a natural relation to the regulation of trade between the States, in so far as it is conducive to the creation of a convenient medium of *exchange* between them, and to the keeping up a full circulation, by preventing the frequent displacement of the metals in reciprocal remittances. Money is the very hinge on which commerce turns. And this does not merely mean gold and silver; many other things have served the purpose, with different degrees of utility. Paper has been extensively employed.

It cannot, therefore, be admitted, with the Attorney-General, that the regulation of trade between the States, as it concerns the medium of circulation and exchange, ought to be considered as confined to coin. It is even supposable that the whole, or the greatest part, of the coin of the country might be carried out of it.

The Secretary of State objects to the relation here insisted upon, by the following mode of reasoning:—To erect a bank, says he, and to regulate commerce, are very different acts. He who creates a bank, creates a subject of commerce; so does he who makes a bushel of wheat, or digs a dollar out of the mines; yet neither of these persons regulate commerce thereby. To make a thing which may be bought and sold, is not to prescribe regulations for *buying* and *selling*.

This making the regulation of commerce to consist in prescribing rules for *buying* and *selling*—this, indeed, is a species of regulation of trade, but is one which falls more aptly within the province of the local jurisdictions than within that of the general government, whose care they must be presumed to have been intended to be directed to those general political arrangements concerning trade on which its aggregate interests depend, rather than to the details of *buying* and *selling*. Accordingly, such only are the regulations to be found in the laws of the United States, whose objects are to give encouragement to the enterprise of our own merchants, and to advance our navigation and manufactures. And it is in reference to these general relations of commerce, that an establishment which furnishes facilities to circulation, and a convenient medium of exchange and alienation, is to be regarded as a regulation of trade.

The Secretary of State further argues, that if this was a regulation of commerce, it would be void, as *extending as much to the internal commerce of every State as to its external*. But what regulation of commerce does not extend to the internal commerce of every State? What are all the duties upon imported articles, amounting to prohibitions, but so many bounties upon domestic manufactures, affecting the interests of different classes of citizens, in different ways? What are all the provisions in the Coasting Act which relate to the trade between district and district of the same State? In short, what regulation of trade between the States but must affect the internal trade of each State? What can operate upon the whole but must extend to every part?

The relation of a bank to the execution of the powers that concern the common defence, has been anticipated. It has been noted, that, at this very moment, the aid of such an institution is essential to the measures to be pursued for the protection of our frontiers.

It now remains to show, that the incorporation of a bank is within the operation of the provision which authorizes Congress to make all needful rules and regulations concerning the property of the United States. But it is previously necessary to advert to a distinction which has been taken by the Attorney-General.

He admits that the word *property* may signify personal property, however acquired, and yet asserts that it cannot signify money arising from the sources of revenue pointed out in the Constitution, "because," says he, "the disposal and regulation of money is the final cause for raising it by taxes."

But it would be more accurate to say that the *object* to which money is intended to be applied is the *final cause* for raising it, than that the disposal and regulation of it is *such*.

The support of government—the support of troops for the common defence—the payment of the public debt, are the true *final causes* for raising money. The disposition and regulation of it, when raised, are the steps by which it is applied to the *ends* for which it was raised, not the *ends* themselves. Hence, therefore, the money to be raised by taxes, as well as any other personal property, must be supposed to come within the meaning, as they certainly do within the letter, of authority to make all needful rules and regulations concerning the property of the United States.

A case will make this plainer. Suppose the public debt discharged, and the funds now pledged for it liberated. In some instances it would be found expedient to repeal the taxes; in others, the repeal might injure our own industry, our agriculture and manufactures. In these cases they would, of course, be retained. Here, then, would be moneys arising from the authorized sources of revenue, which would not fall within the rule by which the Attorney-General endeavors to except them from other personal property, and from the operation of the clause in question. The moneys being in the coffers of government, what is to hinder such a disposition to be made of them as is contemplated in the bill; or what an incorporation of the parties concerned, under the clause which has been cited?

It is admitted, that with regard to the western territory they give a power to erect a corporation—that is, to institute a government; and by what rule of construction can it be maintained, that the same words in a constitution of government will not have the same effect when applied to one species of property as to another, as far as the subject is capable of it?—Or that a legislative power to make all needful rules and regulations, or to pass all laws necessary and proper, concerning the public property, which is admitted to authorize an incorporation in one case, will not authorize it in another?—will justify the institution of a government over the western territory, and will not justify the incorporation of a bank for the more

useful management of the moneys of the United States? If it will do the last, as well as the first, then, under this provision alone, the bill is constitutional, because it contemplates that the United States shall be joint proprietors of the stock of the bank.

There is an observation of the Secretary of State to this effect, which may require notice in this place:—Congress, says he, are not to lay taxes *ad libitum*. for any purpose they please, but only to pay the debts or provide for the welfare of the Union. Certainly no inference can be drawn from this against the power of applying their money for the institution of a bank. It is true that they cannot without breach of trust lay taxes for any other purpose than the general welfare; but so neither can any other government. The welfare of the community is the only legitimate end for which money can be raised on the community. Congress can be considered as under only one restriction which does not apply to other governments,—they cannot rightfully apply the money they raise to any purpose merely or purely local. But, with this exception, they have as large a discretion in relation to the application of money as any legislature whatever. The constitutional *test* of a right application must always be, whether it be for a purpose of *general* or *local* nature. If the former, there can be no want of constitutional power. The quality of the object, as how far it will really promote or not the welfare of the Union, must be matter of conscientious discretion, and the arguments for or against a measure in this light must be arguments concerning expediency or in expediency, not constitutional right. Whatever relates to the general order of the finances, to the general interests of trade, &c., being general objects, are constitutional ones for the *application of money*.

A bank, then, whose bills are to circulate in all the revenues of the country, is *evidently* a *general* object, and, for that very reason, a constitutional one, as far as regards the appropriation of money to it. Whether it will really be a beneficial one or not, is worthy of careful examination, but is no more a constitutional point, in the particular referred to, than the question, whether the western lands shall be sold for twenty or thirty cents per acre.

A hope is entertained that it has, by this time, been made to appear, to the satisfaction of the President, that a bank has a natural relation to the power of collecting taxes—to that of regulating trade—to that of providing for the common defence—and that, as the bill under consideration contemplates the government in the light of a joint proprietor of the stock of the bank, it brings the case within the provision of the clause of the Constitution which immediately respects the property of the United States.

Under a conviction that such a relation subsists, the Secretary of the Treasury, with all deference, conceives, that it will result as a necessary consequence from the position, that all the specified powers of government are sovereign, as to the proper objects; that the incorporation of a bank is a constitutional measure; and that the objections taken to the bill, in this respect, are ill-founded.

But, from an earnest desire to give the utmost possible satisfaction to the mind of the President, on so delicate and important a subject, the Secretary of the Treasury will ask his indulgence, while he gives some additional illustrations of cases in which a power of erecting corporations may be exercised, under some of those heads of the specified powers of the government, which are alleged to include the right of incorporating a bank.

1. It does not appear susceptible of a doubt, that if Congress had thought proper to provide, in the collection laws, that the bonds to be given for the duties should be given to the collector of the district, A or B, as the case might require, to enure to him and his successors in office, in trust for the United States, that it would have been consistent with the Constitution to make such an arrangement; and yet this, it is conceived, would amount to an incorporation.

2. It is not an unusual expedient of taxation to form particular branches of revenue—that is, to mortgage or sell the product of them for certain definite sums, leaving the collection to the parties to whom they are mortgaged or sold. There are even examples of this in the United States. Suppose that there was any particular branch of revenue which it was manifestly expedient to place on this footing, and there were a number of persons willing to engage with the government, upon condition that they should be incorporated, and the sums vested in them, as well for their greater safety, as for the more convenient recovery and management of the taxes. Is it supposable that there could be any constitutional obstacle to the measure? It is presumed that there could be none. It is certainly a mode of collection which it would be in the discretion of the government to adopt, though the circumstances must be very extraordinary that would induce the Secretary to think it expedient.

3. Suppose a new and unexplored branch of trade should present itself, with some foreign country. Suppose it was manifest, that to undertake it with advantage required an union of the capitals of a number of individuals, and that those individuals would not be disposed to embark without an incorporation, as well to obviate that consequence of a private partnership which makes every individual liable in his whole estate for the debts of the company, to their utmost extent, as for the more convenient management of the business—what reason can there be to doubt that the national government would have a constitutional right to institute and incorporate such a company? None. They possess a general authority to regulate trade with foreign countries. This is a mean, which has been practised to that end, by all the principal commercial nations, who have trading companies to this day, which have subsisted for centuries. Why may not the United States, *constitutionally*, employ the *means* usual in other countries, for attaining the *ends* intrusted to them?

A power to make all needful rules and regulations concerning territory, has been construed to mean a power to erect a government. A power to regulate trade, is a power to make all needful rules and regu-

lations concerning trade. Why may it not, then, include that of erecting a trading company, as well as, in other cases, to erect a government?

It is remarkable that the State conventions, who had proposed amendments in relation to this point, have most, if not all of them, expressed themselves nearly thus: Congress shall not grant monopolies, nor *erect any company* with exclusive advantages of commerce! Thus, at the same time, expressing their sense, that the power to erect trading companies or corporations was inherent in Congress, and objecting to it no further than as to the grant of *exclusive* privileges.

The Secretary entertains all the doubts which prevail concerning the utility of such companies, but he cannot fashion to his own mind a reason, to induce a doubt, that there is a constitutional authority in the United States to establish them. If such a reason were demanded, none could be given, unless it were this: That Congress cannot erect a corporation. Which would be no better than to say, they cannot do it, because they cannot do it—first presuming an inability, without reason, and then assigning that inability as the cause of itself. Illustrations of this kind might be multiplied without end. They shall, however, be pursued no further.

There is a sort of evidence on this point, arising from an aggregate view of the Constitution, which is of no inconsiderable weight: the very general power of laying and collecting taxes, and appropriating their proceeds—that of borrowing money indefinitely—that of coining money, and regulating foreign coins—that of making all needful rules and regulations respecting the property of the United States. These powers combined, as well as the reason and nature of the thing, speak strongly this language: that it is the manifest design and scope of the Constitution to vest in Congress all the powers requisite to the effectual administration of the finances of the United States. As far as concerns this object, there appears to be no parsimony of power.

To suppose, then, that the government is precluded from the employment of so usual and so important an instrument for the administration of its finances as that of a bank, is to suppose what does not coincide with the general tenor and complexion of the Constitution, and what is not agreeable to impressions that any new spectator would entertain concerning it.

Little less than a prohibitory clause can destroy the strong presumptions which result from the general aspect of the government. Nothing but demonstration should exclude the idea that the power exists.

In all questions of this nature, the practice of mankind ought to have great weight against the theories of individuals.

The fact, for instance, that all the principal commercial nations have made use of trading corporations or companies, for the purpose

of *external commerce*, is a satisfactory proof that the establishment of them is an incident to the regulation of the commerce.

This other fact, that banks are an usual engine in the administration of national finances, and an ordinary and the most effectual instrument of loan, and one which, in this country, has been found essential, pleads strongly against the supposition that a government, clothed with most of the most important prerogatives of sovereignty in relation to its revenues, its debts, its credits, its defence, its trade, its intercourse with foreign nations, is forbidden to make use of that instrument as an appendage to its own authority.

It has been stated as an auxiliary test of constitutional authority to try whether it abridges any pre-existing right of any State, or any individual. The proposed investigation will stand the most severe examination on this point. Each State may still erect as many banks as it pleases. Every individual may still carry on the banking business to any extent he pleases.

Another criterion may be this: whether the institution or thing has a more direct relation, as to its uses, to the objects of the reserved powers of the State governments than to those of the powers delegated by the United States. This rule, indeed, is less precise than the former; but it may still serve as some guide. Surely a bank has more reference to the objects intrusted to the national government than to those left to the care of the State governments. The common defence is decisive in this comparison.

It is presumed that nothing of consequence in the observations of the Secretary of State, and Attorney General, has been left unnoticed.

There are, indeed, a variety of observations of the Secretary of State designed to show that the utilities ascribed to a bank, in relation to the collection of taxes, and to trade, could be obtained without it; to analyze which, would prolong the discussion beyond all bounds. It shall be forborne for two reasons. First, because the report concerning the bank, may speak for itself in this respect; and secondly, because all those observations are grounded on the erroneous idea that the *quantum* of necessity or utility is the *test* of a constitutional exercise of power.

One or two remarks only shall be made. One is, that he has taken no notice of a very essential advantage to trade in general, which is mentioned in the report, as peculiar to the existence of a bank circulation, equal in the public estimation to gold and silver. It is this that renders it unnecessary to lock up the money of the country, to accumulate for months successively, in order to the periodical payment of interest. The other is this: that his arguments to show that treasury orders and bills of exchange, from the course of trade, will prevent any considerable displacement of the metals, are founded on a particular view of the subject. A case will prove this. The sums collected in a State may be small in comparison with the debt due to it; the balance of its trade, direct and circuitous with the seat of government, may be even, or nearly so; here, then, without bank bills, which in that State answer the purpose of coin, there must be a displacement of the coin, in proportion to the difference between the sum collected in the State, and that to be paid in it. With bank bills, no such displacement would take place, or as far as it did, it would be gradual and insensible. In many other ways also, would there be at least a temporary and inconvenient displacement of the coin, even where the course of trade would eventually return it to its proper channels.

The difference of the two situations in point of convenience to the treasury, can only be appreciated by one, who experiences the embarrassments of making provision for the payment of the interest on a stock, continually changing place in thirteen different places.

One thing which has been omitted, just occurs, although it is not very material to the main argument. The Secretary of State affirms that the bill only contemplates a repayment, not a loan, to the government. But here he is certainly mistaken. It is true the government invests in the stock of the bank a sum equal to that which it receives on loan. But let it be remembered, that it does not, therefore, cease to be a proprietor of the stock, which would be the case, if the money received back were in the nature of a payment. It remains a proprietor still, and will share in the profit or loss of the institution, according as the dividend is more or less than the interest it is to pay on the sum borrowed. Hence that sum is manifestly, and in the strictest sense, a loan.

Act of February 25, 1791¹

[1 Statutes at Large 191, First Congress, Chapter 10, 1st Session, Approved, February 25, 1791, by George Washington]

AN ACT TO INCORPORATE THE SUBSCRIBERS TO THE BANK OF
THE UNITED STATES.

Preamble.

WHEREAS it is conceived that the establishment of a bank for the United States, upon a foundation sufficiently extensive to answer the purposes intended thereby, and at the same time upon the principles which afford adequate security for an upright and prudent administration thereof, will be very conducive to the successful conducting of the national finances; will tend to give facility to the obtaining of loans, for the use of the government, in sudden emergencies; and will be productive of considerable advantages to trade and industry in general: Therefore,

Establishment of a Bank of the U. States, and amount and division of its stock, and time of subscribing.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a bank of the United States shall be established; the capital stock whereof shall not exceed ten millions of dollars, divided into twenty-five thousand shares, each share being four hundred dollars; and that subscriptions, towards constituting the said stock, shall, on the first Monday of April next, be opened at the city of Philadelphia, under the superintendance of such persons, not less than three, as shall be appointed for that purpose by the President of the United States (who is hereby empowered to appoint the said persons accordingly); which subscriptions shall continue open, until the whole of the said stock shall have been subscribed.

By whom to be subscribed.

SEC. 2. *And be it further enacted,* That it shall be lawful for any person, co-partnership, or body politic, to subscribe for such or so many shares, as he, she, or they shall think fit, not exceeding one thousand, except as shall be hereafter directed relatively to the United States; and that the sums, respectively subscribed, except on behalf of the United States, shall be payable one fourth in gold and silver, and three fourths in that part of the public debt, which, according to the loan proposed in the fourth and fifteenth sections of the act, entitled "An act making provision for the debt of the United States," shall bear an accruing interest, at the time of payment, of six per centum per annum, and shall also be payable in four equal parts, in the aforesaid ratio of specie to debt, at the distance of six calendar months from each other; the first whereof shall be paid at the time of subscription.

Proportions of gold and silver and the public debt to be subscribed, and

when to be paid.

Subscribers to be a body politic.

By what name and how long to continue.

SEC. 3. *And be it further enacted,* That all those, who shall become subscribers to the said bank, their successors and assigns, shall be, and are hereby created and made a corporation and body politic, by the name and style of *The President, Directors and Company, of the Bank of the United States;* and shall so continue, until

¹ Editor's note: See p. 413.

the fourth day of March, one thousand eight hundred and eleven: And by that name, shall be, and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy, and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects of what kind, nature or quality soever, to an amount, not exceeding in the whole fifteen millions of dollars, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, aliene or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatsoever: And also to make, have, and use a common seal, and the same to break, alter and renew, at their pleasure; and also to ordain, establish, and put in execution, such by-laws, ordinances and regulations, as shall seem necessary and convenient for the government of the said corporation, not being contrary to law, or to the constitution thereof (for which purpose, general meetings of the stockholders shall and may be called by the directors, and in the manner herein after specified), and generally to do and execute all and singular acts, matters and things, which to them it shall or may appertain to do; subject nevertheless to the rules, regulations, restrictions, limitations and provisions herein after prescribed and declared.

Powers.

Limitation of stock.

To have a seal, and establish by-laws.

SEC. 4. *And be it further enacted*, That, for the well ordering of the affairs of the said corporation, there shall be twenty-five directors; of whom there shall be an election on the first Monday of January in each year, by the stockholders or proprietors of the capital stock of the said corporation, and by plurality of the votes actually given; and those who shall be duly chosen at any election, shall be capable of serving as directors, by virtue of such choice, until the end or expiration of the Monday of January next ensuing the time of such election, and no longer. And the said directors, at their first meeting after each election, shall choose one of their number as President.

Number, and time of electing directors.

And of a president.

Proviso.

SEC. 5. *Provided always, and be it further enacted*, That, as soon as the sum of four hundred thousand dollars, in gold and silver, shall have been actually received on account of the subscriptions to the said stock, notice thereof shall be given, by the persons under whose superintendence the same shall have been made, in at least two public gazettes printed in the city of Philadelphia; and the said persons shall, at the same time in like manner, notify a time and place within the said city, at the distance of ninety days from the time of such notification, for proceeding to the election of directors; and it shall be lawful for such election to be then and there made; and the persons, who shall then and there be chosen, shall be the first directors, and shall be capable of serving, by virtue of such choice, until the end or expiration of the

When \$400,000 in gold or silver shall be subscribed, notice be given, &c.

How directors shall be chosen, and time of service.

Monday in January next ensuing the time of making the same, and shall forthwith thereafter commence the operations of the said bank, at the said city of Philadelphia. *And provided further*, That, in case it should at any time happen, that an election of directors should not be made upon any day when pursuant to this act it ought to have been made, the said corporation shall not, for that cause, be deemed to be dissolved; but it shall be lawful, on any other day, to hold and make an election of directors in such manner as shall have been regulated by the laws and ordinances of the said corporation. *And provided lastly*, That, in case of the death, resignation, absence from the United States, or removal of a director by the stockholders, his place may be filled up, by a new choice, for the remainder of the year.

Vacancies filled up.

Directors to appoint officers, &c.

SEC. 6. *And be it further enacted*, That the directors for the time being shall have power to appoint such officers, clerks, and servants under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation, for their services respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities, for the well governing and ordering of the affairs of the said corporation, as shall be described, fixed, and determined by the laws, regulations, and ordinances of the same.

Articles of constitution.

SEC. 7. *And be it further enacted*, That the following rules, restrictions, limitations and provisions, shall form and be fundamental articles of the constitution of the said corporation, viz.

Stockholders how to vote, in what proportion to sum subscribed, and

I. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the proportions following: That is to say, for one share, and not more than two shares, one vote: for every two shares above two, and not exceeding ten, one vote: for every four shares above ten, and not exceeding thirty, one vote: for every six shares above thirty, and not exceeding sixty, one vote: for every eight shares above sixty, and not exceeding one hundred, one vote: and for every ten shares above one hundred, one vote:—But no person, co-partnership, or body politic shall be entitled to a greater number than thirty votes. And after the first election, no share or shares shall confer a right of suffrage, which shall not have been holden three calendar months previous to the day of election. Stockholders actually resident within the United States, and none other, may vote in elections by proxy.

In certain cases may vote by proxy. Number of electors eligible for ensuing year, and

II. Not more than three fourths of the directors in office, exclusive of the president, shall be eligible for the next succeeding year: but the director, who shall be president at the time of an election, may always be re-elected.

who, as directors.

III. None but a stockholder, being a citizen of the United States, shall be eligible as a director.

IV. No director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting. The stockholders shall make such compensation to the president, for his extraordinary attendance at the bank, as shall appear to them reasonable.

Compensation to be allowed.

V. Not less than seven directors shall constitute a board for the transaction of business, of whom, the president shall always be one, except in case of sickness, or necessary absence; in which case his place may be supplied by any other director, whom he, by writing under his hand, shall nominate for the purpose.

How to constitute a board.

VI. Any number of stockholders, not less than sixty, who, together, shall be proprietors of two hundred shares or upwards, shall have power at any time to call a general meeting of the stockholders, for purposes relative to the institution, giving at least ten weeks notice, in two public gazettes of the place where the bank is kept, and specifying, in such notice, the object or objects of such meeting.

Number of stockholders empowered to call a meeting, &c.

VII. Every cashier or treasurer, before he enters the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with condition for his good behaviour.

Cashier and treasurer to give bond.

VIII. The lands, tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

Limitation of property ;

IX. The total amount of the debts, which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, shall not exceed the sum of ten millions of dollars, over and above the monies then actually deposited in the bank for safe keeping, unless the contracting of any greater debt shall have been previously authorized by a law of the United States. In case of excess, the directors, under whose administration it shall happen, shall be liable for the same, in their natural and private capacities; and an action of debt may, in such case, be brought against them, or any of them, their or any of their heirs, executors or administrators, in any court of record of the United States, or of either of them, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution; any condition, covenant, or agreement to the contrary notwithstanding. But this shall not be construed to exempt the said corporation, or the lands, tenements, goods or chattels of the same, from being also liable for and chargeable

and of debts they shall at any time owe.

In case of excess, directors accountable in private capacities and

may be prosecuted.

Exception in favour of absentees at time of excess.

with the said excess. Such of the said directors, who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the President of the United States, and to the stockholders, at a general meeting, which they shall have power to call for that purpose.

Corporation may sell public debt and part of its stock, but not purchase, &c.

X. The said corporation may sell any part of the public debt whereof its stock shall be composed, but shall not be at liberty to purchase any public debt whatsoever; nor shall directly or indirectly deal or trade in any thing, except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time; or of goods which shall be the produce of its lands. Neither shall the said corporation take more than at the rate of six per centum per annum, for or upon its loans or discounts.

and take not more than 6 per cent. per an.

How and for what objects to make loans.

XI. No loan shall be made by the said corporation, for the use or on account of the government of the United States, to an amount exceeding one hundred thousand dollars, or of any particular state, to an amount exceeding fifty thousand dollars, or of any foreign prince or state, unless previously authorized by a law of the United States.

And bills, &c. shall

XII. The stock of the said corporation shall be assignable and transferable, according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same.

be assignable

and

bills to be obligatory.

XIII. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by indorsement thereupon, under the hand or hands of such person or persons, and of his, her, or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her, or their own name or names. And bill or notes, which may be issued by order of the said corporation, signed by the president, and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her, or their order, or to bearer, though not under the seal of the said corporation, shall be binding and obligatory upon the same, in the like manner, and with the like force and effect, as upon any private person or persons, if issued by him or them, in his, her, or their private or natural capacity or capacities; and shall be assignable and negotiable, in like manner, as if they were so issued by such private person or persons—that is to say, those which shall be payable to any person or persons, his, her, or their order, shall be assignable by indorsement, in like manner, and with the like effect, as foreign

bills of exchange now are; and those which are payable to bearer, shall be negotiable and assignable by delivery only.

XIV. Half yearly dividends shall be made of so much of the profits of the bank, as shall appear to the directors advisable; and once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts, which shall have remained unpaid after the expiration of the original credit, for a period of treble the term of that credit; and of the surplus of profit, if any, after deducting losses and dividends. If there shall be a failure in the payment of any part of any sum, subscribed by any person, co-partnership, or body politic, the party failing shall lose the benefit of any dividend, which may have accrued, prior to the time for making such payment, and during the delay of the same.

Dividends of profits made.

XV. It shall be lawful for the directors aforesaid, to establish offices wheresoever they shall think fit, within the United States, for the purposes of discount and deposit only, and upon the same terms, and in the same manner, as shall be practised at the bank; and to commit the management of the said offices, and the making of the said discounts, to such persons, under such agreements, and subject to such regulations as they shall deem proper; not being contrary to law, or to the constitution of the bank.

Offices may be established within United States, for discount and deposit only, &c.

XVI. The officer at the head of the treasury department of the United States, shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same; of the monies deposited therein; of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank, as shall relate to the said statements. *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

Officer at the head of the treasury, to be furnished with statements.

Not of private nature.

SEC. 8. *And be it further enacted*, That if the said corporation, or any person or persons for or to the use of the same, shall deal or trade in buying or selling any goods, wares, merchandise, or commodities whatsoever, contrary to the provisions of this act, all and every person and persons, by whom any order or direction for so dealing or trading shall have been given, and all and every person and persons who shall have been concerned as parties or agents therein, shall forfeit and lose treble the value of the goods, wares, merchandises, and commodities, in which such dealing and trade shall have been; one half thereof to the use of the informer, and the other half thereof to the use of the United States, to be recovered with costs of suit.

Penalty for buying or selling goods, &c.

How money
can be ad-
vanced or lent.

SEC. 9. *And be it further enacted*, That if the said corporation shall advance or lend any sum, for the use or on account of the government of the United States, to an amount exceeding one hundred thousand dollars; or of any particular state to an amount exceeding fifty thousand dollars; or of any foreign prince or State, (unless previously authorized thereto by a law of the United States,) all and every person and persons, by and with whose order, agreement, consent, approbation, or connivance, such unlawful advance or loan shall have been made, upon conviction thereof, shall forfeit and pay, for every such offence, treble the value or amount of the sum or sums which shall have been so unlawfully advanced or lent; one fifth thereof to the use of the informer, and the residue thereof to the use of the United States; to be disposed of by law and not otherwise.

Bills or notes
made receivable
by U. States.

SEC. 10. *And be it further enacted*, That the bills or notes of the said corporation, originally made payable, or which shall have become payable on demand, in gold and silver coin, shall be receivable in all payments to the United States.

Subscriptions
made by United
States, how to
be paid, &c.

SEC. 11. *And be it further enacted*, That it shall be lawful for the President of the United States, at any time or times, within eighteen months after the first day of April next, to cause a subscription to be made to the stock of the said corporation, as part of the aforesaid capital stock of ten millions of dollars, on behalf of the United States, to an amount not exceeding two millions of dollars; to be paid out of the monies which shall be borrowed by virtue of either of the acts, the one entitled "An act making provision for the debt of the United States;" and the other entitled "An act making provision for the reduction of the public debt;" borrowing of the bank an equal sum, to be applied to the purposes, for which the said monies shall have been procured; reimbursable in ten years, by equal annual instalments; or at any time sooner, or in any greater proportions, that the government may think fit.

No other bank
to be estab-
lished.

SEC. 12. *And be it further enacted*, That no other bank shall be established by any future law of the United States, during the continuance of the corporation hereby created; for which the faith of the United States is hereby pledged.

APPROVED, February 25, 1791.

any time or times within sixteen months after the first day of April next, to cause a subscription to be made in the stock of the said corporation, as part of the aforesaid capital stock of two millions of dollars, on behalf of the United States, for an amount not exceeding two millions of dollars, to be paid out of the monies which shall be borrowed by the said corporation of either of the said banks, the one entitled, "An Act making provision for the debt of the United States," and the other entitled, "An Act making provision for the reduction of the public debt," borrowing of the said Bank an equal sum to be applied to the purposes for which the said monies shall have been borrowed; reimbursable in ten years by equal annual installments, or at any time sooner, or in any other proportions that the government may think fit.

And be it further enacted, that no other Bank shall be established by any future Law of the United States, so long as the continuance of the corporation hereby created, for which the public of the United States is hereby pledged.

Frederick Augustus Muhlenberg, Speaker of the House of Representatives.
 John Adams, Vice President of the United States and President of the Senate.

Approved September 18th 1791

Washington, President of the United States.

Noted that this Bill did originate in the Senate.

Auct.

Sam. A. Otis Secy

Report of Secretary of Treasury (Albert Gallatin), on Renewal of Charter of Bank of United States

COMMUNICATED TO THE SENATE, MARCH 3, 1809.

Tenth Congress, 2d Session

[Source: American State Papers, Finance, Vol. 2, pp. 351-353]

The Secretary of the Treasury, to whom was referred the memorial of the stockholders of the Bank of the United States, praying for a renewal of their charter, which will expire on the 14th day of March, 1811, respectfully submits the following report:

The Bank of the United States was incorporated by act of March 2d, 1791, with a capital of ten millions of dollars, divided into 25,000 shares of 400 dollars each. Two millions of dollars were subscribed by the United States, and paid in ten equal annual instalments. Of the eight millions of dollars subscribed by individuals, two millions were paid in specie and six millions in six per cent. stock of the United States. Two thousand four hundred and ninety-three of the shares belonging to Government were sold in the years 1796 and 1797, at an advance of 25 per cent.; two hundred and eighty-seven were sold in the year 1797, at an advance of 20 per cent., and the other two thousand two hundred and twenty shares in the year 1802, at an advance of 45 per cent.; making together, exclusively of the dividends, a profit of 671,860 dollars to the United States. The greater part of the six per cent. stock, originally paid by the stockholders, has since been sold by the bank: a portion has been redeemed by Government, by the operation of the annual reimbursement, and the bank retains, at present, only a sum of 2,231,598 dollars, in six per cent. stock.

About eighteen thousand shares of the bank stock are held by persons residing abroad, who are, by the charter, excluded from the right of voting. The stockholders resident within the United States, and who have the exclusive control over the institution, hold only seven thousand shares, or little more than one-fourth part of its capital. They appoint annually twenty-five directors of the bank itself, which is established at Philadelphia; and those directors have the entire management of the discounts and other transactions of the institution in that city, and the general superintendence and appointment of the directors and cashiers of the offices of discount and deposite, established in other places. There are at present eight of those offices, viz: at Boston, New York, Baltimore, Norfolk, Charleston, Savannah, the city of Washington, and New Orleans. The two last were established at the request of the Secretary of the Treasury.

The profits of a bank arise from the interest received on the loans made, either to Government or to individuals; and they exceed six per cent., or the rate of interest at which the loans are made, because every bank lends, not only the whole of its capital, but, also, a portion of the moneys deposited for safe keeping in its vaults, either by Gov-

ernment or by individuals. For every sum of money thus deposited, the party making that deposit either receives the amount in bank notes, or obtains a credit on the books of the bank. In either case he has the same right, at any time, to withdraw his deposit; in the first case, on presentation and surrender of the bank notes; in the other case, by drawing on the bank for the amount. Bank notes and credits on the books of the bank, arise, therefore, equally from deposits, although the credits alone are, in common parlance, called deposits; and the aggregate of those credits, and of the bank notes issued, constitutes the circulating medium substituted by the banking operations to money; for payments from one individual to another are equally made by drafts on the bank, or by the delivery of bank notes. Experience has taught the directors what portion of the money thus deposited they may lend, or, in other words, how far they may, with safety, extend their discounts beyond the capital of the bank, and what amount of specie it is necessary they should keep in their vaults. The profits, and, therefore, the dividends of a bank, will increase in proportion as the directors will increase loans of the moneys deposited, and suffer the amount of specie on hand to diminish. Moderate dividends, when not produced by some particular cause, which checks the circulation of bank paper, are the best evidence of the safety of the institution, and of the wisdom of its direction.

The annexed table of all the dividends made by the Bank of the United States, since its establishment, shows that they have, on an average, been at the rate of $8\frac{3}{8}$ (precisely $8\frac{13}{34}$) per cent, a year, and proves, that the bank has not, in any considerable degree, used the public deposits for the purpose of extending its discounts.

From what has been premised, it appears that the property of a bank in full operation consists of three general items, viz: 1st. outstanding debts, consisting principally of the notes payable at sixty days, which have been discounted at the bank; 2dly, specie in the vaults; 3dly, buildings necessary for the institution. On the other hand, the bank owes, 1st. to the stockholders, the amount of the capital stock originally subscribed, payable only in case of the dissolution of the institution; 2dly, to Government or individuals, the whole amount of moneys deposited, payable on demand, and including both the credits on the bank books, commonly called deposits, and the bank notes in circulation. The account is balanced by the amount of undivided profits and accruing discounts, which constitute the fund for defraying current expenses, for paying subsequent dividends, and for covering contingent losses.

The following statement of the situation of the Bank of the United States, including its branches, exhibits the true amount of public stock, which is still held by the institution, of the cost of its buildings, and lots of ground, and of the undivided surplus or contingent fund, subsequent to the dividend made in January last. But the amount of loans to individuals, or discounts, of specie in the vaults, and of moneys deposited, including both the credits on the bank books, commonly called deposits, and the bank notes in circulation, is taken on a medium: and, so far as relates, on the credit side of the account, to specie on hand, and, on the debit side, to deposits, is several millions of dollars less than it happens to be at this moment; both having been swelled much beyond the average by the embargo, and by the unusually

large balance in the treasury, which is principally deposited in the bank. Some minor items, arising from accidental circumstances, are omitted, for the sake of perspicuity.

Cr.

I. Debts due to the bank, viz :

1. Six per cent stock of the United States, being the residue of that part of the original subscription paid in public stocks, which is still held by the bank-----	\$2, 230, 000	
2. Loans to individuals, consisting chiefly of discounted notes, payable at sixty days, and, in some instances, of bonds and mortgages taken in order to secure doubtful debts.-----	15, 000, 000	
3. Due by banks incorporated by the States..	800, 000	
		\$18, 030, 000

II. Specie in the vaults----- 5, 000, 000

III. Cost of lots of ground and buildings erected----- 480, 000

Total credits----- \$23, 510, 000

Dr.

I. Capital stock of the bank, payable to the stockholders, whenever the institution may be dissolved----- \$10, 000, 000

II. Moneys deposited, viz :

1. Credits on the bank books, commonly called deposits, including the deposits both by Government and by individuals-----	\$8, 500, 000	
2. Bank notes in circulation---	4, 500, 000	
		13, 000, 000

Total debtor----- 23, 000, 000

Balance, being the amount of undivided profits, commonly called the "contingent fund," and applicable to cover losses which may arise from bad debts or other contingencies, and to extra dividends----- \$510, 000

It sufficiently appears, from that general view, that the affairs of the Bank of the United States, considered as a moneyed institution, have been wisely and skilfully managed.

The advantages derived by Government from the bank, are nearly of the same nature with those obtained by individuals, who transact business with similar institutions, and may be reduced to the following heads:

1. *Safe-keeping of the public moneys.*—This applies not only to moneys already in the treasury, but, also, to those in the hands of the principal collectors, of the commissioners of loans, and of several other officers, and affords one of the best securities against delinquencies.

2. *Transmission of public moneys.*—As the collectors will always, in various quarters of the extensive territory of the Union, either exceed or fall short of the expenditures in the same places, a perpetual transmission of money, or purchases of remittances at the risk and expense of the United States, would become necessary, in order to meet those demands; but this is done by the bank, at its own risk and expense, for every place where one of its branches is established, which embraces all payments of any importance.

3. *Collection of the revenue.*—The punctuality of payments introduced by the banking system, and the facilities afforded by the bank to the importers indebted for revenue bonds, are amongst the causes which have enabled the United States to collect, with so great facility, and with so few losses, the large revenue derived from the impost.

4. *Loans.*—Although the prosperity of past years has enabled Government, during the present administration, to meet all the public demands without recurring to loans, the bank had, heretofore, been eminently useful in making the advances, which, under different circumstances, were necessary. There was a time, when, exclusively of the six per cent., stock held by the institution, as part of the original subscription, the loans obtained by Government from the bank, amounted to 6,200,000 dollars. And a similar disposition has been repeatedly evinced, whenever the aspect of public affairs has rendered it proper to ascertain whether new loans might, if wanted, be obtained.

The numerous banks now established, under the authority of the several States, might, it is true, afford considerable assistance to Government in its fiscal operations. There is none, however, which could effect the transmission of public moneys with the same facility, and to the same extent, as the Bank of the United States is enabled to do, through its several branches. The superior capital of that institution offers, also, a greater security against any possible losses, and greater resources in relation to loans. Nor is it eligible, that the General Government should, in respect to its own operations, be entirely dependent on institutions over which it has no control whatever. A National Bank, deriving its charter from the National Legislature, will, at all times, and under every emergency, feel stronger inducements, both from interest and from a sense of duty, to afford to the Union every assistance within its power.

The strongest objection against the renewal of the charter seems to arise from the great portion of the bank stock held by foreigners—not on account of any influence it gives them over the institution, since they have no vote—but of the high rate of interest payable by America to foreign countries, on the portion thus held. If the charter is not renewed, the principal of that portion, amounting to about 7,200,000 dollars, must, at once, be remitted abroad; but, if the charter is renewed, dividends, equal to an interest of about $8\frac{1}{2}$ per cent. a year, must be annually remitted in the same manner. The renewal of the charter will, in that respect, operate, in a national point of view, as a foreign loan, bearing an interest of $8\frac{1}{2}$ per cent. a year.

That inconvenience might, perhaps, be removed, by a modification in the charter, providing for the repayment of that portion of the principal by a new subscription to the same amount, in favor of citizens; but it does not, at all events, appear sufficient to outweigh the manifest public advantages derived from a renewal of the charter.

The conditions in favor of the public, on which this should be granted, are the next subject of consideration.

The net profit annually derived by the stockholders, from a renewal of the charter, is equal to the difference between the annual dividends and the market rate of interest. Supposing this to continue at six per cent. during the period granted by the extension of the charter, and the dividends to be on an average at the rate of $8\frac{1}{2}$ per cent.,

that profit will be $2\frac{1}{2}$ per cent. a year. If the charter be extended twenty years, the value of the privilege will be equal to an annuity of $2\frac{1}{2}$ per cent. on the capital, that is to say, 250,000 dollars, for twenty years; and such annuity being payable semi-annually, is worth almost 2,890,000 dollars. This, however, would be much more than any bank would give for a charter, as it would leave it nothing but the right of dividing at the rate of six percent. a year, which the stockholders have without a charter. It is believed, that they would not be willing to give even half that sum for the extension; and that about 1,250,000 dollars may be considered as the maximum, which could be obtained, if it was thought eligible to sell the renewal of the charter for a fixed sum of money.

It is, however, presumed, that the decision on the conditions, which may be annexed to an extension of the charter, will be directed by considerations of a much greater importance than the payment of such sum into the treasury. The object will, undoubtedly, be to give to the institution all the public utility of which it is susceptible, and to derive from it permanent and solid advantages, rather than mere temporary aid. Under these impressions, the following suggestions are respectfully submitted:

- I. That the bank should pay interest to the United States, on the public deposits, whenever they shall exceed a certain sum, which might perhaps be fixed at about three millions of dollars.
- II. That the bank should be bound, whenever required, to lend to the United States a sum not exceeding three-fifths of its capital, at a rate of interest not exceeding six per cent.; the amount of such loan or loans to be paid by the bank in instalments, not exceeding a certain sum, monthly, and to be reimbursed at the pleasure of the Government.
- III. That the capital stock of the bank should be increased to thirty millions of dollars, in the following manner, viz:
 1. Five millions of dollars to be subscribed by citizens of the United States, under such regulations as would make an equitable apportionment amongst the several States and territories.
 2. Fifteen millions to be subscribed by such States as may desire it, and under such equitable apportionment amongst the several States as may be provided by law; and a branch to be established in each subscribing State, if applied for by the State.
 3. The payments, either by individuals or States, to be either in specie or in public stock of the United States, at such rates as may be provided by law.
 4. The subscribing States to pay their subscription in ten annual instalments, or sooner if it suits their convenience, but to receive dividends in proportion only to the amount of subscription actually paid; and their shares of bank stock not to be transferable.
- IV. That some share should be given in the direction to the General and State Governments, the General Government appointing a few directors in the general direction, and the Government of each subscribing State appointing a few directors in the direction of the branch established in such State.

The result of that plan would be, 1st., that the United States, receiving an interest on the public deposits, might, without inconvenience, accumulate, during years of peace and prosperity, a treasure

sufficient to meet periods of war and calamity, and, thereby, avoid the necessity of adding, by increased taxes, to the distresses of such periods. Secondly, that they might rely on a loan of eighteen millions of dollars, on any sudden emergency. Thirdly, that the payment of the greater part of the proposed increase of capital, being made in ten annual instalments, that increase would be gradual, and not more rapid than may be required by the progressive state of the country. Fourthly, that the bank itself would form an additional bond of common interest and union, amongst the several States.

All which is respect fully submitted.

ALBERT GALLATIN.

TREASURY DEPARTMENT, *March 2d, 1809.*

Dividends on United States' Bank Stock.

No.			Rate per cent.	No.			Rate per cent.
1.	July,	1792	4	18.	January,	1801	6
2.	January,	1793	4	19.	July,	"	4
3.	July,	"	3%	20.	January,	1802	4½
4.	January,	1794	3%	21.	July,	"	4½
5.	July,	"	4	22.	January,	1803	4½
6.	January,	1795	4	23.	July,	"	4
7.	July,	"	4	24.	January,	1804	4½
8.	January,	1796	4	25.	July,	"	4
9.	July,	"	4	26.	January,	1805	4
10.	January,	1797	4	27.	July,	"	4
11.	July,	"	4	28.	January,	1806	4
12.	January,	1798	5	29.	July,	"	4
13.	July,	"	4	30.	January,	1807	6
14.	January,	1799	4	31.	July,	"	4
15.	July,	"	4	32.	January,	1808	4
16.	January,	1800	4	33.	July,	"	4
17.	July,	"	4	34.	January,	1809	4

Report of House Committee, on Renewal of Charter of Bank of United States

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1810.

Eleventh Congress, 2d Session

[Source: American State Papers, Finance, Vol. 2, p. 406]

Mr. MONTGOMERY, from the committee to whom was referred the petition of the stockholders of the Bank of the United States, made the following report:

That, in proceeding to the consideration of the said petition, your committee instructed their chairman to address a letter to the Secretary of the Treasury, requesting him to furnish such information or observations as he might think proper, in relation to the subject matter thereof, as connected with the financial and commercial interests of the

United States. In reply to which, the Secretary, by his letter to the chairman, referred your committee to his former report on the said subject, made to the Senate of the United States, in obedience to the order of that House.

Your committee have been attended by agents of the petitioners, who, in addition to the matters contained in the petition, have suggested to your committee that the object of the petitioners was to obtain the renewal of the charter in its present form; that, for this renewal, the bank is willing to make compensation, either by loans, at a rate of interest, or by a sum of money to be agreed upon, or by an increase of the capital stock, by a number of shares to be taken and subscribed for by the United States, to an amount adequate to the compensation to be agreed upon for such renewal.

These agents also suggested, that they were fully authorized and empowered to offer and conclude the terms, specifically connected with those propositions.

Your committee not feeling themselves authorized to enter into such terms, and judging that the extent of those propositions would better apply to the details of a bill, than to the adoption of a principle to be first settled by the House, have, therefore, foreborne to inquire into the extent of the propositions, and, without expressing an approbation or rejection of these offers, or giving an opinion as to the plan and reasoning of the Secretary of the Treasury, your committee, in order that the opinion of the House on this great national question may be declared previous to entering into the details connected with the subject, recommend the following resolution :

Resolved, That it is proper to make provision for continuing the establishment of the bank of the United States, with offices of discount and deposite, under the regulations necessary for the beneficial administration of the national finances, during such time, and on such conditions, as may be defined by law.

Report of Secretary of Treasury (Albert Gallatin), on Bank of United States

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 24, 1811.

Eleventh Congress, 3d Session

[Source: American State Papers, Finance, Vol. 2, pp. 468-470]

The Secretary of the Treasury, in obedience to the resolution of the House of Representatives, of the 16th instant, respectfully submits the following report :

The Secretary of the Treasury is directed, by the resolution aforesaid, to lay before the House—

1. A list of the directors of the Bank of the United States, and of its several branches.

2. A statement of the stock held by foreigners, and in what countries; and of the stock held by citizens, and in what States and Territories.

3. The amount of specie, according to the last returns, in the vaults of the bank; distinguishing the part which belongs to the bank, the portion belonging to individuals, and to the United States.

It is enacted, by the sixteenth provision of the seventh section of the act to incorporate the subscribers to the Bank of the United States, that "The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the *amount* of the capital stock of the said corporation, and of the debts due to the same; of the moneys deposited therein; of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statements: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank."

No other but general statements, such as are enumerated in that clause of the act, can be required by the Secretary of the Treasury, or have been furnished by the bank. And these include neither the names of the directors nor the names or place of residence of the stockholders.

On the subject of directors, no statement whatever is ever made; and in relation to the capital stock, its gross amount, and the portion allotted to each branch, are the only particulars which can be required, or are exhibited in the statements transmitted to this office. It was ascertained, some years ago, from an authentic source, that near three-fourths of the stock (about 1,800 shares) were held by foreigners; and the fact though not officially communicated to this department, was stated in the report respecting the bank, made to the Senate, on the second day of March, 1809. No subsequent or other information has been obtained on that subject; and, with very few exceptions, the names of the directors and stockholders, either abroad or in the United States, are unknown to the Secretary.

The specie in the vaults of the bank and its branches amounted, according to the last returns, to 5,009,567 dollars; the whole of which was, strictly speaking, the property of the bank, and, together with the debts due to that body, constituted the fund from which its own debts, including both bank notes and deposits, must be paid. The sum deposited by the Treasury into the bank and its branches, amounted, by the last return of the Treasurer, dated 21st instant, and marked A, herewith transmitted, to 1,930,000 dollars; and that deposited in other banks, to 875,462 dollars; making, together, the balance in the treasury on that day, 2,805,462 dollars. The total amount of deposits by Government, by other banks, and by individuals, into the Bank of the United States and its branches, appears, by the last received returns, to be 8,464,770 dollars. And the statements B, B2, and B3, herewith transmitted, and extracted from the latest returns received at this office from the bank and from the Treasurer, exhibit a general view of the situation of the bank, and of all the objects embraced by the third part of the resolution of the House.

It appears from these, that the debts due by the bank, and payable on demand, including both every species of deposits and bank notes, amount to----- \$13, 673, 369

And that the resources of the bank to meet those demands, consist of the following items, viz :

1. Specie, bank notes of other banks, and balance due in account by other banks, payable to the bank on demand (including also 25,804 dollars in funded debt and drafts on collectors, which may be considered as specie,)-----	6, 322, 857
2. Loan to the United States, payable on giving three months' notice-----	2, 750, 000
3. Notes discounted at sixty days, and due by individuals (including 31,242 dollars overdrawn in Charleston) --	14, 609, 537
Making an aggregate of-----	<u>23, 682, 394</u>

The act to incorporate the subscribers to the Bank of the United States does not, itself, expire by any positive clause of limitation : but it is enacted by the third section of the act, that the subscribers shall be a corporation and body politic, and so continue until the 4th day of March 1811. It is presumed that some means will be devised, either by Government or by the bank, whereby the debts due to and from the corporation, may be collected after that day. So far as relates to the treasury deposits, no inconvenience can arise, as, in any event, the loan obtained from the institution is a sufficient pledge for their payment. But a doubt may arise, from the manner in which the act is expressed, whether, under the 10th section, the bank notes still in circulation will not continue to be receivable in all payments to the United States. The propriety of some provision which may remove any doubt on the subject, or otherwise prevent the inconvenience resulting from that construction of the act, is respectfully suggested.

All which is respectfully submitted.

ALBERT GALLATIN.

TREASURY DEPARTMENT, *January 23, 1811.*

A

Cash in the different Banks and offices of Discount and Deposite

Bank of the United States.....	\$392, 909. 24
Columbia.....	115, 192. 92
Alexandria.....	61, 917. 90
Newport.....	35, 788. 55
Pittsburg.....	137, 442. 11
Roger Williams.....	53, 882. 79
Pennsylvania.....	92, 628. 17
Manhattan.....	188, 670. 32
Saco.....	28, 528. 94
Maine.....	50, 747. 58
Marietta.....	19, 601. 62
Kentucky.....	91, 061. 53
Office of discount and deposite,	
Washington.....	101, 895. 55
Norfolk.....	16, 483. 76
Boston.....	341, 054. 47
New York.....	625, 417. 00
Baltimore.....	199, 201. 28
Charleston.....	36, 645. 03
Savannah.....	49, 691. 63
New Orleans.....	166, 701. 55
	<u>2, 805, 462. 03</u>

TREASURY OF THE UNITED STATES, *January 21, 1811.*THOMAS T. TUCKER, *Treasurer.*ALBERT GALLATIN, Esq., *Secretary of the Treasury.*

B.

Statement of the funds of the Bank of the United States, as exhibited by the latest bank returns received by the Secretary of the Treasury.

	Bills and notes discounted.	Due by banks.	Notes of other banks.	Specie.	Sundries.
Bank United States, Jan. 15, 1811,	\$4, 981, 373. 00	\$79, 177. 00	\$137, 570. 00	\$1, 407, 373. 00	(a.) \$2, 764, 338. 00
Branch at Boston, 5, "	1, 138, 923 59	61, 000 00	45, 610 00	474, 497 38	(b.) 466 01
New York, 12, "	3, 919, 628 98	76, 420 00	-----	571, 520 42	
Baltimore, 12, "	1, 108, 542 36	330, 454 54	86, 292 71	604, 398 46	
Washington, 12, "	412, 161 60	146, 376 86	16, 465 84	297, 615 83	
Norfolk, 5, "	713, 724 40	3, 300 34	28, 362 60	307, 596 40	(b.) 11, 000 00
Charleston, Dec. 29, 1810,	935, 713 92	186, 000 00	24, 000 00	459, 181 62	(c.) 31, 242 48
Savannah, 29, "	768, 681 97	-----	21, 225 00	602, 879 41	
New Orleans, 8, "	599, 544 44	11, 416 03	33, 815 00	284, 504 58	
Dollars,	14, 578, 294 26	894, 144 77	393, 341 15	5, 009, 567 10	2, 807, 046 49

(a.) Viz: Loan to the United States,-----	\$2, 750, 000	
Funded debt,-----	14, 338	
	-----	<u>\$2, 764, 338</u>

- The last item (funded debt) stands on the treasury books at \$23,066.23. Whence the difference arises is not known.
- (b.) Treasury drafts, not yet collected.
- (c.) Amount overdrawn by the late commissioner of loans, at Charleston.

B 2.

Statement of the debts due by the Bank of the United States, as exhibited in the latest bank returns, and the latest return of the Treasurer of the United States, received by the Secretary of the Treasury.

	DEPOSITES BY			BANK NOTES.		
	(a). Treasury U. States.	Banks.	Individuals.	Issued.	On hand.	In circulation.
	Dollars.	Dollars.	Dollars.	Dollars.	Dollars.	Dollars.
Bank United States, Jan. 15, 1811,	\$392,909 24	140,765 00	(b).2, 560,864 25	1,687,893	126,060 00	1,561,833 00
Branch at Boston, 5, "	341,054 47	241,000 00	825,000 11	435,680	259,248 39	176,431 61
New York, 12, "	625,417 09	29,860 00	878,451 11	1,254,530	176,540 00	1,077,990 00
Baltimore, 12, "	199,201 28	215,991 23	84,057 38	371,865	210,822 56	161,042 44
Washington, 12, "	101,895 55	6,731 78	539,993 04	297,860	36,414 83	261,445 17
Norfolk, 5, "	16,483 76	-	112,303 28	283,900	77,232 00	206,668 00
Charleston, Dec. 29, 1810,	36,645 03	-	491,678 93	802,735	12,500 00	790,235 00
Savannah, 29, "	49,691 63	-	196,854 86	825,950	216,610 00	609,340 00
New Orleans, 8, "	166,701 55	-	211,219 87	192,140	-	192,140 00
Dollars,	1,929,999 60	634,348 01	5,900,422 83	6,152,553	1,115,427 78	5,037,125 22

(a.) Taken from the Treasurer's cash return, of the 21st January, 1811.

(b.) Including \$291,751 25, belonging to the War and Navy Departments, and the Sinking Fund.

B 3.

General state of the Bank of the United States, and its Branches

Discounts-----		\$14, 578, 294. 26
Loan to the United States-----	\$2, 750, 000. 00	
Funded debt-----	14, 338. 00	
Overdrawn by the late commissioner of loans, Charleston-----	31, 242. 48	
Treasury drafts not yet collected-----	11, 466. 01	
		2, 807, 046. 49
Due by other banks in account-----	894, 144. 77	
Notes of other banks on hand-----	393, 341. 15	
		1, 287, 485. 92
Specie-----		5, 009, 567. 10
Real estate-----		500, 652. 77
		<u>\$24, 183, 046. 54</u>
		<u>\$10, 000, 000. 00</u>
Capital stock-----		
Notes in circulation-----	\$5, 037, 125. 22	
Deposites by Government-----	\$1, 929, 999. 60	
Banks-----	634, 348. 01	
Individuals-----	5, 900, 422. 83	
	8, 464, 770. 44	
Balance of outstanding drafts on bank and branches-----	171, 473. 17	
		13, 673, 368. 83
Undivided surplus, applicable to last dividend, and to cover losses on buildings and debts-----		509, 677. 71
		<u>\$24, 183, 046. 54</u>

Report of Secretary of Treasury (Albert Gallatin), on Renewal of Charter of Bank of United States

COMMUNICATED TO THE SENATE, FEBRUARY 5, 1811.

Eleventh Congress, 3d Session

[Source: American State Papers, Finance, Vol. 2, p. 481]

TREASURY DEPARTMENT, *January 30, 1811.*

SIR:

Have already, in a report to the Senate, of 2d March, 1809, expressed my opinion in favor of a renewal of the charter of the Bank of the United States, an opinion which remains unchanged, I can only add a few explanatory remarks in answer to the inquiries of the committee, as stated in your letter of yesterday.

The banking system is now firmly established; and, in its ramifications, extends to every part of the United States. Under that system, the assistance of banks appears to me necessary for the punctual collection of the revenue, and for the safe keeping and transmission of public moneys. That the punctuality of payments is principally due to banks, is a fact generally acknowledged. It is, to a certain degree, enforced by the refusal of credit at the custom house, so long as a former revenue bond, actually due, remains unpaid. But I think, nevertheless, that, in order to ensure that precision in the collection, on which depends a corresponding discharge of the public engagements,

it would, if no use was made of banks, be found necessary to abolish, altogether, the credit now given on the payment of duties—a measure which would affect the commercial capital, and fall heavily on the consumers. That the public moneys are safer by being weekly deposited in banks, instead of accumulating in the hands of collectors, is self-evident. And their transmission, whenever this may be wanted, for the purpose of making payments in other places than those of collection, cannot, with any convenience, be effected, on a large scale, in an extensive country, except through the medium of banks, or of persons acting as bankers.

The question, therefore, is, whether a bank, incorporated by the United States, or a number of banks, incorporated by the several States, be most convenient for those purposes.

State banks may be used, and must, in case of a non-renewal of the charter, be used by the treasury. Preparatory arrangements have already been made to that effect; and it is believed that the ordinary business will be transacted, through their medium, with less convenience, and, in some respects, with perhaps less safety than at present, but without any insuperable difficulty. The difference, with respect to safety, results from the organization of the Bank of the United States, by which it is responsible for the money deposited in any of its branches, whilst each of the State banks, which may be employed, will be responsible only for the sums in its own hands. Thus, the Bank of the United States is now answerable for the moneys collected at New Orleans, and deposited there in its branch—a security which will be lost under a different arrangement. Nor will the United States have any other control over the manner in which the business of the banks may be conducted, than what may result from the power of withdrawing the public deposits; and they will lose that which a charter, or a dependence on the General Government for a charter, now gives over the Bank of the United States. The facility of obtaining such accommodations as may, at times be wanted, will, for the same reason, be lessened, and the national power will, to that extent, be impaired. It may be added, that, even for the ordinary business of receiving and transmitting public moneys, the use of a State bank may be forbidden by the State; and that loans to the United States are, by many of the charters, forbidden, without a special permission from the State.

As it is not perceived, on the other hand, that a single advantage will accrue to the public from the change, no reason presents itself, on the ground of expediency, why an untried system should be substituted to one under which the treasury business has so long been conducted with perfect security to the United States, and great convenience not only to the officers, but also to all those who had payments of a public nature to make or to receive.

It does not seem necessary to advert to the particular objections made against the present charter, as these may easily be obviated by proper alterations. What has been called a National Bank, or, in other words, a new Bank of the United States, instead of the existing one, may be obtained by such alterations. The capital may be ex-

tended, and more equally distributed; new stockholders may be substituted to the foreigners, as had been suggested in the report of 2d March, 1809; and any other modifications which may be thought expedient may be introduced, without interrupting the operations of the institution now in force, and without disturbing all the commercial concerns of the country.

If, indeed, the Bank of the United States could be removed without affecting either its numerous debtors, the other moneyed institutions, or the circulation of the country, the ordinary fiscal operations of Government would not be materially deranged, and might be carried on by means of another general bank, or of State banks. But the transition will be attended with much individual, and probably with no inconsiderable public injury. It is impossible that an institution which circulates thirteen millions of dollars, and to whom the merchants owe fourteen, should terminate its operations, particularly in the present unfavorable state of the American commerce, and after the great losses lately experienced abroad, without giving a serious shock to commercial, banking, and national credit. It is not intended to overrate the extent of an evil which there are no certain data to appreciate. And, without expatiating on the fatal and unavoidable effects on individuals; without dwelling on the inconvenience of repaying, at this time, to Europe, a capital of seven millions; and without adverting to other possible dangers, of a more general nature, it appears sufficient to state that the same body of men who owe fourteen millions of dollars to the bank, owe, also, ten or twelve to the United States, on which the receipts into the treasury, for this year, altogether depend; and that exclusively of absolute failures, it is improbable that both debts can be punctually paid at the same time. Nor must it be forgotten that the approaching non-importation will considerably lessen the efficiency of the provision, by which subsequent credits are refused to importers who have not discharged former revenue bonds. Upon the whole, a perfect conviction is felt that, in the critical situation of the country, new evils ought not to be super-added, and a perilous experiment be attempted, unless required by an imperious necessity.

In these hasty remarks, I have not adverted to the question of constitutionality, which is not a subject of discussion for the Secretary of the Treasury. Permit me, however, for my own sake, simply to state, that the bank charter having, for a number of years, been acted upon, or acquiesced in, as if constitutional, by all the constituted authorities of the nation, and thinking, myself, the use of banks to be at present necessary for the exercise of the legitimate powers of the General Government, the continuation of a bank of the United States has not, in the view which I have been able to take of the subject, appeared to me to be unconstitutional.

I have the honor to be, respectfully, sir, your obedient servant,

ALBERT GALLATIN.

Hon. WILLIAM H. CRAWFORD, *Chairman in Senate.*

Report of Senate Committee, on Renewal of Charter of Bank of United States

COMMUNICATED TO THE SENATE, MARCH 2, 1811.

Eleventh Congress, 3d Session

[Source: American State Papers, Finance, Vol. 2, pp. 486-487]

Mr. CLAY, from the committee to whom was referred the memorial of the stockholders of the Bank of the United States, praying that an act of Congress might be passed, to continue the corporate powers of the Bank, for a further period, to enable it to settle such of its concerns as may be depending on the 3d of March, 1811, respectfully offered, for the consideration of the Senate, the following report:

That your committee have duly weighed the contents of the memorial, and deliberately attended to such explanations of the views of the memorialists, as they have thought proper to present through their agents. That, holding the opinion (as a majority of the committee do) that the constitution did not authorize Congress originally to grant the charter, it follows, as a necessary consequence of that opinion, that an extension of it, even under the restrictions contemplated by the stockholders, is equally repugnant to the constitution. But, if it were possible to surmount this fundamental objection, and if that rule which forbids, during the same session of the Senate, the re-agitation of a proposition once decided, were disregarded, your committee would still be at a loss to find any sufficient reasons for prolonging the political existence of the corporation, for the purpose of winding up its affairs. For,

As it respects the body itself, it is believed that the existing laws, through the instrumentality of a trust properly constituted, afford as ample means as a qualified continuance of the charter would, for the liquidation of its accounts, and the collection and final distribution of its funds. But, should any inconvenience be experienced on this subject, the committee are persuaded it will be very partial, and such as the State authorities, upon proper application, would not fail to provide a competent remedy for. And,

In relation to the community, if the corporation, stripped of its banking powers, were to fulfill *bona fide* the duty of closing its affairs, your committee cannot see that any material advantage would be derived. Whilst, on the contrary, if it should not so act, but should avail itself of this temporary prolongation, in order to effect a more durable extension of its charter, it might, in its operations, become a serious scourge.

Your committee are happy to say, that they learn, from a satisfactory source, that the apprehensions which were indulged, as to the distress resulting from a non-renewal of the charter, are far from being realised in Philadelphia, to which their information has been con-

fined. It was long since obvious, that the vacuum, in the circulation of the country, which was to be produced by the withdrawal of the paper of the Bank of the United States, would be filled by paper issuing from other banks. This operation is now actually going on; the paper of the Bank of the United States is rapidly returning, and that of other banks is taking its place. Their ability to enlarge their accommodations is proportionately enhanced; and when it shall be further increased by a removal, into their vaults, of those deposits, which are in possession of the Bank of the United States, the injurious effects of a dissolution of the corporation will be found to consist in an accelerated disclosure of the actual condition of those, who have been supported by the credit of others, but whose insolvent, or tottering situation, known to the Bank, has been concealed from the public at large.

Your committee beg leave to present the following resolution:

Resolved, That the prayer of the memorialists ought not to be granted.

Report of House Committee, on Renewal of Charter of Bank of United States

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 2, 1811.

Eleventh Congress, 3d Session

[Source: American State Papers, Finance, Vol. 2, p. 487]

Mr. P. B. PORTER, from the committee to whom was referred the memorial of the stockholders of the Bank of the United States, made the following report:

That they have carefully examined the various matters set forth in the said memorial, and attentively listened to the representations of the gentlemen who have appeared in behalf of the said petitioners. The object of the memorialists is to obtain an extension of their corporate powers, beyond the period limited for the expiration of their charter, so as to enable them to prosecute for their debts, and to arrange, liquidate, and close, the various concerns of the company.

The committee are of opinion that a law of Congress, granting the powers prayed for, would facilitate the final adjustment of the affairs of the bank, although they do not think such a law indispensable to that object. But, believing, as your committee do, that, in granting the original charter to the stockholders, Congress transcended the legitimate powers of the constitution, the same objection now presents itself to the extension of any of their corporate capacities.

If the committee had time to go into the investigation, and to present to the House the various reasons which have conduced to this opinion, it would be more than useless, to divert its attention from the important concerns of the nation, at this late period of the session, to a subject which, but a few days since, was so fully and elaborately discussed. They, therefore, beg leave to recommend the following resolution:

Resolved, That the prayer of the memorialists ought not to be granted.

Report of Secretary of Treasury (Alexander J. Dallas), on Public Credit

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, OCTOBER 18, 1814.

Thirteenth Congress, 3d Session

[Source: American State Papers, Finance, Vol. 2, pp. 866-869]

TREASURY DEPARTMENT, *October 17, 1814.*

SIR:

I have the honor to acknowledge the receipt of your letter, dated the 14th inst.; and, aware of the necessity for an early interposition of Congress on the subject to which it relates, I proceed, at the moment of entering upon the duties of office, to offer to the consideration of the Committee of Ways and Means, an answer on the several points of their inquiry.

Contemplating the present state of the finances, it is obvious, that a deficiency in the revenue, and a depreciation in the public credit, exist, from causes which cannot in any degree be ascribed, either to the want of resources, or to the want of integrity in the nation. Different minds will conceive different opinions in relation to some of those causes; but it will be agreed on all sides, that the most operative have been the inadequacy of our system of taxation to form a foundation for public credit; and the absence even from that system of the means which are best adapted to anticipate, collect, and distribute the public revenue.

The wealth of the nation, in the value and products of its soil, in all the acquisitions of personal property, and in all the varieties of industry, remains almost untouched by the hand of Government; for, the national faith, and not the national wealth, has hitherto been the principal instrument of finance. It was reasonable, however, to expect, that a period must occur in the course of a protracted war, when confidence in the accumulating public engagements could only be secured by an active demonstration, both of the capacity and the disposition to perform them. In the present state of the treasury, therefore, it is a just consolation to reflect, that a prompt and resolute application of the resources of the country will effectually relieve from every pecuniary embarrassment, and vindicate the fiscal honor of the Government.

But it would be vain to attempt to disguise, and it would be pernicious to palliate the difficulties which are now to be overcome. The exigencies of the Government require a supply of treasure for the prosecution of the war, beyond any amount which it would be politic, even if it were practicable, to raise by an immediate and constant imposition of taxes. There must, therefore, be a resort to credit, for a considerable portion of the supply. But the public credit is at this juncture so depressed, that no hope of adequate succor, on moderate terms, can safely rest upon it. Hence, it becomes the object first and last in every practical scheme of finance, to re-animate the confidence of the citizens, and to impress on the mind of every man, who, for the public account, renders services, furnishes supplies, or advances money, a conviction of the punctuality as well as of the security of the Government. It is not to be regarded, indeed, as the case of preserving a credit which has never been impaired, but rather as the case of rescuing from reproach a credit over which doubt and apprehension (not

the less injurious, perhaps, because they are visionary) have cast an inauspicious shade. In the former case, the ordinary means of raising and appropriating the revenue, will always be sufficient; but in the latter case, no exertion can be competent to attain the object, which does not quiet, in every mind, every fear of future loss or disappointment, in consequence of trusting to the pledges of the public faith.

The condition of the circulating medium of the country, presents another copious source of mischief and embarrassment. The recent exportations of specie have considerably diminished the fund of gold and silver coin; and another considerable portion of that fund has been drawn, by the timid and the wary, from the use of the community, into the private coffers of individuals. On the other hand, the multiplication of banks in the several States has so increased the quantity of paper currency, that it would be difficult to calculate its amount; and still more difficult to ascertain its value, with reference to the capital on which it has been issued. But the benefit of even this paper currency is in a great measure lost, as the suspension of payments in specie, at most of the banks, has suddenly broken the chain of accommodation that previously extended the credit and the circulation of the notes which were emitted in one State into every State of the Union. It may, in general, be affirmed, therefore, that there exists, at this time, no adequate circulating medium, common to the citizens of the United States. The moneyed transactions of private life are at a stand; and the fiscal operations of the Government, labor with extreme inconvenience. It is impossible that such a state of things should be long endured; but, let it be fairly added, that, with *legislative aid*, it is not necessary that the endurance should be long. Under favorable circumstances, and to a limited extent, an emission of treasury notes would, probably, afford relief; but treasury notes are an expensive and precarious substitute, either for coin or for bank notes, charged as they are with a growing interest, productive of no countervailing profit or emolument, and exposed to every breath of popular prejudice or alarm. The establishment of a national institution, operating upon credit combined with capital, and regulated by prudence and good faith, is, after all, the only efficient remedy for the disordered condition of our circulating medium. While accomplishing the object, too, there will be found, under the auspices of such an institution, a safe depository for the public treasure, and a constant auxiliary to the public credit. But whether the issues of a paper currency proceed from the national treasury, or from a national bank, the acceptance of the paper in a course of payments and receipts must be forever optional with the citizens. The extremity of that day cannot be anticipated, when any honest and enlightened statesman will again venture upon the desperate expedient of a tender law.

From this painful, but necessary development of existing evils, we pass, with hope and confidence, to a more specific consideration of the measures from which relief may be certainly and speedily derived. Remembering always that the objects of the Government are to place the public credit upon a solid and durable foundation; to provide a revenue commensurate with the demands of a war expenditure; and to remove from the treasury an immediate pressure, the following propositions are submitted to the committee, with every sentiment of deference and respect.

PROPOSITIONS

I. It is proposed, that, during the war, and until the claims contemplated by the proposition are completely satisfied, or extinct, there shall be annually raised by taxes, duties, imposts, and excises, a fund for these purposes: * * *

* * * * *

II. It is proposed, that, during the war, and until the claims contemplated by the preceding proposition are completely satisfied, or other adequate funds shall be provided and substituted by law, there shall be annually raised, by the means here specified, the following sums: * * *

* * * * *

III. It is proposed that a national bank shall be incorporated for a term of twenty years, to be established at Philadelphia, with a power to erect offices of discount and deposit elsewhere, upon the following principles:

1. That the capital of the bank shall be fifty millions of dollars, to be divided into 100,000 shares of 500 dollars each. Three-fifths of the capital, being 60,000 shares, amounting to 30,000,000 of dollars, to be subscribed by corporations, companies or individuals: and two-fifths of the capital, being 40,000 shares, amounting to 20,000,000 of dollars, to be subscribed by the United States.

2. That the subscriptions of corporations, companies, and individuals, shall be paid for in the following manner.

One-fifth part, or \$6,000,000, in gold or silver coin.

Four-fifth parts, or 24,000,000, in gold or silver coin, or in six per cent. stock issued since the declaration of war, and treasury notes, in the proportion of one-fifth in treasury notes, and three-fifths in six per cent stock.

3. That the subscriptions of corporations, companies, and individuals, shall be paid at the following periods:

20 dollars on each share, to be paid at the time of subscribing, in gold or silver coin-----	1, 200, 000
40 dollars on each share, to be paid in gold or silver coin, one month after the subscription-----	2, 400, 000
40 dollars on each share, in two months after the subscription, in gold or silver coin----	2, 400, 000
<hr/>	
100 dollars-----specie,	6, 000, 000
100 dollars on each share, in gold or silver coin, or in six per cent. stock, or in treasury notes, according to the preceding apportionment, to be paid at the time of subscribing-----	6, 000, 000
150 dollars on each share, to be paid in like manner, in two months after subscribing----	9, 000, 000
150 dollars on each share, to be paid in like manner, in three months after subscribing---	9, 000, 000
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500 dollars-----	<u>\$30, 000, 000</u>

4. That the subscription of the United States shall be paid in six per cent. stock, at the same periods, and in the same proportions, as the payments of private subscriptions, in stock and treasury notes.

5. That the United States may substitute six per cent. stock, for the amount of the treasury notes subscribed by corporations, companies, and individuals, as the notes respectively become due and payable.

6. That the bank shall loan to the United States \$30,000,000, at an interest of six per cent. at such periods, and in such sums, as shall be found mutually convenient.

7. That no part of the public stock, constituting a portion of the capital of the bank, shall be sold during the war, nor at any subsequent time, for less than par; nor at any time to an amount exceeding one moiety, without the consent of Congress.

8. That provision shall be made for protecting the bank notes from forgery; for limiting the issue of bank notes; and for receiving them in all payments to the United States.

9. That the capital of the bank, its notes, deposits, dividends, or profits (its real estate only excepted) shall not be subject to taxation by the United States, or by any individual State.

10. That no other bank shall be established by Congress, during the term for which the national bank is incorporated.

11. That the national bank shall be governed by fifteen directors, being resident citizens of the United States and stockholders. The President of the United States shall annually name five directors, and designate one of the five to be the president of the bank. The other directors shall be annually chosen by the qualified stockholders, in person or by proxy, if resident within the United States, voting upon a scale graduated according to the number of shares which they respectively hold. The cashier and other officers of the bank to be appointed as is usual in similar institutions.

12. That the directors of the national bank shall appoint seven persons, one of whom to preside, as the managers of each office of discount and deposite, and one person to be the cashier.

13. That the general powers, privileges, and regulations of the bank, shall be the same as are usual in similar institutions; but with this special provision, that the general accounts shall be subject to the inspection of the Secretary of the Treasury.

* * * * *

It is proper to accompany these propositions with a few explanatory remarks.

* * * * *

3. In making a proposition for the establishment of a national bank, I cannot be insensible to the high authority of the names which have appeared in opposition to that measure upon constitutional grounds. It would be presumptuous to conjecture that the sentiments which actuated the opposition have passed away; and yet it would be denying to experience a great practical advantage, were we to suppose that a difference of times and circumstances would not produce a corresponding difference in the opinions of the wisest, as well as of the purest men. But, in the present case, a charge of private opinion is not material to the success of the proposition for establishing a national

bank. In the administration of human affairs, there must be a period when discussion shall cease and decision shall become absolute. A diversity of opinion may honorably survive the contest; but, upon the genuine principles of a representative government, the opinion of the majority can alone be carried into action. The judge, who dissents from the majority of the bench, changes not his opinion, but performs his duty, when he enforces the judgment of the court, although it is contrary to his own convictions. An oath to support the constitution and the laws, is not, therefore, an oath to support them under all circumstances, according to the opinion of the individual who takes it, but it is, emphatically, an oath to support them according to the interpretation of the legitimate authorities. For the erroneous decisions of a court of law, there is the redress of a censorial, as well as of an appellate jurisdiction. Over an act, founded upon an exposition of the constitution, made by the legislative department of the Government, but alleged to be incorrect, we have seen the judicial department exercise a remedial power. And even if all the departments, legislative, executive, and judicial, should concur in the exercise of a power, which is either thought to transcend the constitutional trust, or to operate injuriously upon the community, the case is still within the reach of a competent control, though the medium of an amendment to the constitution, upon the proposition, not only of Congress, but of the several States. When, therefore, we have marked the existence of a national bank for a period of twenty years, with all the sanctions of the legislative, executive, and judicial authorities; when we have seen the dissolution of one institution, and heard a loud and continued call for the establishment of another; when, under these circumstances, neither Congress nor the several States have resorted to the power of amendment; can it be deemed a violation of the right of private opinion, to consider the constitutionality of a national bank, as a question forever settled and at rest?

But, after all, I should not merit the confidence, which it will be my ambition to acquire, if I were to suppress the declaration of an opinion, that, in these times, the establishment of a national bank will not only be useful in promoting the general welfare, but that it is necessary and proper for carrying into execution some of the most important powers constitutionally vested in the Government.

Upon the principles and regulations of the national bank, it may be sufficient to remark, that they will be best unfolded in the form of a bill, which shall be immediately prepared. A compound capital is suggested, with a design equally to accommodate the subscribers, and to aid the general measures for the revival of public credit; but the proportions of specie and stock may be varied, if the scarcity of coin should render it expedient; yet not in so great a degree as to prevent an early commencement of the money operations of the institution.

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I have the honor to be, very respectfully, sir, your most obedient servant,

A. J. DALLAS.

J. W. EPPES, Esq. *Chairman of the Committee of Ways and Means.*

Report of Secretary of Treasury (Alexander J. Dallas), on Treasury Notes

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 28, 1814.

Thirteenth Congress, 3d Session

[Source: American State Papers, Finance, Vol. 2, pp. 872-873]

TREASURY DEPARTMENT, *November 27, 1814.*

SIR:

I have the honor to acknowledge the receipt of your letter, requesting, for a committee of the House of Representatives, an opinion upon the following inquiries:

1. The effect which a considerable issue of treasury notes, with the quality of being receivable in subscriptions to a national bank, will have upon the credit of the Government; and particularly, upon the prospects of a loan for 1815.

2. The practicability of getting forty-four millions of treasury notes, forming, with six millions of specie, the capital for a national bank, into circulation, without depreciation.

The inquiries of the committee, cannot be satisfactorily answered, in the abstract, but must be considered, in connexion with the state of our finances, and the state of the public credit.

When I arrived at Washington, the treasury was suffering under every kind of embarrassment. The demands upon it were great in amount; while the means to satisfy them, were, comparatively small, precarious in the collection, and difficult in the application. The demands consisted of dividends upon old and new funded debt, of treasury notes, and of legislative appropriations for the army, the navy, and the current service; all urgent, and important. The means consisted, first, of the fragment of an authority to borrow money, when nobody was disposed to lend, and to issue treasury notes, which none but necessitous creditors, or contractors, in distress, or commissaries, quartermasters, and navy agents, acting, as it were, officially, seemed willing to accept: 2d. Of the amount of bank credits, scattered throughout the United States, and principally in the southern and western banks, which had been rendered, in a great degree, useless, by the stoppage of payments in specie, and the consequent impracticability of transferring the public funds from one place, to meet the public engagements in another place: 3d. Of the current supply of money from the import, from internal duties, and from the sales of public lands; which ceased to be a foundation of any rational estimate, or reserve, to provide even for the dividends on the funded debt, when it was found that the treasury notes (only requiring, indeed, a cash payment at the distance of a year), to whomsoever they were issued at the treasury, and almost as soon as they were issued, reached the hands of the collectors, in payment of debts, duties, and taxes; thus disappointing and defeating the only remaining expectations of productive revenue.

Under those circumstances, (which I had the honor to communicate to the Committee of Ways and Means,) it became the duty of this department, to endeavor to remove the immediate pressure from the treasury; to endeavor to restore the public credit; and to endeavor to

provide for the expenses of the ensuing year. The only measures that occurred to my mind, for the accomplishment of such an important object, have been presented to the view of Congress. The act, authorising the receipt of treasury notes in payment of subscriptions to a public loan, was passed, I fear, too late to answer the purpose for which it was designed. It promises, at this time, little relief, either as an instrument to raise money, or to absorb the claims for treasury notes, which are daily becoming due. From this cause, and other obvious causes, the dividend on the funded debt, has not been punctually paid; a large amount of treasury notes, has already been dishonored; and the hope of preventing further injury, and reproach, in transacting business with the treasury, is too visionary to afford a moment's consolation.

The actual condition of the treasury, thus described, will serve to indicate the state of the public credit. Public credit depends, essentially upon public opinion. The usual test of public credit is, indeed, the value of public debt. The faculty of borrowing money, is not a test of public credit; for a faithless Government, like a desperate individual, has only to increase the premium, according to the exigency, in order to secure a loan. Thus, public opinion, manifested in every form, and in every direction, hardly permits us, at the present juncture, to speak of the existence of public credit; and yet, it is not impossible, that the Government, in the resources of its patronage, and its pledges, might find the means of tempting the rich, and the avaricious, to supply its immediate wants. But, when the wants of to-day are supplied, what is the new expedient, that supply the wants of to-morrow? If it is now a charter of incorporation, it may then be a grant of land; but, after all, the immeasurable tracts of the western wild, would be exhausted in successive efforts to obtain pecuniary aids, and still leave the Government necessitous, unless the foundations of public credit were re-established, and maintained. In the measures, therefore, which it has been my duty to suggest, I have endeavored to introduce a permanent plan for reviving the public credit; of which the facility of borrowing money, in anticipation of settled and productive revenues, is only an incident, although it is an incident as durable as the plan itself. The outline seemed to embrace whatever was requisite, to leave no doubt upon the power and the disposition of Government, in relation to its pecuniary engagements, to diminish, and not to augment the amount of public debts, in the hands of individuals, and to create general confidence, rather by the manner of treating the claims of the present class of creditors, than by the manner of conciliating the favor of a new class.

With these explanatory remarks, sir, I proceed to answer, specifically, the questions which you have proposed:

1. I am of opinion, that considerable issues of treasury notes, with the quality of being receivable in subscriptions to a national bank, will have an injurious effect upon the credit of the Government; and, also, upon the prospects of a loan for 1815.

Because, it will confer, gratuitously, an advantage upon a class of new creditors, over the present creditors of the Government, standing on a footing of at least equal merit.

Because, it will excite general dissatisfaction among the present holders of the public debt; and, generally, distrust among the capitalists, who are accustomed to advance their money to the Government.

Because, a quality of subscribing to the national bank, attached to treasury notes, exclusively, will tend to depreciate the value of all public debt, not possessing that quality; and whatever depreciates the value of the public debt in this way, must necessarily impair the public credit.

Because, the specie capital of the citizens of the United States, so far as it may be deemed applicable to investments in the public stocks, has already in a great measure, been so vested; the holders of the present debt, will be unable to become subscribers to the bank, (if that object should, eventually, prove desirable) without selling their stock at a depreciated rate, in order to procure the whole amount of their subscriptions in treasury notes; and a general depression in the value of the public debt, will inevitably ensue.

Because, the very proposition of making a considerable issue of treasury notes, even with the quality of being subscribed to a national bank, can only be regarded as an experiment, on which it seems dangerous to rely; the treasury notes, must be purchased at par, with money; a new set of creditors are to be created; it may, or it may not, be deemed an object of speculation, by the money holders, to subscribe to the bank; the result of the experiment cannot be ascertained, until it will be too late to provide a remedy, in the case of failure; while the credit of the Government will be affected, by every circumstance which keeps the efficacy of its fiscal operations in suspense or doubt.

Because, the prospect of a loan, for the year 1815, without the aid of a bank, is faint and unpromising; except, perhaps, so far as the pledge of a specific tax may succeed; and then, it must be recollected, that a considerable supply of money will be required for the prosecution of the war, beyond the whole amount of the taxes to be levied.

Because, if the loan for the year 1815 be made to depend upon the issue of treasury notes, subscribable to the national bank, it will, probably fail, for the reasons which have already been suggested; and, if the loan be independent of that operation, a considerable issue of treasury notes, for the purpose of creating a bank capital, must, it is believed, deprive the Government of every chance of raising money, in any other manner.

2. I am of opinion, that it will be extremely difficult, if not impracticable, to get forty-four millions of treasury notes, (forming, with six millions of specie, the capital of a national bank,) into circulation, with or without depreciation.

Because, if the subscription to the bank becomes an object of speculation, the treasury notes will probably be purchased at the treasury, and at the loan offices, and never pass into circulation at all.

Because, whatever portion of the treasury notes might pass into circulation, would be speedily withdrawn, by the speculators in the subscription to the bank, after arts had been employed to depreciate their value.

Because, it is not believed, that, in the present state of the public credit, forty-four millions of treasury notes, can be sent into circulation. The only difference between the treasury notes now issued, and

dishonored, and those proposed to be issued, consists in the subscribable quality; but reasons have already been assigned for an opinion, that this difference does not afford such confidence in the experiment, as seems requisite to justify a reliance upon it, for accomplishing some of the most interesting objects of the Government.

I must beg you, sir, to pardon the haste, with which I have written these general answers to your inquiries. But, knowing the importance of time, and feeling a desire to avoid every appearance of contributing to the loss of a moment, I have chosen rather to rest upon the intelligence and candor of the committee, than to enter upon a more labored investigation of the subject referred to me.

I have the honor to be, very respectfully, your obedient servant,

A. J. DALLAS.

WILLIAM LOWNDES, ESQ.

Veto Message—James Madison, on Bank of United States

COMMUNICATED TO THE SENATE, JANUARY 30, 1815.

Thirteenth Congress, 3d Session

[Source: American State Papers, Finance, Vol. 2, pp. 891-895]

To the Senate of the United States:

Having bestowed on the bill, entitled "An act to incorporate the subscribers to the Bank of the United States of America," that full consideration which is due to the great importance of the subject, and dictated by the respect which I feel for the two Houses of Congress, I am constrained by a deep and solemn conviction that the bill ought not to become a law, to return it to the Senate, in which it originated, with my objections to the same.

Waiving the question of the constitutional authority of the legislature to establish an incorporated bank, as being precluded, in my judgment, by repeated recognitions, under varied circumstances, of the validity of such an institution, in acts of the legislative, executive, and judicial branches of the Government, accompanied by indications, in different modes, of a concurrence of the general will of the nation, the proposed bank does not appear to be calculated to answer the purposes of reviving the public credit, of providing a national medium of circulation, and of aiding the treasury, by facilitating the indispensable anticipations of the revenue, and by affording to the public more durable loans.

1. The capital of the bank is to be compounded of specie, of public stock, and of treasury notes convertible into stock, with a certain proportion of each, of which every subscriber is to furnish himself.

The amount of the stock to be subscribed, will not, it is believed, be sufficient to produce, in favor of the public credit, any considerable or lasting elevation of the market price, whilst this may be occasionally depressed by the bank itself, if it should carry into the market the allowed proportion of its capital, consisting of public stock, in order to procure specie, which it may find its account in procuring, with some sacrifice on that part of its capital.

Nor will any adequate advantage arise to the public credit from the subscription of treasury notes. The actual issue of these notes nearly equals, at present, and will soon exceed, the amount to be subscribed to the bank. The direct effect of this operation is simply to convert fifteen millions of treasury notes into fifteen millions of six per cent. stock, with the collateral effect of promoting an additional demand for treasury notes beyond what might otherwise be negotiable.

Public credit might, indeed, be expected to derive advantage from the establishment of a national bank, without regard to the formation of its capital, if the full aid and co-operation of the institution were secured to the Government during the war, and during the period of its fiscal embarrassments. But, the bank proposed will be free from all legal obligation to co-operate with the public measures; and, whatever might be the patriotic disposition of its directors, to contribute to the removal of those embarrassments, and to invigorate the prosecution of the war, fidelity to the pecuniary general interest of the institution, according to their estimate of it, might oblige them to decline a connexion of their operations with those of the national treasury, during the continuance of the war, and the difficulties incident to it. Temporary sacrifices of interest, though overbalanced by the future and permanent profits of the charter, not being requirable of right in behalf of the public, might not be gratuitously made; and the bank would reap the full benefit of the grant whilst the public would lose the equivalent expected from it. For it must be kept in view, that the sole inducement to such a grant, on the part of the public, would be the prospect of substantial aids to its pecuniary means, at the present crisis, and during the sequel of the war. It is evident that the stock of the bank will, on the return of peace, if not sooner, rise in the market to a value, which, if the bank were established in a period of peace, would authorize, and obtain for the public, a bonus to a very large amount. In lieu of such a bonus, the Government is fairly entitled to, and ought not to relinquish or risk, the needful services of the bank, under the pressing circumstances of war.

2. The bank, as proposed to be constituted, cannot be relied on, during the war, to provide a circulating medium, nor to furnish loans, or anticipations of the public revenue.

Without a medium, the taxes cannot be collected, and, in the absence of specie, the medium understood to be the best substitute, is that of notes issued by a national bank. The proposed bank will commence and conduct its operations, under an obligation to pay its notes in specie, or be subject to the loss of its charter. Without such an obligation, the notes of the bank, though not exchangeable for specie, yet resting on good pledges, and performing the uses of specie, in the payment of taxes, and in other public transactions, would, as experience has ascertained, qualify the bank to supply at once a circulating medium, and pecuniary aids to the Government. Under the fetters imposed by the bill, it is manifest, that, during the actual state of things, and probably during the war, the period particularly requiring such a medium, and such a resource for loans and advances to the Government, notes, for which the bank would be compellable to give specie in exchange, could not be kept in circulation. The most the bank could effect, and the most it could be expected to aim at, would be to keep the institution alive, by limited and local transactions,

which, with the interest on the public stock in the bank, might yield a dividend sufficient for the purpose, until a change from war to peace should enable it, by a flow of specie into its vaults, and a removal of the external demand for it, to derive its contemplated emoluments from a safe and full extension of its operations.

On the whole, when it is considered that the proposed establishment, will enjoy a monopoly of the profits of a national bank, for a period of twenty years; that the monopolized profits will be continually growing, with the progress of the national population and wealth; that the nation will, during the same period, be dependent on the notes of the bank for that species of circulating medium, whenever the precious metals may be wanted, and at all times for so much thereof as may be an eligible substitute for a specie medium; and that the extensive employment of the notes in collection of the augmented taxes will, moreover, enable the bank greatly to extend its profitable issues of them, without the expense of specie capital to support their circulation; it is as reasonable, as it is requisite, that the Government, in return for these extraordinary concessions to the bank, should have a greater security for attaining the public objects of the institution, than is presented in the bill, and particularly for every practicable accomodation, both in the temporary advances necessary to anticipate taxes, and in those more durable loans which are equally necessary to diminish the resort to taxes.

In discharging this painful duty of stating objections to a measure, which has undergone the deliberations, and received the sanction of the two Houses of the national Legislature, I console myself with the reflection, that, if they have not the weight which I attach to them, they can be constitutionally overruled; and, with a confidence that, in a contrary event, the wisdom of Congress will hasten to substitute a more commensurate and certain provision for the public exigencies.

JAMES MADISON.

WASHINGTON, *January 30, 1815.*

AN ACT TO INCORPORATE THE SUBSCRIBERS TO THE BANK OF THE UNITED STATES OF AMERICA.¹

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a Bank of the United States of America shall be established, the capital stock of which shall be thirty millions of dollars, divided into three hundred thousand shares, of one hundred dollars each share; and that subscriptions for thirty millions of dollars, towards constituting the said capital stock, shall be opened, on the last Monday of February next, at the following places, viz: at Portland, in Maine, Portsmouth, in New Hampshire, Windsor, in Vermont, Boston, Providence, New Haven, New York, New Brunswick, in New Jersey, Philadelphia, Baltimore, the city of Washington, Richmond, Raleigh, Charleston, Savannah, Lexington, in Kentucky, Nashville, in Tennessee, Chillicothe, in Ohio, and New Orleans, under the superintendance of the following persons, as commissioners to receive the same: at Portland, Matthew Cob, Isaac Isley, Joshua Wingate, junior; at Portsmouth,

¹ Editor's note: Text of the bill vetoed by President Madison, American State Papers, Finance, Vol. 2, pp. 892-895.

John Goddard, Nathaniel A. Haven, Henry S. Langdon; at Windsor, Elias Lyman, William Leveret, Eleazer May; at Boston, Israel Thordike, Thomas H. Perkins, William Gray, Aaron Hill, Samuel Brown; at Providence, Seth Wheaton, Ebenezer K. Dexter, Henry Smith; at New Haven, Abraham Bishop, William W. Woolsey, Henry Jones; at New York, Robert Troup, William Paulding, junior, Robert Lenox, John Jacob Astor, Samuel Tooker, Isaac Bronson, Henry A. Coster; at New Brunswick, James Vanderpool, John Bray, Peter Gordon; at Philadelphia, Jared Ingersoll, Thomas M. Willing, Stephen Girard, Chandler Price, Anthony Taylor, John Sergeant, Caldwellader Evans; at Baltimore, James A. Buchanan, Henry Payson, William Wilson; at the city of Washington, John Mason, Robert Brent, John P. Van Ness; at Richmond, Benjamin Hatcher, John Brockenborough, John Preston; at Raleigh, Sherwood Haywood, Beverly Daniel, William Peace; at Charleston, John C. Faber, Thomas Jones, Stephen Elliot, Charles B. Cochran, Thomas Blackwood; at Savannah, John Bolton, Charles Harris, James Johnson; at Lexington, in Kentucky, Charles Wilkins, Lewis Sanders, John H. Morton; at Nashville, Robert Weakly, Felix Grundy, John R. Bedford; at Chillicothe, Samuel Finley, Thomas James, William M'Farland; at New Orleans, Dominick A. Hall, Benjamin Morgan, Paul Lanuse, Thomas L. Harman, and William Flood: which subscriptions shall continue open every day, from the time of opening the same, from ten o'clock in the forenoon, until four o'clock in the afternoon, until the Saturday following, at four o'clock in the afternoon, when the same shall be closed; and immediately thereafter, the commissioners, or any two of them, at the respective places aforesaid, shall cause two transcripts or fair copies of such subscriptions to be made, one of which they shall send to the Secretary of the Treasury, one they shall retain, and the original shall, within three days from the closing of the same, be by the said commissioners transmitted to the said commissioners at Philadelphia, or to one of them; and on the receipt thereof, the said commissioners at Philadelphia, or any three of them, shall immediately thereafter convene and proceed to take an account of the said subscriptions; and if more than the amount of thirty millions of dollars shall have been subscribed, then the said last mentioned commissioners shall apportion the same among the several subscribers, according to their several and respective subscriptions: *Provided, however,* That such commissioners shall, by such apportionment, allow and apportion to each subscriber at least one share; and, in case the aggregate amount of the said subscriptions shall exceed thirty millions of dollars, the said commissioners, after having apportioned the same as aforesaid, shall cause lists of the said apportioned subscriptions to be made out, including in each list the apportioned subscription for the place where the original subscription was made, one of which lists shall be transmitted to the commissioners, or to one of the commissioners, under whose superintendence such subscriptions were originally made, that the subscribers may ascertain from them the number of shares apportioned to such subscribers, respectively; and, if the amount of thirty millions of dollars shall not be subscribed during the period aforesaid, at all the places aforesaid, the subscription to complete the said sum shall afterwards be and remain open at Philadelphia, under the superintendence of the said

commissioners appointed at the place and the subscription may be then made by any corporation, copartnership, or person, for any number of shares not exceeding the amount required to complete the said sum of thirty millions of dollars. And, in case of the death, or refusal to serve, of any of the commissioners aforesaid, it shall be lawful for the President of the United States to supply the vacancy or vacancies thus created, by appointing some suitable person or persons.

SEC. 2. *And be it further enacted*, That it shall be lawful for any person, copartnership, or body politic, to subscribe for so many shares of the said capital stock of the said bank, as he, she, or they, shall think fit, not exceeding three thousand shares, except as is hereinafter provided for the subscription on behalf of the United States, and the sums respectively subscribed, except on behalf of the United States, as is hereinafter provided, shall be payable in the manner following; that is to say: five millions of dollars thereof in gold or silver coin of the United States, or of foreign coin at the value heretofore established by the act of Congress, entitled "An act regulating the currency of foreign coins," passed the tenth day of April, one thousand eight hundred and six; ten millions of dollars thereof in gold or silver coin, as aforesaid, or in the public debt of the United States, contracted by virtue of the act of Congress, entitled "An act authorizing the loan for a sum not exceeding eleven millions of dollars," passed the fourteenth day of March, one thousand eight hundred and twelve, or contracted, or to be contracted, by virtue of any subsequent act and acts of Congress heretofore passed, authorizing a loan or loans; and fifteen millions of dollars thereof in gold or silver coin, or in treasury notes, issued under the act of Congress, entitled "An act to authorize the issuing of treasury notes," passed the thirtieth day of June, one thousand eight hundred and twelve, or issued, or to be issued, under the authority of any subsequent act or acts of congress, authorizing, or which shall authorize, treasury notes to be issued, previously to the final closing of the subscriptions to the said bank. And the said payment shall be made and completed in the sums and at the times hereinafter declared, that is to say: at the time of subscribing there shall be paid six dollars and sixty-six cents and two-thirds of a cent on each share, in gold or silver coin; twenty dollars in the treasury notes aforesaid; and thirteen dollars thirty-three cents and one-third of a cent in the public debt of the United States, contracted, or to be contracted, as aforesaid; at the expiration of four calendar months after the time of subscribing there shall be paid the further sum of three dollars thirty-three cents and one-third of a cent on each share, in gold or silver coin; ten dollars in the treasury notes aforesaid; and six dollars sixty-six cents and two-thirds of a cent in the public debt of the United States, contracted or to be contracted as aforesaid; at the expiration of six calendar months from the time of subscribing, there shall be paid the further sum of three dollars thirty-three cents and one-third of a cent on each share, in gold or silver coin; ten dollars in the treasury notes aforesaid; and six dollars sixty-six cents and two-thirds of a cent in the public debt of the United States, contracted, or to be contracted, as aforesaid; at the expiration of eight calendar months from the time of subscribing, there shall be paid the further sum of three dollars thirty-three cents and one-third of a cent, in gold or silver coin; ten dollars in the treasury notes aforesaid; and six

dollars sixty-six cents and two-thirds of a cent in the public debt of the United States, contracted, or to be contracted, as aforesaid. And the subscriptions in public stock and treasury notes, as aforesaid, shall be taken and credited for the principal and so much of the interest thereof, respectively, as shall have accrued on the day of subscribing the same. And, at the time of subscribing to the capital stock of the said bank, as aforesaid, each and every subscriber shall deliver to the commissioners at the place of subscribing, as well the specie amount of their subscriptions, respectively, as the certificates of stock for the stock proportion of their subscriptions, respectively, together with a power of attorney authorizing the said commissioners, or a majority of them, to transfer the said stock, in due form of law, to "The President, Directors, and Company, of the said Bank of the United States of America," as soon as the said bank shall be organized; and also, treasury notes for the proportion of the subscriptions, respectively, payable in treasury notes as aforesaid: *Provided, always,* That if, in consequence of the apportionment of shares in the said bank among the subscribers, in the case and in the manner hereinbefore prescribed, any subscriber shall have delivered to the commissioners, at the time of subscribing, a greater amount of specie, stock, and treasury notes, than shall be necessary to complete the payments for the share or shares to such subscriber, apportioned as aforesaid, the commissioners shall only retain so much of the said money, stock, and treasury notes, as shall be necessary to complete such payments, and shall forthwith return, on application for the same, the surplus thereof to the subscriber lawfully entitled thereto. And the commissioners respectively shall deposit the gold and silver, certificates of stock, and treasury notes, by them respectively received, as aforesaid, from the subscribers to the said bank, in some place of secure and safe keeping, so that the same may and shall be specifically delivered and transferred, as the same were by them respectively received, to the said president, directors and company, of the said Bank of the United States of America, or to their order, as soon as shall be required after the organization of the said bank.

SEC. 3. *And be it further enacted,* That the United States may, at any time before the expiration of this act, in pursuance of any law which may be passed by Congress for that purpose, cause to be subscribed, for the use of the United States, to said bank, fifty thousand additional shares, to be paid in public stock, bearing an interest of four per cent. per annum, redeemable in any sums, and at any periods, which the Government may deem fit.

SEC. 4. *And be it further enacted,* That whenever and as often as any of the treasury notes, subscribed as aforesaid, to the said capital stock of the said bank, shall be due and payable, it shall be lawful for the Secretary of the Treasury (and he is hereby authorized and required) to pay and redeem the same, principal and interest, by causing certificates of public stock for an equal amount, bearing an interest of six per cent. per annum, and redeemable in any sums, and at any periods, which the Government may deem fit, to be prepared and made in the usual form, and the same to be delivered to the president and directors of the said bank, in satisfaction and discharge of such treasury notes.

SEC. 5. *And be it further enacted*, That the subscribers to the said Bank of the United States of America, their successors and assigns, shall be, and are hereby created, a corporation and body politic, by the name and style of "The President, Directors, and Company, of the Bank of the United States of America," and shall so continue until the third day of March, in the year one thousand eight hundred and thirty-five; and by that name shall be, and are hereby made, able and capable in law, to have, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of whatsoever kind, nature, and quality, to an amount not exceeding in the whole thirty-five millions of dollars, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, alien, or dispose of, to sue and be sued, plead, and be impleaded, answer and be answered, defend and be defended, in all courts and places whatsoever; and also to make, have, and use, a common seal, and the same to break, alter, and renew, at their pleasure; and, also, to ordain, establish, and put in execution, such by-laws and ordinances, and regulations, as they shall deem necessary and convenient, for the Government of the said corporation, not being contrary to the constitution and laws of the United States; and generally to do and execute all and singular the acts, matters, and things, which to them shall or may appertain to do; subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed and declared.

SEC. 6. *And be it further enacted*, That, for the management of the affairs of the said corporation, there shall be twenty-five directors, who shall be elected at the banking house in Philadelphia, on the first Monday of January, in each year, by the stockholders or proprietors of the capital stock of the said corporation, and by a plurality of votes then and there actually given, according to the scale of voting hereinafter prescribed. And the directors, so duly chosen, shall be capable of serving by virtue of such choice, until the end or expiration of the first Monday in January next ensuing the time of such election, and no longer: *Provided, always*, That the first election and appointment of directors shall be at the time, and for the period, hereinafter declared.

SEC. 7. *And be it further enacted*, That, as soon as the sum of twelve millions of dollars in gold and silver coin, and in the public debt and treasury notes, shall have been actually received on account of the subscriptions to the said capital stock, (exclusively of the subscription aforesaid on the part of the United States) notice thereof shall be given by the persons under whose superintendence the subscriptions shall have been made at Philadelphia, in at least two public newspapers, printed in each of the places where subscriptions shall have been made; and the said persons shall, at the same time, and in like manner, notify a time and place, within the said city of Philadelphia, at the distance of at least twenty days from the time of such notification, for proceeding to the election of directors as aforesaid; and it shall be lawful for such election to be then and there made. And the persons who shall be then and there chosen, as aforesaid, shall be the first directors, and shall proceed to elect one of their number president of the said corporation, and they shall be capable of serving, by virtue of such choice, until the end and expiration of the first

Monday of January next ensuing the time of making the same, and shall forthwith, thereafter, commence the operations of the said bank, at the said city of Philadelphia: *Provided, always,* That in case it should at any time happen, that at an election of directors and president of the said corporation should not be made upon any day when, in pursuance of this act, they ought to be made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day to hold and make an election of directors and president of the said corporation, (as the case may be) in such manner as shall have been regulated by the by-laws and ordinances of the said corporation; and, until such election be so made, the directors and president, for the time being, shall continue in office: *And provided, also,* That, in case of the death, resignation, or removal, of the president of the said corporation, the directors shall proceed to elect another president: *And provided, also,* That in case of the death, resignation, or absence from the United States, or removal of a director from office, the vacancy shall be supplied by the stockholders.

SEC. 8. *And be it further enacted,* That the directors, for the time being, shall have power to appoint such officers, clerks, and servants, under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services, respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities for the well governing and ordering of the affairs of the said corporation, as shall be prescribed, fixed, and determined, by the laws, regulations, and ordinances, of the same.

SEC. 9. *And be it further enacted,* That the following rules, restrictions, limitations, and provisions, shall form and be fundamental articles of the constitution of the said corporation, to wit:

1. The number of votes to which the stockholders shall be entitled, in voting for directors, shall be according to the number of shares he, she, or they, respectively, shall hold, in the proportions following, that is to say: for one share, and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote. But no person, copartnership, or body politic, shall be entitled to a greater number than thirty votes; and after the first election, no share or shares shall confer a right of voting, which shall not have been holden three calendar months previous to the day of election. And stockholders actually resident within the United States, and none other, may vote in election by proxy.

2. Not more than three-fourths of the directors in office, at the time of an annual election, shall be elected for the next succeeding year, and no person shall be a director more than three out of four years; but the director who shall be the president at the time of an election, may always be re-elected.

3. None but a resident citizen of the United States, and holding at the time of his election not less than ten shares, bona fide in his own right, shall be a director; and if any director shall cease to be a stockholder to that amount, he shall cease to be a director.

4. No director shall be entitled to any emolument. The stockholders may make such compensation to the president, for his extraordinary attendance at the bank, as shall appear to them reasonable.

5. Not less than seven directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case his place may be supplied by any other director whom he, by writing, under his hand, shall depute for the purpose. And the director so deputed, may do and transact all the necessary business belonging to the office of a president of the said corporation, during the continuance of the sickness or necessary absence of the president.

6. A number of stockholders, not less than sixty, who, together, shall be proprietors of one thousand shares or upwards, shall have power at any time to call a general meeting of the stockholders, for purposes relative to the institution, giving at least ten weeks' notice in two public newspapers of the place where the bank is seated, and specifying in such notice the object or objects of such a meeting.

7. Every cashier or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with a condition for his good behavior, and the faithful performance of his duties to the corporation.

8. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

9. The total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, over and above the debt or debts due for money deposited in the bank, shall not exceed the sum of thirty millions of dollars, unless the contracting of any greater debt shall have been previously authorized by a law of the United States. In case of excess, the directors under whose administration it shall happen, shall be liable for the same, in their natural and private capacities, and an action of debt may, in such case, be brought against them, or any of them, their or any of their heirs, executors, or administrators, in any court of record of the United States, or either of them, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement, to the contrary notwithstanding. But this provision shall not be construed to exempt the said corporation, or the lands, tenements, goods, or chattels, of the same, from being also liable for, and chargeable with, the said excess. Such of the said directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the President of the United States, and to the stockholders, at a general meeting, which they shall have power to call for that purpose.

10. The said corporation shall not, directly or indirectly, deal or trade in any thing except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent, and not redeemed in due time, or goods which shall be the proceeds of its lands. It shall not be at liberty to purchase any public debt whatsoever; nor shall it take more than at the rate of six per cent. per annum for or upon its loans or discounts.

11. The said corporation shall not, in any one year, sell any portion of the public debt constituting a part of its capital stock aforesaid, to an amount exceeding five millions of dollars, without the consent of Congress.

12. No loan shall be made by the said corporation, for the use, or on account, of the Government of the United States, to an amount exceeding five hundred thousand dollars; or of any particular State, to an amount exceeding fifty thousand dollars; or to any foreign Prince or State, unless previously authorized by a law of the United States.

13. The stock of the said corporation shall be assignable and transferable according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same.

14. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and his, her, or their executors or administrators, and of his, her, or their assignee or assignees, and the executors or administrators of such assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees, and his, her, or their executors or administrators, to maintain an action thereupon in his, her, or their own name or names. And the bills or notes which may be issued by order of the said corporation, signed by the president, and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her, or their order, or to bearer, although not under the seal of the said corporation, shall be binding and obligatory upon the same, in the like manner, and with the like force and effect, as upon any private person or persons, if issued by him, her, or them, in his, her, or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons; that is to say: those which shall be payable to any person or persons, his, her, or their order, shall be assignable by endorsement, in like manner, and with the like effect, as foreign bills of exchange now are; and those which are payable to bearer, shall be assignable and negotiable by delivery only.

15. Half yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors advisable; and once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of profits, if any, after deducting losses and dividends. If there shall be a failure in the payment of any part of any sum subscribed by any person, copartnership, or body politic, the party failing shall lose the benefit of any dividend which may

have accrued prior to the time for making such payment, and during the delay of the same.

16. The directors of said corporation shall be bound to establish a competent office of discount and deposite in the District of Columbia, whenever any law of the United States shall require such establishment; and it shall be lawful for the said directors to establish offices wheresoever they shall think fit, within the United States or the territories thereof, for the purposes of discount, deposite, and distribution; or for the purposes of deposite and distribution only; and upon the same terms, and in the same manner, as shall be practised at the bank; and to commit the management of the said offices, and the business thereof respectively, to such persons, and under such regulations, as they shall deem proper, not being contrary to law or to the constitution of the bank. Or, instead of establishing such offices, it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank or banks, at any place or places that they may deem safe and proper, to manage and transact the business proposed as aforesaid to be managed and transacted by such offices, under such agreements, and subject to such regulations, as they shall deem just and proper. But the managers or directors of every office of discount, deposite, and distribution, established as aforesaid, shall be annually appointed by the directors of the bank, to serve one year; each of them shall be a citizen of the United States, and shall hold, at the time of his appointment, not less than five shares in the said bank, bona fide in his own right; and if he shall cease to be a stockholder to that amount, he shall cease to be a manager or director of such office of discount, deposite, and distribution; and not more than three-fourths of the said managers or directors in office at the time of an annual appointment, shall be re-appointed for the next succeeding year; nor shall any person be a manager or director for more than three out of four years; but the president may be always re-appointed.

17. The said corporation, all offices of discount, deposite, and distribution, and of deposite and distribution only, which shall be established by the said directors as aforesaid, and all banks by the said directors employed in lieu of such officers as aforesaid, shall be bound to receive, upon deposite, the treasury notes of the United States which have been, or may be hereafter, issued by virtue of any law or laws of the United States; but it shall be optional with the said corporation to pay and discharge the checks or drafts of the persons making such deposite, in treasury notes, for the amount thereof, either in gold or silver coin, or in the notes of the bank, or in treasury notes. And all banks by the said directors employed as aforesaid, in lieu of the offices aforesaid, shall be further bound to receive on deposite, and to circulate, the notes of the said corporation, on the same terms, and in the same manner, as the notes of the said banks respectively are received and circulated; and, from time to time, issue and exchange for the said notes of the said corporation, other notes of the said corporation, or the notes of the said banks respectively, or treasury notes, at the option of the persons applying for such issue or exchange. The said corporation shall, at all times, distribute among the offices of discount, deposite, and distribution, and of deposite and distribution only, and at all the banks employed in lieu of such offices as afore-

said, a sufficient sum, in the various denominations of the notes of the said corporation, and in the treasury notes which it may receive upon deposits from the Government, to answer the demand therefor, and to establish a sufficient circulating medium throughout the United States and the territories thereof.

18. The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of capital stock of the said corporation, and of the debts due to the same; of the moneys deposited therein; of the notes in circulation; and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statement: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

SEC. 10. *And be it further enacted*, That if the said corporation, or any person or persons for or to the use of the same, shall deal or trade in buying or selling any goods, wares, merchandise, or commodities whatsoever, contrary to the provisions of this act, all and every person and persons by whom any order or direction for so dealing or trading shall have been given, and all and every person and persons who shall have been concerned as parties or agents therein, shall forfeit and lose treble the value of the goods, wares, merchandises, and commodities, in which such dealing and trade shall have been; one-half thereof to the use of the informer and the other half thereof to the use of the United States, to be recovered in any action of law, with costs of suit.

SEC. 11. *And be it further enacted*, That if the said corporation shall advance or lend any sum of money, for the use or on account of the Government of the United States, to an amount exceeding three hundred thousand dollars; or of any particular State, to an amount exceeding fifty thousand dollars; or of any foreign Prince or State, (unless previously authorized thereto by a law of the United States) all and every person and persons, by and with whose order, agreement, consent, approbation, and connivance, such unlawful advance or loan shall have been made, upon conviction thereof, shall forfeit and pay, for every such offence, treble the value or amount of the sum or sums which shall have been so unlawfully advanced or lent; one-fifth thereof to the use of the informer, and the other half thereof to the use of the United States.

SEC. 12. *And be it further enacted*, That the bills or notes of the said corporation, originally made payable, or which shall have become payable, on demand, shall be receivable in all payments to the United States, until otherwise directed by act of Congress.

SEC. 13. *And be it further enacted*, That if the subscriptions and payments to the said bank shall not be made and completed, so as to enable the same to commence its operations, or if the said bank shall not commence its operations on or before the first day of March, one thousand eight hundred and sixteen, then, and in that case, this act shall be null and void.

SEC. 14. *And be it further enacted*, That it shall at all times be lawful for a committee of either House of Congress, appointed for that purpose, to inspect the books, and to examine into the proceedings, of the corporation hereby created, and to report whether the provisions of this charter have been by the same violated or not; and whenever any committee as aforesaid, shall find and report, or the President of the United States shall have reason to believe, that the charter has been violated, it may be lawful for Congress to direct, or the President to order, a scire facias to be sued out of the circuit court of the district of Pennsylvania, in the name of the United States, (which shall be executed upon the president of the corporation, for the time being, at least fifteen days before the commencement of the term of said court,) calling on the said corporation to show cause wherefore the charter hereby granted shall not be declared forfeited; and it shall be lawful for the said court, upon the return of the said scire facias, to examine into the truth of the alleged violation; and if such violation be made appear, then to pronounce and adjudge, that the said charter is forfeited and annulled: *Provided, however*, Every issue of fact which may be joined between the United States and the corporation aforesaid, shall be tried by jury. And it shall be lawful for the court aforesaid, to require the production of such of the books of the corporation as it may deem necessary for the ascertainment of the controverted facts; and the final judgment of the court aforesaid, shall be examinable in the supreme court of the United States, by writ of error, and may be there reversed or affirmed, according to the usages of law.

SEC. 15. *And be it further enacted*, That, during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall do and perform the several and respective duties of the Commissioners of Loans, for the several States, or of any one or more of them, at the times, in the manner, and upon the terms, to be prescribed by the Secretary of the Treasury.

SEC. 16. *And be it further enacted*, That no other bank shall be established by any future law of the United States, during the continuance of the corporation hereby created; for which the faith of the United States is hereby pledged: *Provided*, Congress may renew existing charters for banks in the District of Columbia, not increasing the capital thereof; and may grant charters, if they deem it expedient, to any banking associations now in operation, in the said District, and renew the same, not increasing the capital thereof. And notwithstanding the expiration of the term for which the corporation is created, it shall be lawful to use the corporate name, style, and capacity, for the purpose of suits, for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, real, personal, and mixed, but not for any other purpose, or in any other manner whatsoever: nor for a period exceeding two years, after the expiration of the said term of incorporation.

LANGDON CHEVES, *Speaker of the House of Representatives.*
JOHN GAILLARD, *President of the Senate, pro tempore.*

Seventh Annual Message—James Madison

Fourteenth Congress, 1st Session

DECEMBER 5, 1815.

[Source: James D. Richardson, A Compilation of the Messages and Papers of the Presidents, Vol. 1, pp. 550-551]

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The arrangements of the finances with a view to the receipts and expenditures of a permanent peace establishment will necessarily enter into the deliberations of Congress during the present session. It is true that the improved condition of the public revenue will not only afford the means of maintaining the faith of the Government with its creditors inviolate, and of prosecuting successfully the measures of the most liberal policy, but will also justify an immediate alleviation of the burdens imposed by the necessities of the war. It is, however, essential to every modification of the finances that the benefits of an uniform national currency should be restored to the community. The absence of the precious metals will, it is believed, be a temporary evil, but until they can again be rendered the general medium of exchange it devolves on the wisdom of Congress to provide a substitute which shall equally engage the confidence and accommodate the wants of the citizens throughout the Union. If the operation of the State banks can not produce this result, the probable operation of a national bank will merit consideration; and if neither of these expedients be deemed effectual it may become necessary to ascertain the terms upon which the notes of the Government (no longer required as an instrument of credit) shall be issued upon motives of general policy as a common medium of circulation.

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Annual Report, Secretary of Treasury (Alexander J. Dallas)

Fourteenth Congress, 1st Session

COMMUNICATED TO THE SENATE, DECEMBER 8, 1815.

[Source: American State Papers, Finance, Vol. 3, pp. 17-19]

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3. *Proposition relating to the national circulating medium.*

The delicacy of this subject is only equalled by its importance. In presenting it, therefore, to the consideration of Congress, there is occasion for an implicit reliance upon the legislative indulgence.

By the constitution of the United States Congress is expressly vested with the power to coin money, to regulate the value of the domestic and foreign coins in circulation, and, as a necessary implication from positive provisions, to emit bills of credit, while it is declared by the same instrument that "no State shall coin money, or emit bills of credit." Under this constitutional authority the money of the United States has been established, by law, consisting of coins made with gold, silver, or copper. All foreign gold and silver coins, at specified rates, were placed, in the first instance, upon the same footing with the coins

of the United States, but they ceased (with the exception of Spanish milled dollars, and parts of such dollars) to be a legal tender for the payment of debts and demands, in the year 1809.

The constitutional authority to emit bills of credit has also been exercised in a qualified and limited manner. During the existence of the Bank of the United States the bills or notes of the corporation were declared, by law, to be receivable in all payments to the United States; and the Treasury notes, which have been since issued for the services of the late war, have been endowed with the same quality. But Congress has never recognised, by law, the notes of any other corporation; nor has it ever authorized an issue of bills of credit to serve as a legal currency. The acceptance of the notes of banks, which are not established by the federal authority, in payments to the United States, has been properly left to the vigilance and discretion of the Executive department; while the circulation of the Treasury notes, employed either to borrow money, or to discharge debts, depends entirely (as it ought to depend) upon the option of the lenders and creditors to receive them.

The constitutional and legal foundation of the monetary system of the United States is thus distinctly seen, and the power of the federal Government to institute and regulate it, whether the circulating medium consist of coin or of bills of credit, must, in its general policy, as well as in the terms of its investment, be deemed an exclusive power. It is true that a system depending upon the agency of the precious metals will be affected by the various circumstances which diminish their quantity, or deteriorate their quality. The coin of a State sometimes vanishes under the influence of political alarms; sometimes in consequence of the explosion of mercantile speculations, and sometimes by the drain of an unfavorable course of trade. But whenever the emergency occurs that demands a change of system it seems necessarily to follow that the authority, which was alone competent to establish the national coin, is alone competent to create a national substitute. It has happened, however, that the coin of the United States has ceased to be the circulating medium of exchange, and that no substitute has hitherto been provided by the national authority. During the last year the principal banks, established south and west of New England, resolved that they would no longer issue coin in payment of their notes, or of the drafts of their customers, for money received upon deposit. In this act the Government of the United States had no participation, and yet the immediate effect of the act was to supersede the only legal currency of the nation. By this act, although no State can constitutionally emit bills of credit, corporations, erected by the several States, have been enabled to circulate a paper medium, subject to many of the practical inconveniences of the prohibited bills of credit.

It is not intended, upon this occasion, to condemn, generally, the suspension of specie payments; for appearances indicated an approaching crisis, which would probably have imposed it as a measure of necessity, if it had not been adopted as a measure of precaution. But the danger which originally induced, and perhaps justified, the conduct of the banks, has passed away, and the continuance of the suspension of specie payments must be ascribed to a new series of causes. The public credit and resources are no longer impaired by

the doubts and agitations excited during the war by the practises of an enemy, or by the inroads of an illicit commerce: yet the resumption of specie payments is still prevented, either by the reduced state of the national stock of the precious metals, or by the apprehension of a further reduction to meet the balances of foreign trade, or by the redundant issues of bank paper. The probable direction and duration of these latter causes constitute, therefore, the existing subject for deliberation. While they continue to operate, singly or combined, the authority of the States individually, or the agency of the State institutions, cannot afford a remedy commensurate with the evil; and a recurrence to the national authority is indispensable for the restoration of a national currency.

In the selection of the means for the accomplishment of this important object, it may be asked, 1st. Whether it be practicable to renew the circulation of the gold and silver coins? 2d. Whether the State banks can be successfully employed to furnish a uniform currency? 3dly. Whether a national bank can be employed more advantageously than the State banks for the same purpose? and, 4thly. Whether the Government can itself supply, and maintain a paper medium of exchange, of permanent and uniform value, throughout the United States?

1. As the United States do not possess mines of gold or silver the supply of those metals must, in a time of scarcity, be derived from foreign commerce. If the balance of foreign commerce be unfavorable the supply will not be obtained incidentally, as in the case of the returns for a surplus of American exports, but must be the subject of a direct purchase. The purchase of bullion is, however, a common operation of commerce, and depends, like other operations, upon the inducements to import the article.

The inducements to import bullion arise, as in other cases, from its being cheap abroad, or from its being dear at home. Notwithstanding the commotions in South America, as well as in Europe, there is no reason to believe that the quantity of the precious metals is now (more than at any former period) insufficient for the demand throughout the commercial and civilized world. The price may be higher in some countries than in others; and it may be different in the same country, at different times; but, generally, the European stock of gold and silver has been abundant, even during the protracted war, which has afflicted the nations of Europe.

The purchase of bullion in foreign markets, upon reasonable terms, is, then, deemed practicable; nor can its importation into the United States fail eventually to be profitable. The actual price of gold and silver in the American market would in itself afford, for some time, an ample premium, although the fall in the price must, of course, be proportionate to the increase of the quantity. But it is within the scope of a wise policy to create additional demands for coin, and, in that way, to multiply the inducements to import and retain the metals of which it is composed. For instance, the excessive issue of bank paper has usurped the place of the national money; and, under such circumstances, gold and silver will always continue to be treated as an article of merchandise; but it is hoped that the issue of bank paper will be soon reduced to its just share in the circulating medium of the country; and, consequently, that the coin of the United States will resume its

legitimate capacity and character. Again, the Treasury, yielding, from necessity, to the general impulse, has hitherto consented to receive bank paper in the payment of duties and taxes; but the period approaches when it will probably become a duty to exact the payment either in Treasury notes, or in gold or silver coin, the lawful money of the United States. Again, the institutions which shall be deemed proper, in order to remove existing inconveniences, and to restore the national currency, may be so organized, as to engage the interest and enterprise of individuals in providing the means to establish them. And, finally, such regulations may be imposed upon the exportation of gold and silver, as will serve in future to fix and retain the quantity required for domestic uses.

But it is further believed that the national stock of the precious metals is not so reduced, as to render the operation of reinstating their agency in the national currency either difficult or protracted. The quantity actually possessed by the country is considerable; and the resuscitation of the public confidence in bank paper, or in other substitutes for coin, seems alone to be wanting to render it equal to the accustomed contribution for a circulating medium. In other countries, as well as in the United States, the effect of an excessive issue of paper money, to banish the precious metals, has been seen; and, under circumstances much more disadvantageous than the present, the effect of public confidence in national institutions, to recall the precious metals to their uses in exchange, has also been experienced.

Even, however, if it were practicable, it has sometimes been questioned whether it would be politic again to employ gold and silver for the purposes of a national currency. It was long and universally supposed that, to maintain a paper medium without depreciation, the certainty of being able to convert it into coin was indispensable; nor can the experiment which has given rise to a contrary doctrine be deemed complete or conclusive. But whatever may be the issue of that experiment elsewhere, a difference in the structure of the Government, in the physical, as well as the political, situation of the country, and in the various departments of industry, seem to deprive it of any important influence, as a precedent for the imitation of the United States.

In offering these general remarks to the consideration of Congress it is not intended to convey an opinion that the circulation of the gold and silver coins can at once be renewed. Upon motives of public convenience the gradual attainment of that object is alone contemplated; but a strong, though respectful, solicitude is felt that the measures adopted by the Legislature should invariably tend to its attainment.

2d. Of the services rendered to the Government by some of the State banks during the late war, and of the liberality by which some of them are actuated in their intercourse with the Treasury, justice requires an explicit acknowledgment. It is a fact, however, incontrovertibly proved, that those institutions cannot, at this time, be successfully employed to furnish a uniform national currency. The failure of one attempt to associate them with that view has already been stated. Another attempt, by their agency in circulating Treasury notes, to overcome the inequalities of the exchange, has only been partially successful. And a plan recently proposed, with the design to curtail the issues of bank notes, to fix the public confidence in the administration of the affairs of the banks, and to give to each bank a legitimate

share in the circulation, is not likely to receive the general sanction of the banks. The truth is, that the charter restrictions of some of the banks, the mutual relation and dependence of the banks of the same State, and even of the banks of different States, and the duty which the directors of each bank conceive they owe to their immediate constituents, upon points of security or emolument, interpose an insuperable obstacle to any voluntary arrangement, upon national considerations alone, for the establishment of a national medium through the agency of the State banks. It is, nevertheless, with the State banks that the measures for restoring the national currency of gold and silver must originate; for, until their issues of paper be reduced, their specie capitals be reinstated, and their specie operations be commenced, there will be neither room, nor employment, nor safety, for the introduction of the precious metals. The policy and the interest of the State banks must, therefore, be engaged in the great fiscal work, by all the means which the Treasury can employ, or the legislative wisdom shall provide.

3d. The establishment of a national bank is regarded as the best, and, perhaps, the only adequate resource to relieve the country and the Government from the present embarrassments. Authorized to issue notes, which will be received in all payments to the United States, the circulation of its issues will be co-extensive with the Union, and there will exist a constant demand, bearing a just proportion to the annual amount of the duties and taxes to be collected, independent of the general circulation for commercial and social purposes. A national bank will, therefore, possess the means and the opportunity of supplying a circulating medium of equal use and value in every State, and in every district of every State. Established by the authority of the Government of the United States, accredited by the Government to the whole amount of its notes in circulation, and entrusted as the depository of the Government with all the accumulations of the public treasure, the national bank, independent of its immediate capital, will enjoy every recommendation which can merit and secure the confidence of the public. Organized upon principles of responsibility, but of independence, the national bank will be retained within its legitimate sphere of action, without just apprehension from the misconduct of its directors, or from the encroachments of the Government. Eminent in its resources, and in its example, the national bank will conciliate, aid, and lead, the State banks in all that is necessary for the restoration of credit, public and private. And acting upon a compound capital, partly of stock, and partly of gold and silver, the national bank will be the ready instrument to enhance the value of the public securities, and to restore the currency of the national coin.

4th. The power of the Government to supply and maintain a paper medium of exchange will not be questioned; but, for the introduction of that medium, there must be an adequate motive. The sole motive for issuing Treasury notes has, hitherto, been to raise money in anticipation of the revenue. The revenue, however, will probably become, in the course of the year 1816, and continue afterwards, sufficient to discharge all the debts, and to defray all the expenses of the Government; and, consequently, there will exist no motive to issue the paper of the Government as an instrument of credit.

It will not be deemed an adequate object for an issue of the paper of the Government, merely that it may be exchanged for the paper of the banks, since the Treasury will be abundantly supplied with bank paper by the collection of the revenue; and the Government cannot be expected to render itself a general debtor, in order to become the special creditor of the State banks.

The co-operation of the Government with the national bank, in the introduction of a national currency, may, however, be advantageously employed by issues of Treasury notes, so long as they shall be required for the public service.

Upon the whole, the state of the national currency, and other important considerations connected with the operations of the Treasury, render it a duty respectfully to propose—

That a national bank be established at the city of Philadelphia, having power to erect branches elsewhere, and that the capital of the bank (being of a competent amount) consist of three-fourths of the public stock, and one-fourth of gold and silver.

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TREASURY DEPARTMENT, *December 6, 1815.*

Report of Secretary of Treasury (Alexander J. Dallas), on National Bank

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 8, 1816.

Fourteenth Congress, 1st Session

[Source: American State Papers, Finance, Vol. 3, pp. 57-61]

TREASURY DEPARTMENT, *December 24, 1815.*

SIR:

I have the honor to acknowledge the receipt of your letter, dated the 23d instant, informing me "that the committee on so much of the President's message as relates to the national currency had determined that a national bank is the most certain means of restoring to the nation a specie circulation," and had directed you to obtain the opinion of this Department on the following points:

- 1st. The amount and composition of the capital of the bank.
- 2d. The government of the bank.
- 3d. The privileges and duties of the bank.
- 4th. The organization and operation of the bank.
- 5th. The bonus to be required for the charter of the bank.
- 6th. The measures which may aid the bank in commencing and maintaining its operations in specie.

It affords much satisfaction to find that the policy of establishing a national bank has received the sanction of the committee and the decision, in this respect, renders it unnecessary to enter into a comparative examination of the superior advantages of such an institution for the attainment of the objects contemplated by the Legislature. Referring, therefore, to the outline of a national bank, which is subjoined to this letter, as the result of an attentive consideration bestowed upon the subjects of your inquiry, I proceed, with deference

and respect, to offer some explanation of the principles upon which the system is founded.

I. It is proposed that, under a charter for twenty years, the capital of the national bank shall amount to \$35,000,000; that Congress shall retain the power to raise it to \$50,000,000, and that it shall consist three-quarters of public stock, and one-quarter of gold and silver.

1st. *With respect to the amount of the capital.* The services to be performed by the capital of the bank are important, various, and extensive. They will be required through a period almost as long as is usually assigned to a generation. They will be required for the accommodation of the Government, in the collection and distribution of its revenue, as well as for the uses of commerce, agriculture, manufactures, and the arts, throughout the Union. They will be required to restore and maintain the national currency; and, in short, they will be required, under every change of circumstances, in a season of war, as well as in the season of peace, for the circulation of the national wealth, which augments with a rapidity beyond the reach of ordinary calculation.

In the performance of these national services the local and incidental co-operation of the State banks may undoubtedly be expected; but it is the object of the present measure to create an independent, though not a discordant, institution; and while the Government is granting a monopoly for twenty years, it would seem to be improvident and dangerous to rely upon gratuitous or casual aids for the enjoyment of those benefits, which can be effectually secured by positive stipulation.

Nor is it believed that any public inconvenience can possibly arise from the proposed amount of the capital of the bank with its augmentable quality. The amount may, indeed, be a clog upon the profits of the institution, but it can never be employed for any injurious purpose, (not even for the purpose of discount accommodation beyond the fair demand,) without an abuse of trust, which cannot, in candor, be anticipated, or which, if anticipated, may be made an object of penal responsibility.

The competition which exists at present among the State banks will, it is true, be extended to the national bank; but competition does not imply hostility. The commercial interests and the personal associations of the stockholders will generally be the same in the State banks and in the national bank. The directors of both institutions will naturally be taken from the same class of citizens. And experience has shown not only the policy, but the existence of those sympathies by which the intercourse of a national bank and the State banks has been, and always ought to be, regulated, for their common credit and security. At the present crisis it will be peculiarly incumbent upon the national bank, as well as the Treasury, to conciliate the State banks: to confide to them, liberally, a participation in the deposits of public revenue, and to encourage them in every reasonable effort to resume the payment of their notes in coin. But, independent of these considerations, it is to be recollected that when portions of the capital of the national bank shall be transferred to its branches, the amount invested in each branch will not, probably, exceed the amount of the capital of any of the principal State banks, and will certainly be less than the amount of the combined capital of the State banks, operating in any of the principal commercial cities. The whole number of the banking

establishments in the United States may be stated at two hundred and sixty, and the aggregate amount of their capitals may be estimated at \$85,000,000; but the services of the national bank are also required in every State and Territory, and the capital proposed is \$35,000,000, of which only one-fourth part will consist of gold and silver.

2d. *With respect to the composition of the capital of the bank.* There does not prevail much diversity of opinion upon the proposition to form a compound capital for the national bank, partly of public stock, and partly of coin. The proportions now suggested appear also to be free from any important objections. Under all the regulations of the charter, it is believed that the amount of gold and silver required will afford an adequate supply for commencing and continuing the payments of the bank in current coin; while the power which the bank will possess, to convert its stock portion of capital into bullion or coin, from time to time, is calculated to provide for any probable augmentation of the demand. This object being sufficiently secured the capital of the bank is next to be employed, in perfect consistency with the general interests and safety of the institution, to raise the value of the public securities, by withdrawing almost one-fifth of the amount from the ordinary stock market. Nor will the bank be allowed to expose the public to the danger of a depreciation, by returning any part of the stock to the market, until it has been offered, at the current price, to the commissioners of the sinking fund; and it is not an inconsiderable advantage, in the growing state of the public revenue, that the stock subscribed to the capital of the bank will become redeemable at the pleasure of the Government.

The subscription to the capital of the bank is opened to every species of funded stock. The estimate that the revenues of 1816 and 1817 will enable the Treasury to discharge the whole of the Treasury note debt, furnishes the only reason for omitting to authorize a subscription in that species of debt. Thus,

The old and new six per cent. stocks are receivable at par.

The seven per cent. stock, upon a valuation referring to the 30th of September, 1816, is receivable at $106\frac{5}{100}$ dollars per cent.

The three per cent. stock, which can only be redeemed for its nominal or certificate value, may be estimated, under all circumstances, to be worth about sixty-two per cent. when the six per cent. stock is at par; but as it is desirable to accomplish the redemption of this stock upon equitable terms, it is made receivable at sixty-five per cent., the rate sanctioned by the Government, and in part accepted by the stockholders in the year 1807.

Of the instalments for paying the subscriptions it is only necessary to observe that they are regulated by a desire to reconcile an early commencement of the operations of the bank with the existing difficulties in the currency, and with the convenience of the subscribers. In one of the modes proposed for discharging the subscription of the Government, it is particularly contemplated to aid the bank with a medium which cannot fail to alleviate the first pressure for payments in coin.

II. It is proposed that the national bank shall be governed by twenty-five directors, and each of its branches by thirteen directors; that the President of the United States, with the advice and consent of the Senate, shall appoint five of the directors of the bank, one of

whom shall be chosen as president of the bank by the board of directors; that the resident stockholders shall elect twenty of the directors of the national bank, who shall be resident citizens of the United States, and that the national bank shall appoint the directors of each branch, (being resident citizens of the United States,) one of whom shall be designated by the Secretary of the Treasury, with the approbation of the President of the United States, to be president of the branch bank.

The participation of the President and Senate of the United States in the appointment of directors appears to be the only feature in the proposition for the government of the national bank which requires an explanatory remark.

Upon general principles, wherever a pecuniary interest is to be effected by the operations of a public institution a representative authority ought to be recognized. The United States will be the proprietors of one-fifth of the capital of the bank, and in that proportion, upon general principles, they should be represented in the direction. But an apprehension has sometimes been expressed, lest the power of the Government thus inserted into the administration of the affairs of the bank should be employed eventually to alienate the funds, and to destroy the credit of the institution. Whatever may have been the fate of banks in other countries, subject to forms of government essentially different, there can be no reasonable cause for apprehension here. Independent of the obvious improbability of the attempt, the Government of the United States cannot, by any legislative or executive act, impair the rights, or multiply the obligations of a corporation constitutionally established, as long as the independence and integrity of the judicial power shall be maintained. Whatever accommodation the Treasury may have occasion to ask from the bank, can only be asked under the license of a law; and whatever accommodation shall be obtained must be obtained from the voluntary assent of the directors, acting under the responsibility of their trust.

Nor can it be doubted that the Department of the Government, which is invested with the power of appointment to all the important offices of the State, is a proper Department to exercise the power of appointment in relation to a national trust of incalculable magnitude. The national bank ought not to be regarded simply as a commercial bank. It will not operate upon the funds of the stockholders alone, but much more upon the funds of the nation. Its conduct, good or bad, will not affect the corporate credit and resources alone, but much more the credit and resources of the Government. In fine, it is not an institution created for the purposes of commerce and profit alone, but much more for the purposes of national policy, as an auxiliary in the exercise of some of the highest powers of the Government. Under such circumstances the public interests cannot be too cautiously guarded, and the guards proposed can never be injurious to the commercial interests of the institution. The right to inspect the general accounts of the bank may be employed to detect the evils of a mal-administration, but an interior agency in the direction of its affairs will best serve to prevent them.

III. It is proposed that, in addition to the usual privileges of a corporation, the notes of the national bank shall be received in all payments to the United States, unless Congress shall hereafter otherwise provide by law; and that, in addition to the duties usually required from a corporation of this description, the national bank shall be employed to receive, transfer, and distribute, the public revenue, under the directions of the proper Department.

The reservation of a legislative power on the subject of accepting the notes of the national bank in payments to the Government, is the only new stipulation in the present proposition. It is designed not merely as one of the securities for the general conduct of the bank, but as the means of preserving entire the sovereign authority of Congress relative to the coin and currency of the United States. Recent occurrences inculcate the expediency of such a reservation, but it may be confidently hoped that an occasion to enforce it will never arise.

It is not proposed to stipulate that the bank shall in any case be bound to make loans to the Government; but, in that respect, whenever a loan is authorized by law, the Government will act upon the ordinary footing of an applicant for pecuniary accommodation.

IV. It is proposed that the organization of the national bank shall be effected with as little delay as possible; and that its operations shall commence and continue upon the basis of payments in the current coin of the United States, with a qualified power under the authority of the Government to suspend such payments.

The proposition now submitted necessarily implies an opinion that it is practicable to commence the operations of the national bank upon a circulation of gold and silver coin; and, in support of the opinion, a few remarks are respectfully offered to the consideration of the committee:

1. The actual receipts of the bank, at the opening of the subscription, will amount to the sum of \$8,400,000; of which the sum of \$1,400,000 will consist of gold and silver, and the sum of \$7,000,000 will consist of public stock convertible by sale into gold and silver. But the actual receipts of the bank, at the expiration of six months from the opening of the subscription, will amount to the sum of \$16,800,000; of which the sum of \$2,800,000 will be in gold and silver, and the sum of \$14,000,000 will be in public stock convertible by sale into gold and silver. To the fund thus possessed by the bank, the accumulations of the public revenue and the deposits of individuals being added, there can be little doubt, from past experience and observation in reference to similar establishments, that a sufficient foundation will exist for a gradual and judicious issue of bank notes payable on demand in the current coin; unless, contrary to all probability, public confidence should be withheld from the institution, or sinister combinations should be formed to defeat its operations, or the demands of an unfavorable balance of trade should press upon its metallic resources.

2. The public confidence cannot be withheld from the institution. The resources of the nation will be intimately connected with the resources of the bank. The notes of the bank are accredited in every payment to the Government, and must become familiar in every pecuniary negotiation. Unless, therefore, a state of things exist in which gold and silver only can command the public confidence, the national bank must command it. But the expression of the public sentiment does not, even at this period, leave the question exposed to dif-

faculty and doubt; it is well known that the wealth of opulent and commercial nations requires for its circulation something more than a medium composed of the precious metals. The incompetency of the existing paper substitutes to furnish a national currency is also well known. Hence, throughout the United States, the public hope seems to rest, at this crisis, upon the establishment of a national bank; and every citizen, upon private or upon patriotic motives, will be prepared to support the institution.

3. Sinister combinations to defeat the operations of a national bank, ought not to be presumed, and need not be feared. It is true that the influence of the State banks is extensively diffused; but the State banks, and the patrons of the State banks, partake of the existing evils; they must be conscious of the inadequacy of State institutions to restore and maintain the national currency; they will perceive that there is sufficient space in the commercial sphere for the movement of the State banks and the national bank; and, upon the whole, they will be ready to act upon the impulse of a common duty, and a common interest. If, however, most unexpectedly, a different course should be pursued, the concurring powers of the national treasury and the national bank will be sufficient to avert the danger.

4. The demand of an unfavorable balance of trade appears to be much overrated. It is not practicable, at this time, to ascertain either the value of the goods imported since the peace, or the value of the property employed to pay for them. But when it is considered that a great proportion of the importations arose from investments of American funds previously in Europe; that a great proportion of the price has been paid by American exports; that a great proportion has been paid by remittances in American stocks; and that a great proportion remains upon credit to be paid by gradual remittances of goods, as well as in coin; it cannot be justly concluded, that the balance of trade has hitherto materially affected the national stock of the precious metals. So far as an opportunity has occurred for observation, the demand for gold and silver to export appears rather to have arisen from the expectation of obtaining a higher price in a part of Europe, and from the revival of commerce with the countries beyond the Cape of Good Hope, than from any necessity to provide for the payment of the recent importations of goods into the United States. The former of these causes will probably soon cease to operate, and the operation of the latter may, if necessary, be restrained by law.

The proposition now under consideration further provides for a suspension of the bank payments in coin upon any future emergency. This is merely a matter of precaution; but, if the emergency should arise, it must be agreed on all hands that the power of suspension ought rather to be confided to the Government than to the directors of the institution.

V. It is proposed that a bonus be paid to the Government by the subscribers to the national bank, in consideration of the emoluments to be derived from an exclusive charter, during a period of twenty years.

Independent of the bonus here proposed to be exacted, there are undoubtedly many public advantages to be drawn from the establishment of the national bank; but these are generally of an incidental kind, and (as in the case of the deposits and distribution of the revenue) may be regarded in the light of equivalents, not for the monopoly

of the charter, but for the reciprocal advantages of a fiscal connexion with the public Treasury.

The amount of the bonus should be in proportion to the value of the charter grant; or, in other words, to the net profits which the subscribers will probably make, in consequence of their incorporation. The average rate of the dividends of the State banks, before the suspension of payments in coin, was about eight per cent. per annum. It appears by a report from this Department to the House of Representatives, dated the 3d of April, 1810, that the annual dividends of the late bank of the United States, averaged, throughout the duration of its charter, the rate of $8\frac{13}{36}$ per cent. But under all the circumstances which will attend the establishment and operations of the proposed national bank, its enlarged capital, and the extended field of competition, it is not deemed reasonable, for the present purpose, to rate the annual dividends of the institution higher than 7 per cent. upon its capital of \$35,000,000.

Allowing, therefore, two, three, and four years for the payment of the bonus, a sum of \$1,500,000 would amount to about four per cent. upon the capital of the bank, and would constitute a just equivalent for the benefits of its charter.

VI. It is proposed that the measures, suggested by the following considerations, be adopted to aid the national bank in commencing and maintaining its operations upon the basis of payments in the current coin.

1. To restore the national currency of gold and silver it is essential that the quantity of bank paper in circulation should be reduced; but this effort alone will be sufficient to effect the object. By reducing the amount of bank paper its value must be proportionably increased; and as soon as the amount shall be contracted to the limits of a just proportion in the circulating medium of the country, the consequent revival of the uses for coin, in the business of exchange, will insure its re-appearance in abundance. The policy, the interest, and the honor of the State banks will stimulate them to undertake and prosecute this salutary work. But it will be proper to apprise them that, after a specified day, the notes of such banks as have not resumed their payments in the current coin will not be received in payments, either to the Government or to the national bank.

2. The resumption of payments in current coin at the State banks will remove every obstacle to the commencement of similar payments at the national bank. The difficulty of commencing payments in coin is not, however, to be considered as equal to the difficulty of resuming them. The national bank, free from all engagements, will be able to regulate its issues of paper with a view to the danger, as well as to the demand that may be found to exist. But in addition to the privileges granted by the charter, it will also be proper to apprise the State banks, that, after the commencement of the operations of the national bank, the notes of such banks as do not agree to receive, re-issue, and circulate the notes of that institution, shall not be received in payments either to the Government or to the national bank.

3. The possibility that the national currency of coin may not be perfectly restored at the time of organizing the bank, has induced the proposition that the payment of the Government subscription to the capital shall be made in Treasury notes, which will be receivable in all payments to the Government, and to the national bank, but

which will not be demandable in coin. The principle of this proposition might, perhaps, be usefully extended to authorize the national bank to issue notes of a similar character, for a limited period; and it will be proper further to apprise the State banks that the notes of such banks as do not agree to receive, re-issue, and circulate these Treasury notes, or national bank notes, shall not be received in payments, either to the Government or to the national bank.

I have the honor, very respectfully, sir, to be your most obedient servant,

A. J. DALLAS.

The Hon. JOHN C. CALHOUN, *Chairman of the Committee on the National Currency.*

OUTLINE OF A PLAN FOR THE NATIONAL BANK

I. *The charter of the bank.*

1. To continue 21 years.
2. To be exclusive.

II. *The capital of the bank.*

1. To be \$35,000,000—at present.
2. To be augmentable by Congress to \$50,000,000, and the additional sum to be distributed among the several States.
3. To be divided into 350,000 shares of 100 dollars each, on the capital of \$35,000,000, and to be subscribed,

By the United States, one-fifth, or 70,000 shares,-----	\$7, 000, 000
By corporations and individuals, four-fifths, or 280,000 shares,-----	28, 000, 000
	\$35, 000, 000

4. To be compounded of public debt and of gold and silver; as to the subscriptions of corporations and individuals, in the proportions—

Of funded debt, three-fourths, equal to-----	\$21, 000, 000
Of gold and silver, one-fourth, equal to-----	7, 000, 000
	\$28, 000, 000

The subscriptions of 6 per cent. stock to be at par.

The subscriptions of 3 per cent. stock to be at 65 per cent.

The subscriptions of 7 per cent. stock to be at $106\frac{51}{100}$ per cent.

5. The subscriptions in public debt may be discharged at pleasure by the Government at the rate at which it is subscribed.

6. The subscriptions of corporations or individuals to be payable by instalments—

(1.) *Specie, at subscribing,*

On each share, \$5,-----	\$1, 400, 000
At 6 months, 5,-----	1, 400, 000
At 12 months, 5,-----	1, 400, 000
At 18 months, 10,-----	2, 800, 000
	\$7, 000, 000

(2.) *Public debt, at subscribing,*

Each share, \$25,-----	7, 000, 000
At 6 months, 25,-----	7, 000, 000
At 12 months, 25,-----	7, 000, 000
	\$28, 000, 000

7. The subscription of the United States to be paid in instalments not extending beyond a period of seven years; the first instalments to be paid at the time of subscribing, and the payments to be made at the pleasure of the Government, either

In gold and silver, or

In 6 per cent. stock, redeemable at the pleasure of the Government, or

In Treasury notes not fundable nor bearing interest, nor payable at a particular time, but receivable in all payments to the Government, and also in all payments to the bank, with a right on the part of the bank to re-issue the Treasury notes so paid, from time to time, until they are discharged by payments to the Government.

8. The bank shall be at liberty to sell the stock portion of its capital to an amount not exceeding ——— in any one year; but, if the sales are intended to be effected in the United States, notice thereof shall be given to the Secretary of the Treasury that the Commissioners of the Sinking Fund may, if they please, become the purchasers, at the market price, not exceeding par.

III. *The Government of the bank.*

1. The bank shall be established at Philadelphia, with power to erect branches, or to employ State banks as branches elsewhere.

2. There shall be twenty-five directors for the bank at Philadelphia, and thirteen directors for each of the branches where branches are erected, with the usual description and number of officers.

3. The President of the United States, with the advice and consent of the Senate, shall annually appoint five of the directors of the bank at Philadelphia.

4. The qualified stockholders shall annually elect twenty of the directors of the bank at Philadelphia; but a portion of the directors shall be changed at every annual election upon the principle of rotation.

5. The directors of the bank at Philadelphia shall annually, at their first meeting after their election, choose one of the five directors appointed by the President and Senate of the United States, to be president of the bank; and the president of the bank shall always be re-eligible if re-appointed.

6. The directors of the bank at Philadelphia shall annually appoint thirteen directors for each of the branches where branches are erected, and shall transmit a list of the persons appointed to the Secretary of the Treasury.

7. The Secretary of the Treasury, with the approbation of the President of the United States, shall annually designate, from the list of the branch directors, the person to be the president of the respective branches.

8. None but resident citizens of the United States shall be directors of the bank, or its branches.

9. The stockholders may vote for directors in person or by proxy; but no stockholder, who is not resident within the United States at the time of election, shall vote by proxy; nor shall any one person vote as proxy a greater number of votes than he would be entitled to vote in his own right, according to a scale of voting to be graduated by the number of shares which the voters respectively hold.

10. The bank and its several branches, or the State banks employed as branches, shall furnish the officer at the head of the Treasury Department with statements of their officers, in such form and at such period as shall be required.

IV. *The privileges and duties of the bank.*

1. The bank shall enjoy the usual privileges, and be subject to the usual restrictions of a body corporate and politic, instituted for such purposes, and the forgery of its notes shall be made penal.

2. The notes of the bank shall be receivable in all payments to the United States, unless Congress shall hereafter otherwise provide by law.

3. The bank and its branches, and State banks employed as branches, shall give the necessary aid and facility to the Treasury for transferring the public funds from place to place, and for making payments to the public creditors, without charging commissions, or claiming allowances on account of differences of exchange, &c.

V. *The organization and operation of the bank.*

1. Subscriptions to be opened with as little delay as possible, and at as few places as shall be deemed just and convenient. The commissioners may be named in the act or be appointed by the President.

2. The bank to be organized and commence its operations in specie as soon as the sum of \$1,400,000 has been actually received from the subscriptions in gold and silver.

3. The bank shall not at any time suspend its specie payments, unless the same shall be previously authorized by Congress, if in session, or by the President of the United States if Congress be not in session. In the latter case the suspension shall continue for six weeks after the meeting of Congress, and no longer, unless authorized by law.

VI. *The bonus for the charter of the bank*

The subscribers to the bank shall pay a premium to the Government for its charter. Estimating the profits of the bank from the probable advance in the value of its stock, and the result of its business when in full operation at 7 per cent., a bonus of \$1,500,000 payable in equal instalments of two, three, and four years, after the bank commences its operations, might, under all circumstances, be considered as about 4 per cent. upon its capital, and would constitute a reasonable premium.

Act of April 10, 1816¹

[3 Statutes at Large 266, Fourteenth Congress, Chapter 44, 1st Session, Approved April 10, 1816, by James Madison]

AN ACT TO INCORPORATE THE SUBSCRIBERS TO THE BANK OF THE UNITED STATES

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That a bank of the United States of America shall be established, with a capital of thirty-five millions dollars, divided into three hundred and fifty thousand shares, of one hundred dollars each share. Seventy thousand shares, amounting to the sum of seven millions of dollars, part of the capital of the said bank, shall be subscribed and paid for by the United States, in the manner hereinafter specified; and two hundred and eighty thousand shares, amounting to the sum of twenty-eight millions of dollars, shall be subscribed and paid for by individuals, companies, or corporations, in the manner hereinafter specified.

A bank of the United States, with a capital of 35,000,000 dollars, &c.

SEC. 2. *And be it further enacted,* That subscriptions for the sum of twenty-eight millions of dollars, toward constituting the capital of the said bank, shall be opened on the first Monday in July next, at the following places: that is to say, at Portland, in the District of Maine; at Portsmouth, in the state of New Hampshire; at Boston, in the state of Massachusetts; at Providence, in the state of Rhode Island; at Middletown, in the state of Connecticut; at Burlington, in the state of Vermont; at New York, in the state of New York; at New Brunswick, in the state of New Jersey; at Philadelphia, in the state of Pennsylvania; at Wilmington, in the state of Delaware; at Baltimore, in the state of Maryland; at Richmond, in the state of Virginia; at Lexington, in the state of Kentucky; at Cincinnati, in the state of Ohio; at Raleigh, in the state of North Carolina; at Nashville, in the state of Tennessee; at Charleston, in the state of South Carolina; at Augusta, in the state of Georgia; at New Orleans, in the state of Louisiana; and at Washington, in the district of Columbia. And the said subscriptions shall be opened under the superintendence of five commissioners at Philadelphia, and of three commissioners at each of the other places aforesaid, to be appointed by the President of the United States, who is hereby authorized to make such appointments, and shall continue open every day, from the time of opening the same, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, for the term of twenty days, exclusive of Sundays, when the same shall be closed, and immediately thereafter the commissioners, or any two of them, at the respective places aforesaid, shall cause two transcripts or copies of such subscriptions to be made, one of which

Places, &c. for receiving subscriptions.

¹ Editor's note: See p. 417.

Places, &c.
for receiving
subscriptions,
&c.

they shall send to the Secretary of the Treasury, one they shall retain, and the original they shall transmit, within seven days from the closing of the subscriptions as aforesaid, to the commissioners at Philadelphia aforesaid. And on the receipt of the said original subscriptions, or of either of the said copies thereof, if the original be lost, mislaid, or detained, the commissioners at Philadelphia aforesaid, or a majority of them, shall immediately thereafter convene, and proceed to take an account of the said subscriptions. And if more than the amount of twenty-eight millions of dollars shall have been subscribed, then the said last mentioned commissioners shall deduct the amount of such excess from the largest subscriptions, in such manner as that no subscription shall be reduced in amount, while any one remains larger: *Provided*, That if the subscriptions taken at either of the places aforesaid shall not exceed three thousand shares, there shall be no reduction of such subscriptions, nor shall, in any case, the subscriptions taken at either of the places aforesaid be reduced below that amount. And in case the aggregate amount of the said subscriptions shall exceed twenty-eight millions of dollars, the said last mentioned commissioners, after having apportioned the same as aforesaid, shall cause lists of the said apportioned subscriptions, to be made out, including in each list the apportioned subscription for the place where the original subscription was made, one of which lists they shall transmit to the commissioners or one of them, under whose superintendence such subscriptions were originally made, that the subscribers may thereby ascertain the number of shares to them respectively apportioned as aforesaid. And in case the aggregate amount of the said subscriptions made during the period aforesaid, at all the places aforesaid, shall not amount to twenty-eight millions of dollars, the subscriptions to complete the said sum shall be and remain open at Philadelphia aforesaid, under the superintendence of the commissioners appointed for that place; and the subscriptions may be then made by any individual, company, or corporation, for any number of shares, not exceeding, in the whole, the amount required to complete the said sum of twenty-eight millions of dollars.

Regulations
concerning sub-
scriptions and
payments on
them, &c.

SEC. 3. *And be it further enacted*, That it shall be lawful for any individual, company, corporation, or state, when the subscriptions shall be opened as herein before directed, to subscribe for any number of shares of the capital of the said bank, not exceeding three thousand shares, and the sums so subscribed shall be payable, and paid, in the manner following; that is to say, seven million dollars thereof in gold or silver coin of the United States, or in gold coin of Spain, or the dominions of Spain, at the rate of one hundred cents for every twenty-eight grains and sixty hundredths of a grain of the ac-

tual weight thereof, or in other foreign gold or silver coin at the several rates prescribed by the first section of an act regulating the currency of foreign coins in the United States, passed tenth day of April, one thousand eight hundred and six, and twenty-one millions of dollars thereof in like gold or silver coin, or in the funded debt of the United States contracted at the time of the subscriptions respectively. And the payments made in the funded debt of the United States, shall be paid and received at the following rates: that is to say, the funded debt bearing an interest of six per centum per annum, at the nominal or par value thereof; the funded debt bearing an interest of three per centum per annum, at the rate of sixty-five dollars for every sum of one hundred dollars of the nominal amount thereof; and the funded debt bearing an interest of seven per centum per annum, at the rate of one hundred and six dollars and fifty-one cents, for every sum of one hundred dollars of the nominal amount thereof; together with the amount of the interest accrued on the said several denominations of funded debt, to be computed and allowed to the time of subscribing the same to the capital of the said bank as aforesaid. And the payments of the said subscriptions shall be made and completed by the subscribers, respectively, at the times and in the manner following; that is to say, at the time of subscribing there shall be paid five dollars on each share, in gold or silver coin as aforesaid, and twenty-five dollars more in coin as aforesaid, or in funded debt as aforesaid; at the expiration of six calendar months after the time of subscribing, there shall be paid the further sum of ten dollars on each share, in gold or silver coin as aforesaid, and twenty-five dollars more in coin as aforesaid, or in funded debt as aforesaid; at the expiration of twelve calendar months from the time of subscribing, there shall be paid the further sum of ten dollars on each share, in gold or silver coin as aforesaid, and twenty-five dollars more, in coin as aforesaid, or in funded debt as aforesaid.

Regulations concerning subscriptions and payments on them, &c.

SEC. 4. *And be it further enacted*, That at the time of subscribing to the capital of the said bank as aforesaid each and every subscriber shall deliver to the commissioners, at the place of subscribing, as well the amount of their subscriptions respectively in coin as aforesaid, as the certificates of funded debt, for the funded debt proportions of their respective subscriptions, together with a power of attorney, authorizing the said commissioners, or a majority of them, to transfer the said stock in due form of law to "the president, directors, and company, of the bank of the United States," as soon as the said bank shall be organized. *Provided always*, That if, in consequence of the apportionment of the shares in the capital of the said bank among the subscribers, in the case, and in the manner, hereinbefore provided, any subscriber

shall have delivered to the commissioners, at the time of subscribing, a greater amount of gold or silver coin and funded debt than shall be necessary to complete the payments for the share or shares to such subscribers, apportioned as aforesaid, the commissioners shall only retain so much of the said gold or silver coin, and funded debt, as shall be necessary to complete such payments, and shall, forthwith, return the surplus thereof, on application for the same, to the subscribers lawfully entitled thereto. And the commissioners, respectively, shall deposit the gold and silver coin, and certificates of public debt by them respectively received as aforesaid from the subscribers to the capital of the said bank, in some place of secure and safe keeping, so that the same may and shall be specifically delivered and transferred, as the same were by them respectively received, to the president, directors, and company, of the bank of the United States, or to their order, as soon as shall be required after the organization of the said bank. And the said commissioners appointed to superintend the subscriptions to the capital of the said bank as aforesaid, shall receive a reasonable compensation for their services respectively, and shall be allowed all reasonable charges and expenses incurred in the execution of their trust, to be paid by the president, directors, and company, of the bank, out of the funds thereof.

Reasonable compensation to the commissioners.

The United States may redeem the funded debt, &c. and the bank may sell for gold and silver, &c.

SEC. 5. *And be it further enacted*, That it shall be lawful for the United States to pay and redeem the funded debt subscribed to the capital of the said bank at the rates aforesaid, in such sums, and at such times, as shall be deemed expedient, any thing in any act or acts of Congress to the contrary thereof notwithstanding. And it shall also be lawful for the president, directors, and company, of the said bank, to sell and transfer for gold and silver coin, or bullion, the funded debt subscribed to the capital of the said bank as aforesaid: *Provided always*, That they shall not sell more thereof than the sum of two millions of dollars in any one year; nor sell any part thereof at any time within the United States, without previously giving notice of their intention to the Secretary of the Treasury, and offering the same to the United States for the period of fifteen days, at least, at the current price, not exceeding the rates aforesaid.

The Secretary of the Treasury to subscribe on behalf of the United States, &c.

SEC. 6. *And be it further enacted*, That at the opening of subscription to the capital stock of the said bank, the Secretary of the Treasury shall subscribe, or cause to be subscribed, on behalf of the United States, the said number of seventy thousand shares, amounting to seven millions of dollars as aforesaid, to be paid in gold or silver coin, or in stock of the United States, bearing interest at the rate of five per centum per annum; and if payment thereof, or of any part thereof, be made in public stock, bearing interest as aforesaid, the said interest shall be

payable quarterly, to commence from the time of making such payment on account of said subscription, and the principal of the said stock shall be redeemable in any sums, and at any periods, which the government shall deem fit. And the Secretary of the Treasury shall cause the certificates of such public stock to be prepared, and made in the usual form, and shall pay and deliver the same to the president, directors, and company, of the said bank on the first day of January, one thousand eight hundred and seventeen, which said stock it shall be lawful for the said president, directors, and company, to sell and transfer for gold and silver coin or bullion at their discretion: *Provided*, They shall not sell more than two millions of dollars thereof in any one year.

SEC. 7. *And be it further enacted*, That the subscribers to the said bank of the United States of America, their successors and assigns, shall be, and are hereby, created a corporation and body politic, by the name and style of "The president, directors, and company, of the bank of the United States," and shall so continue until the third day of March, in the year one thousand eight hundred and thirty-six, and by that name shall be, and are hereby, made able and capable, in law, to have, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of whatsoever kind, nature, and quality, to an amount not exceeding, in the whole, fifty-five millions of dollars, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, alien or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all state courts having competent jurisdiction, and in any circuit court of the United States: and also to make, have, and use, a common seal, and the same to break, alter, and renew, at their pleasure: and also to ordain, establish, and put in execution, such by-laws, and ordinances, and regulations, as they shall deem necessary and convenient for the government of the said corporation, not being contrary to the Constitution thereof, or to the laws of the United States; and generally to do and execute all and singular the acts, matters, and things, which to them it shall or may appertain to do; subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed and declared.

SEC. 8. *And be it further enacted*, That for the management of the affairs of the said corporation, there shall be twenty-five directors, five of whom, being stockholders, shall be annually appointed by the President of the United States, by and with the advice and consent of the Senate, not more than three of whom shall be residents of any one state; and twenty of whom shall be annually elected at the banking house in the city of Philadelphia, on the first Monday of January, in each year, by the

The subscribers
to the bank
incorporated,
&c.

Twenty-five
directors; five
to be appointed
by the Presi-
dent, &c.

Regulations
concerning the
direction of the
bank, &c.

qualified stockholders of the capital of the said bank, other than the United States, and by a plurality of votes then and there actually given, according to the scale of voting hereinafter prescribed: *Provided always*, That no person, being a director in the bank of the United States, or any of its branches, shall be a director of any other bank; and should any such director act as a director in any other bank, it shall forthwith vacate his appointment in the direction of the bank of the United States. And the directors, so duly appointed and elected, shall be capable of serving, by virtue of such appointment and choice, from the first Monday in the month of January of each year, until the end and expiration of the first Monday in the month of January of the year next ensuing the time of each annual election to be held by the stockholders as aforesaid. And the board of directors annually, at the first meeting after their election in each and every year, shall proceed to elect one of the directors to be president of the corporation, who shall hold the said office during the same period for which the directors are appointed and elected as aforesaid: *Provided also*, That the first appointment and election of the directors and president of the said bank shall be at the time and for the period hereinafter declared: *And provided also*, That in case it should at any time happen that an appointment or election of directors, or an election of the president of the said bank, should not be so made as to take effect on any day when, in pursuance of this act, they ought to take effect, the said corporation shall not, for that cause, be deemed to be dissolved; but it shall be lawful at any other time to make such appointments, and to hold such elections, (as the case may be,) and the manner of holding the elections shall be regulated by the by-laws and ordinances of the said corporation: and until such appointments or elections be made, the directors and president of the said bank, for the time being, shall continue in office: *And provided also*, That in case of the death, resignation, or removal of the president of the said corporation, the directors shall proceed to elect another president from the directors as aforesaid: and in case of the death, resignation, or absence, from the United States, or removal of a director from office, the vacancy shall be supplied by the President of the United States, or by the stockholders, as the case may be. But the President of the United States alone shall have power to remove any of the directors appointed by him as aforesaid.

Manner and
time of the
banks going
into operation,
&c.

SEC. 9. *And be it further enacted*, That as soon as the sum of eight millions four hundred thousand dollars in gold and silver coin, and in the public debt, shall have been actually received on account of the subscriptions to the capital of the said bank (exclusively of the subscription aforesaid, on the part of the United States) notice

thereof shall be given by the persons under whose superintendence the subscriptions shall have been made at the city of Philadelphia, in at least two newspapers printed in each of the places, (if so many be printed in such places respectively,) where subscriptions shall have been made, and the said persons shall, at the same time, and in like manner, notify a time and place within the said city of Philadelphia, at the distance of at least thirty days from the time of such notification, for proceeding to the election of twenty directors as aforesaid, and it shall be lawful for such election to be then and there made. And the President of the United States is hereby authorized, during the present session of Congress, to nominate, and, by and with the advice and consent of the Senate, to appoint, five directors of the said bank, though not stockholders, anything in the provisions of this act to the contrary notwithstanding; and the persons who shall be elected and appointed as aforesaid, shall be the first directors of the said bank, and shall proceed to elect one of the directors to be President of the said bank; and the directors and president of the said bank so appointed and elected as aforesaid, shall be capable of serving in their respective office, by virtue thereof, until the end and expiration of the first Monday of the month of January next ensuing the said appointments and elections; and they shall then and thenceforth commence, and continue the operations of the said bank, at the city of Philadelphia.

SEC. 10. *And be it further enacted*, That the directors, for the time being shall have power to appoint such officers, clerks, and servants, under them as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services, respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities for the well governing and ordering of the officers of the said corporation, as shall be prescribed, fixed, and determined, by the laws, regulations, and ordinances, of the same.

The directors empowered to appoint officers, clerks, servants, &c.

SEC. 11. *And be it further enacted*, That the following rules, restrictions, limitations, and provisions, shall form and be fundamental articles of the constitution of the said corporation, to wit:

Fundamental articles, &c. Rules concerning voting for directors.

1. The number of votes to which the stockholders shall be entitled, in voting for directors, shall be according to the number of shares he, she, or they, respectively, shall hold, in the proportions following, that is to say; for one share and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote; but no person, co-partnership, or body politic, shall be entitled

A part of the directors appointed by the stockholders and president, alone eligible a second year, successively. President always eligible. Stockholders, citizens, may be only appointed directors. Directors to have no compensation, other than the president. Seven directors, including the president.

may constitute a board. How his place is supplied in case of absence or sickness. General meetings of the stockholders—how to be called. Cashier to give bonds and security.

to a greater number than thirty votes; and after the first election, no share or shares shall confer a right of voting, which shall not have been holden three calendar months previous to the day of election. And stockholders actually resident within the United States, and none other, may vote in elections by proxy.

Second. Not more than three-fourths of the directors elected by the stockholders, and not more than four-fifths of the directors appointed by the President of the United States, who shall be in office at the time of an annual election, shall be elected or appointed for the next succeeding year; and no director shall hold his office more than three years out of four in succession; but the director who shall be the president at the time of an election may always be re-appointed, or re-elected, as the case may be.

Third. None but a stockholder, resident citizen of the United States, shall be a director; nor shall a director be entitled to any emoluments; but the directors may make such compensation to the president for his extraordinary attendance at the bank, as shall appear to them reasonable.

Fourth. Not less than seven directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence: in which case his place may be supplied by any other director, whom he, by writing, under his hand, shall depute for that purpose. And the director so deputed may do and transact all the necessary business, belonging to the office of the president of the said corporation, during the continuance of the sickness or necessary absence of the president.

Fifth. A number of stockholders, not less than sixty, who, together, shall be proprietors of one thousand shares or upwards, shall have power at any time to call a general meeting of the stockholders, for purposes relative to the institution, giving at least ten weeks' notice in two public newspapers of the place where the bank is seated, and specifying in such notice the object or objects of such meeting.

Sixth. Each cashier or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with a condition for his good behaviour, and the faithful performance of his duties to the corporation.

Seventh. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales, upon judgments which shall have been obtained for such debts.

Limitation concerning, and a description of the real estate which may be held by the corporation.

Eighth. The total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, over and above the debt or debts due for money deposited in the bank, shall not exceed the sum of thirty-five millions of dollars, unless the contracting of any greater debt shall have been previously authorized by law of the United States. In case of excess, the directors under whose administration it shall happen, shall be liable for the same in their natural and private capacities: and an action of debt may in such case be brought against them, or any of them, their or any of their heirs, executors, or administrators, in any court of record of the United States, or either of them, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding. But this provision shall not be construed to exempt the said corporation or the lands, tenements, goods, or chattels of the same from being also liable for, and chargeable with, the said excess.

Such of the said directors, who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the President of the United States, and to the stockholders, at a general meeting, which they shall have power to call for that purpose.

Ninth. The said corporation shall not, directly or indirectly, deal or trade in any thing except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or goods which shall be the proceeds of its lands. It shall not be at liberty to purchase any public debt whatsoever, nor shall it take more than at the rate of six per centum per annum for or upon its loans or discounts.

Tenth. No loan shall be made by the said corporation, for the use or on account of the government of the United States, to an amount exceeding five hundred thousand dollars, or of any particular state, to an amount exceeding fifty thousand dollars, or of any foreign prince or state, unless previously authorized by a law of the United States.

Eleventh. The stock of the said corporation shall be assignable and transferable, according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same.

Twelfth. The bills, obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and his, her, or their executors or adminis-

Maximum of debts which the corporation may at one time contract.

Remedy against the directors under whose administration an excess of debt shall be created.

Directors absent or dissenting exempted.

In what the corporation may transact business and trade.

Loans exceeding certain sums not to be made the U.S. or particular states, or foreign states, but by acts of Congress.

Rules to be prescribed for making the stock assignable. The bills, obligatory and of credit, under

trators, and his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees, and his, her or their executors or administrators, to maintain an action thereupon in his, her, or their own name or names: *Provided*, That said corporation shall not make any bill obligatory, or of credit, or other obligation under its seal for the payment of a sum less than five thousand dollars. And the bills or notes which may be issued by order of the said corporation, signed by the president, and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her or their order, or to bearer, although not under the seal of the said corporation, shall be binding and obligatory upon the same, in like manner, and with like force and effect, as upon any private person or persons, if issued by him, her or them, in his, her or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons; that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement, in like manner, and with the like effect as foreign bills of exchange now are; and those which are payable to bearer shall be assignable and negotiable by delivery only: *Provided*, That all bills or notes, so to be issued by said corporation, shall be made payable on demand, other than bills or notes for the payment of a sum not less than one hundred dollars each, and payable to the order of some person or persons, which bills or notes it shall be lawful for said corporation to make payable at any time not exceeding sixty days from the date thereof.

Thirteenth. Half yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors advisable; and once in every three years the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of the profits, if any, after deducting losses and dividends. If there shall be a failure in the payment of any part of any sum subscribed to the capital of the said bank, by any person, co-partnership or body politic, the party failing shall lose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

the seal of the corporation; how assignable.

Proviso.

Proviso.

Half yearly dividends to be made.
A statement of the affairs of the company to be laid before the stockholders.
Delinquent subscribers to lose the benefit of dividends.

Fourteenth. The directors of the said corporation shall establish a competent office of discount and deposit in the District of Columbia, whenever any law of the United States shall require such an establishment; also one such 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: *Provided*, the directors aforesaid shall not be bound to establish such office before the whole of the capital of the bank shall have been paid up. And it shall be lawful for the directors of the said corporation to establish offices of discount and deposit, wheresoever they shall think fit, within the United States or the territories thereof, and to commit the management of the said offices, and the business thereof, respectively to such persons, and under such regulations as they shall deem proper, not being contrary to law or the constitution of the bank. Or instead of establishing such offices, it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank or banks, to be first approved by the Secretary of the Treasury, at any place or places that they may deem safe and proper, to manage and transact the business proposed as aforesaid, other than for the purposes of discount, to be managed and transacted by such offices, under such agreements, and subject to such regulations, as they shall deem just and proper. Not more than thirteen nor less than seven managers or directors of every office established as aforesaid, shall be annually appointed by the directors of the bank, to serve one year; they shall choose a president from their own number; each of them shall be a citizen of the United States, and a resident of the state, territory or district, wherein such office is established; and not more than three-fourths of the said managers or directors, in office at the time of an annual appointment, shall be re-appointed for the next succeeding year; and no director shall hold his office more than three years out of four, in succession; but the president may be always re-appointed.

Fifteenth. The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the said corporation and of the debts due to the same; of the moneys deposited therein; of the notes in circulation, any of the specie in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statement: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

Offices to be established in the District of Columbia and the several states when authorized and required by law.

Proviso.

Secretary of the Treasury authorized to call upon the bank for a statement, not exceeding a weekly one, of its concerns.

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No stockholder but a citizen of the United States may vote in choice of directors. No smaller notes than five dollars to be issued. Penalties for dealing in a way or in articles interdited.

Penalties for making unlawful loans to the United States or particular states or to foreign governments.

Notes of the bank, unless specially prohibited by law, receivable in payments of all dues to United States.

The bank to give the necessary facilities without any charge, for transferring the funds of the United States to different quarters.

Sixteenth. No stockholder, unless he be a citizen of the United States, shall vote in the choice of directors.

Seventeenth. No note shall be issued of less amount than five dollars.

SEC. 12. *And be it further enacted,* That if the said corporation, or any person or persons, for or to the use of the same, shall deal or trade in buying or selling goods, wares, merchandise, or commodities whatsoever, contrary to the provisions of this act, all and every person and persons by whom any order or direction for so dealing or trading shall have been given; and all and every person and persons who shall have been concerned as parties or agents therein, shall forfeit and lose treble the value of the goods, wares, merchandise and commodities in which such dealing and trade shall have been, one half thereof to the use of the informer, and other half thereof, to the use of the United States, to be recovered in any action of law with costs of suit.

SEC. 13. *And be it further enacted,* That if the said corporation shall advance or lend any sum of money for the use or on account of the government of the United States, to an amount exceeding five hundred thousand dollars; or of any particular state, to an amount exceeding fifty thousand dollars; or of any foreign prince or state, (unless previously authorized thereto by a law of the United States,) all and every person and persons, by and with whose order, agreement, consent, approbation and connivance, such unlawful advance or loan shall have been made, upon conviction thereof shall forfeit and pay, for every such offence, treble the value or amount of the sum or sums which have been so unlawfully advanced or lent; one fifth thereof to the use of the informer, and the residue thereof to the use of the United States.

SEC. 14. *And be it further enacted,* That the bills or notes of the said corporation originally made payable, or which shall have become payable on demand, shall be receivable in all payments to the United States, unless otherwise directed by act of Congress.

SEC. 15. *And be it further enacted,* That during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall give the necessary facilities for transferring the public funds from place to place, within the United States, or the territories thereof, and for distributing the same in payment of the public creditors, without charging commissions or claiming allowance on account of difference of exchange, and shall also do and perform the several and respective duties of the commissioners of loans for the several states, or of any one or more of them, whenever required by law.

SEC. 16. *And be it further enacted*, That the deposits of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reasons of such order or direction.

Deposits of the public moneys to be made in the bank or its branches, or the reasons to be laid before Congress by the Secretary of the Treasury for its not being done.

SEC. 17. *And be it further enacted*, That the said corporation shall not at any time suspend or refuse payment in gold and silver, of any of its notes, bills or obligations nor of any moneys received upon deposit in said bank, or in any of its offices of discount and deposit. And if the said corporation shall at any time refuse or neglect to pay on demand any bill, note or obligation issued by the corporation, according to the contract, promise or undertaking therein expressed; or shall neglect or refuse to pay on demand any moneys received in said bank, or in any of its offices aforesaid, on deposit, to the person or persons entitled to receive the same, then, and in every such case, the holder of any such note, bill, or obligation, or the person or persons entitled to demand and receive such moneys as aforesaid, shall respectively be entitled to receive and recover interest on the said bills, notes, obligations or moneys, until the same shall be fully paid and satisfied, at the rate of twelve per centum per annum from the time of such demand as aforesaid; *Provided*, That Congress may at any time hereafter enact laws enforcing and regulating the recovery of the amount of the notes, bills, obligations or other debts, of which payment shall have been refused as aforesaid, with the rate of interest above mentioned, vesting jurisdiction for that purpose in any courts, either of law or equity, of the courts of the United States, or territories thereof, or of the several states, as they may deem expedient.

Corporation prohibited from suspending payments in specie, by being made chargeable with the payment of interest at the rate of 12 per centum per annum.

Proviso.

SEC. 18. *And be it further enacted*, That if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any bill or note in imitation of or purporting to be a bill or note issued by order of the president, directors and company of the said bank, or any order or check on the said bank or corporation, or any cashier thereof; or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any bill or note issued by order of the president, directors and company of the said bank, or any order or check on the said bank or corporation, or any cashier thereof; or shall pass, utter or publish, or attempt to pass, utter or publish as true, any false, forged or counterfeited bill or note purporting to be a bill or note issued by order of the president, directors and company of the said bank, or

Penalties for forging, counterfeiting, &c.

any false, forged or counterfeited order or check upon the said bank or corporation, or any cashier thereof, knowing the same to be falsely forged or counterfeited; or shall pass, utter or publish, or attempt to pass, utter or publish as true, any falsely altered bill or note issued by order of the president, directors, and company of the said bank, or any falsely altered order or check on the said bank or corporation, or any cashier thereof, knowing the same to be falsely altered with intention to defraud the said corporation or any other body politic or person; or shall sell, utter or deliver, or cause to be sold, uttered or delivered, any forged or counterfeit note or bill in imitation, or purporting to be a bill or note issued by order of the president and directors of the said bank, knowing the same to be false, forged, or counterfeited; every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labour for not less than three years, nor more than ten years, or shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars. *Provided*, That nothing herein contained shall be construed to deprive the courts of the individual states, of a jurisdiction under the laws of the several states, over any offence declared punishable by this act.

Proviso.

For engraving after the similitude of the plates used for the bank, any plates, &c.

SEC. 19. *And be it further enacted*, That if any person shall make or engrave, or cause, or procure to be made or engraved, or shall have in his custody or possession, any metallic plate, engraved after the similitude of any plate from which any notes or bills, issued by the said corporation, shall have been printed, with intent to use such plate, or to cause, or suffer the same to be used in forging or counterfeiting any of the notes or bills issued by the said corporation; or shall have in his custody or possession, any blank note or notes, bill or bills, engraved and printed after the similitude of any notes or bills issued by said corporation, with intent to use such blanks, or cause, or suffer the same to be used in forging or counterfeiting any of the notes or bills issued by the said corporation; or shall have in his custody or possession, any paper adapted to the making of bank notes or bills, and similar to the paper upon which any notes or bills of the said corporation shall have been issued, with intent to use such paper, or cause, or suffer the same to be used in forging or counterfeiting any of the notes or bills issued by the said corporation, every such person, being thereof convicted, by due course of law, shall be sentenced to be imprisoned, and kept to hard labour, for a term not exceeding five years, or shall be imprisoned for a term not exceeding five years, and fined in a sum not exceeding one thousand dollars.

Punishment.

SEC. 20. *And be it further enacted*, That in consideration of the exclusive privileges and benefits conferred by this act, upon the said bank, the president, directors, and company thereof, shall pay to the United States, out of the corporate funds thereof, the sum of one million and five hundred thousand dollars, in three equal payments; that is to say: five hundred thousand dollars at the expiration of two years; five hundred thousand dollars at the expiration of three years; and five hundred thousand dollars at the expiration of four years after the said bank shall be organized, and commence its operations in the manner herein before provided.

Bonus to be paid to the United States for this charter.

SEC. 21. *And be it further enacted*, That no other bank shall be established by any future law of the United States during the continuance of the corporation hereby created, for which the faith of the United States is hereby pledged. *Provided*, Congress may renew existing charters for banks in the District of Columbia, not increasing the capital thereof, and may also establish any other bank or banks in said district, with capitals not exceeding, in the whole, six millions dollars, if they shall deem it expedient. And, notwithstanding the expiration of the term for which the said corporation is created, it shall be lawful to use the corporate name, style, and capacity, for the purpose of suits for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, real, personal, and mixed: but not for any other purpose, or in any other manner whatsoever, nor for a period exceeding two years after the expiration of the said term of incorporation.

Congress to establish no other bank except in the District of Columbia.

Authority to use the name of the corporation, &c., for two years after the charter shall expire.

SEC. 22. *And be it further enacted*, That if the subscriptions and payments to said bank shall not be made and completed so as to enable the same to commence its operations, or if the said bank shall not commence its operations on or before the first Monday in April next, then, and, in that case, Congress may, at any time, within twelve months thereafter, declare, by law, this act null and void.

Limitation of time prescribed for the bank's going into operation.

SEC. 23. *And be it further enacted*, That it shall, at all times be lawful, for a committee of either house of Congress, appointed for that purpose, to inspect the books, and to examine into the proceedings of the corporation hereby created, and to report whether the provisions of this charter have been, by the same, violated or not; and whenever any committee, as aforesaid, shall find and report, or the President of the United States shall have reason to believe that the charter has been violated, it may be lawful for Congress to direct, or the President to order a scire facias to be sued out of the circuit court of the district of Pennsylvania, in the name of the United States, (which shall be executed upon the president of the corporation for the time being, at least fifteen days

Committees of either house of Congress may inspect the books, &c. of the bank. For what purpose.

Proviso.

before the commencement of the term of said court,) calling on the said corporation to show cause wherefore the charter hereby granted, shall not be declared forfeited; and it shall be lawful for the said court, upon the return of the said scire facias, to examine into the truth of the alleged violation, and if such violation be made appear, then to pronounce and adjudge that the said charter is forfeited and annulled. *Provided, however,* Every issue of fact which may be joined between the United States and the corporation aforesaid, shall be tried by a jury. And it shall be lawful for the court aforesaid to require the production of such of the books of the corporation as it may deem necessary for the ascertainment of the controverted facts: and the final judgment of the court aforesaid, shall be examinable in the Supreme Court of the United States, by writ of error, and may be there reversed or affirmed, according to the usages of law.

APPROVED, April 10, 1816.

all times be lawful for a committee of either house of congress, appointed for that purpose, to inspect the books, and to examine into the proceedings of the corporation here-
 created, and to report whether the provisions of this charter have been, by the same, violated or not; and whenever any committee so appointed, shall find and report on the
 President of the United States shall have reason to believe that the charter has been violated, it may be lawful for Congress to direct, or the President to cause a writ
 to be sent out of the Circuit of Pennsylvania, in the name of the United States, which shall be executed upon the President of the Corporation for the
 time being, at least fifteen days before the commencement of the term of said court, calling on the said corporation to show cause why the charter being granted, and
 not be obtained forfeited; and it shall be lawful for the said court, upon the return of the said writ, to examine into the truth of the alleged violation, and if good
 reason be made appear, then to pronounce and adjudge that the said charter is forfeited and annulled, provided however, every issue of a point which may be raised
 between the United States and the corporation aforesaid, shall be tried by jury. And it shall be lawful for the court aforesaid to require the production of any of the
 books of the corporation as it may deem necessary for the ascertainment of the contents of the same, and the final judgment of the court aforesaid, shall be reversible in the
 supreme court of the United States, by writ of error, and may be there reversed or affirmed according to the usage of law.

April 10. 1816
 Approved
 James Madison

W. Clay, Speaker of the House of Representatives
 John Gallardo - President of the Senate
 Testify that this act originated in the House of Representatives
 Attest
 The Secretary

First Annual Message—Andrew Jackson

Twenty-First Congress, 1st Session

DECEMBER 8, 1829.

[Source: James D. Richardson, *A Compilation of the Messages and Papers of the Presidents*, Vol. 2, p. 1025]

* * * * *

The charter of the Bank of the United States expires in 1836, and its stockholders will most probably apply for a renewal of their privileges. In order to avoid the evils resulting from precipitancy in a measure involving such important principles and such deep pecuniary interests, I feel that I can not, in justice to the parties interested, too soon present it to the deliberate consideration of the Legislature and the people. Both the constitutionality and the expediency of the law creating this bank are well questioned by a large portion of our fellow-citizens, and it must be admitted by all that it has failed in the great end of establishing a uniform and sound currency.

Under these circumstances, if such an institution is deemed essential to the fiscal operations of the Government, I submit to the wisdom of the Legislature whether a national one, founded upon the credit of the Government and its revenues, might not be devised which would avoid all constitutional difficulties and at the same time secure all the advantages to the Government and country that were expected to result from the present bank.

* * * * *

Report of Senate Committee on Finance, on National Currency

[Sen. Doc. 104, Twenty-First Congress, 1st Session]

IN SENATE OF THE UNITED STATES

MARCH 29, 1830.

Read, and ordered to be printed

Mr. SMITH, of Maryland, made the following

REPORT:

The Committee on Finance, to which was referred a resolution of the 30th December, 1829, directing the Committee to inquire into the expediency of establishing an uniform National Currency for the United States, and to report thereon to the Senate, report:

That nothing short of the imperative order of the Senate could induce the committee to enter on a subject so surrounded with diffi-

culty. They undertake it with diffidence and a distrust of their capacity to elucidate a subject that has engaged many nations, and the pens of the ablest writers, without, as yet, coming to any definite conclusion. It still remains to be determined, What is the soundest and most uniform currency? One nation assumes one system, another a different plan. In one nation, a plan is devised, and succeeds for a time by prudent and restrictive emissions. Elated with success, larger and more extensive emissions are risked; a rapid nominal rise of all property takes place; the people are not aware that such nominal rise is the effect of depreciation; the bubble bursts, and ruin to the unsuspecting, is the consequence. All history shows such a result in several nations, and particularly in that of the United States. The committee, engaged on a variety of subjects, cannot devote so much time on the resolution as the mover must believe would be necessary to develop fully the question before them, to wit: A sound and uniform National Currency. Presuming, from the tenor of the resolution, that the uniform National Currency proposed, must be prepared by the National Government, circulated under its authority, and maintained by its credit, the committee have complied with the instruction of the Senate, by endeavoring to devise some plan, through which the agency of the Government, in such a measure, could be safe, or useful; but, after giving to it all the consideration they could bestow, their reflections have resulted in a belief that any such measure must resolve itself, at last, into a mere system of paper money, issued by the Government. The resort to the issue of a paper money has been often the desperate expedient of the wants of a nation. It has then found its justification only in the necessity which created it: yet such are its inevitable evils, that every prudent Government has, the moment its pressing exigencies permitted, returned to the only safe basis of a circulating medium, the precious metals, and the private credits attached to the use of them. Such were the expedients of the Government of the United States during its two wars; such its immediate abandonment of them at the return of peace. But, in the present condition of the Treasury of the United States, with a revenue far beyond its wants, with a debt almost nominal, and hastening to its entire extinguishment, such a measure is not needed by the interests of the Government, nor is there the slightest indication of its being demanded by the wants of the country. Of such an issue of paper money, the Executive at Washington would be the natural fountain. The agents of the Executive, the natural channels. The individuals, and corporations, and States, who borrowed it, must become debtors to the Government; and the inevitable consequence would be, the creation of a moneyed engine of direct dependence on the officers of Government, at variance with the whole scheme of our institutions. The limit to which this currency should be issued, the persons to whom it would be lent, the securities taken for its repayment, the places where it should be redeemed, involve great complication and great

hazard, regarding it merely in a financial point of view, while, on more enlarged considerations of political expediency, the objections to it are, in the opinion of the committee, insuperable and fatal.

Believing such a scheme to be impracticable, the committee were consoled with the reflection that it is *unnecessary*, as they are satisfied that the country is in the enjoyment of an uniform National currency, not only sound and uniform in itself, and perfectly adapted to all the purposes of the Government and the community, but more sound and uniform than that possessed by any other country. The importance of this truth will justify the committee in stating some details to establish it.

The currency of the United States, the only legal currency, is gold and silver. All debts to the Government, and all debts to individuals, being received in that medium, and in no other. As, however, the amount of coin requisite for these purposes would be unmanageable and inconvenient, the United States, like other commercial countries, have adopted the system of making credit supply many of the cases of coin; and numerous banking companies have been established, issuing notes, promising to pay on demand, gold and silver. The Government of the United States has established one of a similar character; and for the convenience of the community, the public revenue is collected in gold and silver, the notes of the Bank of the United States, and the notes of such solvent State banks, as the Bank of the United States and its branches will receive as cash.

The currency, therefore, of the United States, in its relation to the Government of the United States, consists of gold and silver, and of notes equivalent to gold and silver. And the inquiry which naturally presents itself, is, whether this mixed mass of currency is sound and uniform for all the practical purposes of the Government, and the trade of the Union. That it is so, will appear from the following facts:

1st. The Government receives its revenue from—

- 343 Custom Houses,
- 42 Land Offices,
- 8,004 Post Offices,
- 134 Receivers of Internal Revenue,
- 37 Marshals,
- 33 Clerks of Courts.

These, with other receiving officers, which need not be specified, compose an aggregate of more than 9,000 persons, dispersed through the whole of the Union, who collect the public revenue. From these persons, the Government has, for the ten years preceding the 1st of January, 1830, received, \$230,068,855.17. This sum has been collected in every section of this widely extended country. It has been disbursed at other points, many thousand miles distant from the places where it was collected; and yet it has been so collected and distributed, without the loss, as far as the committee can learn, of a single dollar,

and without the expense of a single dollar to the Government. That a currency, by which the Government has been thus enabled to collect and transfer such an amount of revenue to pay its army and navy, and all its expenses, and the national debt, is unsafe and unsound, cannot readily be believed: for there can be no surer test of its sufficiency, than the simple fact that every dollar, received in the form of a bank note, in the remotest parts of the interior, is, without charge, converted into a silver dollar, at every one of the vast number of places where the service of the Government requires its disbursement. The Secretary of the Treasury, in his report of the 6th of December, 1828, declares that, during the four years preceding, the receipts of the Government had amounted to more than ninety-seven millions of dollars, and that "all payments on account of the public debt, whether for interest or principal; all on account of pensions; all for the civil list; for the army; for the navy; or for whatever purpose wanted, in any part of the Union, have been punctually met." The same officer states, that "it is the preservation of a good currency that can alone impart stability to property, and prevent those fluctuations in its value, hurtful alike to individuals, and to national wealth." This advantage, the *Bank has secured to the community, by confining within prudent limits its issues of paper, &c. &c.*

2d. If this currency is thus sound and uniform for the Government, it is not less so to the community.

The basis of all good currency, should be the precious metals, gold and silver; and in a mixed currency of paper circulating with gold or silver, and convertible into it, the great object to be attained is, that the paper should always be equal to gold or silver; that is, it should always be exchangeable for gold or silver. Such a currency is perfect, uniting the convenience of a portable material with the safety of a metallic medium. Now it cannot be doubted, that throughout this whole country, the circulating bank notes are equal to specie, and convertible into specie. There may be, and probably are, exceptions; because among banks, as among men, there are some who make a show of unreal strength. But it is a fact, so familiar to the experience of every citizen in the community, as to be undeniable, that, in all the Atlantic and commercial cities, and generally speaking, throughout the whole country, the notes of the State banks are equal to gold or silver. The committee do not mean to say that there may not be too many banks, or that insolvencies do not occasionally occur among them; but as every bank which desires to maintain its character, must be ready to make settlements with the Bank of the United States, as the agent of the Government, or be immediately discredited, and must therefore keep its notes equal to gold or silver, there can be little danger to the community, while the issues of the banks are restrained from running to excess, by the salutary control of the Bank of the United States, whose own circulation is extremely moderate, compared with the amount of its capital. Accordingly, the fact is, that the

general credit of the banks is good, and that their paper is always convertible into gold or silver, and for all local purposes forms a local currency equivalent to gold and silver. There is, however, superadded to this currency, a general currency more known, more trusted, and more valuable than the local currency, which is employed in the exchanges between different parts of the country. These are the notes of the national bank. These notes are receivable for the Government, by the 9,000 receivers, scattered throughout every part of the country. *They are in fact, in the course of business, paid in gold or silver, though they are not legally, or necessarily so paid, by the branches of the bank in every section of the Union.* In all commercial places they are received, in all transactions, without any reduction in value, and never, under any circumstances, does the paper, from the remotest branches, vary beyond a quarter of one per cent. in its actual exchange for silver. Here, then, is a currency as safe as silver; more convenient, and more valuable than silver, which, through the whole Western and Southern, and interior parts of the Union, is eagerly sought in exchange for silver; which in those sections, often bears a premium paid in silver; which is throughout the Union equal to silver in payment to the Government and payments to individuals in business; and with which, whether silver is needed in any part of the country, will command it, without the charge of the slightest fraction of a per centage. By means of this currency, funds are transmitted at an expense less than in any other country. In no other country can a merchant do what every citizen of the United States can do—deposite, for instance, his silver at St. Louis or Nashville, or New Orleans, and receive notes, which he can carry with him 1,000 or 1,500 miles, to the Atlantic cities, and there receive for them an equivalent amount of silver, without any expense whatever; and in no possible event, an expense beyond a quarter of one per cent. If, however, a citizen does not wish to incur the anxiety of carrying these notes with him, or to run the hazard of the mail, he may, instead of them, receive a draft, payable to himself or his agent alone, so as to ensure the receipt of an equal amount, at an expense of not one-half, and often not one-fourth, of the actual cost of carrying the silver. The owner of funds, for instance, at St. Louis or Nashville, can transfer them to Philadelphia for one-half per cent.; from New Orleans, generally, without any charge at all—at most, one-half per cent.; from Mobile, from par to one-half per cent.; from Savannah, at one-half per cent.; and from Charleston, at from par to one-quarter per cent.

This seems to present a state of currency approaching as near to perfection as could be desired: for here is a currency issued at twenty-four different parts of the Union, obtainable by any citizen who has money or credit. When in his possession, it is equivalent to silver in all his dealings with all the 9000 agents of the Government, through-

out the Union. In all his dealings with the interior, it is better than silver; in all his dealings with the commercial cities, equal to silver; and if, for any purpose, he desires the silver with which he bought it, it is at his disposal, almost universally, without any diminution, and never more than a diminution of one quarter per cent. It is not easy to imagine, it is scarcely necessary to desire, any currency better than this.

It is not among its least advantages, that it bears a proper relation to the real business and exchanges of the country; being issued only to those whose credit entitles them to it, increasing with the wants of the active operations of society, and diminishing, as these subside, into comparative inactivity. While it is the radical vice of all Government paper to be issued without regard to the business of the community, and to be governed wholly by considerations of convenience to the Government.

After escaping so recently from the degradation of a depreciated paper currency, the committee would abstain from every thing which might, however remotely, revive it. The period is not remote when, in the language of the late Secretary of the Treasury, the country was oppressed by a "currency without any basis of coin, or other effective check, and of no value, as a medium of remittance or exchange, beyond the jurisdiction of the State whence it had been issued—a currency that not unfrequently imposed upon the Treasury the necessity of meeting, by extravagant premiums, the mere act of transferring the revenue, collected at one point, to defray unavoidable expense at another." It is still within the recollection of the Senate, when, at the seat of Government itself, specie could only be had at 20 or 22 per cent. in exchange for the bank paper promises to pay specie; that for bank notes of Baltimore, 2 per cent. were paid; for those of Philadelphia, 6 to 7 per cent.; for those of New York, 15 to 16 per cent.; and for those of Boston, 20 to 22 per cent.; ruinous inequalities, which have now happily disappeared.

3d. The soundness of the currency may be further illustrated by the present condition of the foreign exchanges.

Exchange on England is, at the present moment, more than 1 per cent. under par; that is more than one per cent. in favor of the United States. This being the real fact, disguised by the common forms of quoting exchange on England at between 8 and 9 per cent. premium.

It would lead the committee too far from its present purpose to explain that the original estimate of the American dollar, as being worth four shillings and sixpence, and that, therefore, the English pound sterling is worth \$4 44, is wholly erroneous, and occasions a constant misapprehension of the real state of our intercourse with Great Britain. The Spanish dollar has not, for a century, been worth four and sixpence: the American dollar never was; and whatever artificial value

we may assign to our coins, is wholly unavailing to them in the crucibles of London or Paris. According to the latest accounts from London, at the close of December last, the Spanish dollar, instead of being worth four shillings and sixpence, or 54 pence, was worth only $49\frac{1}{2}$ pence the American dollar at least one-fourth per cent. less; so that, to produce one hundred times four and sixpence it would be necessary to send to England, not 100 dollars, but $109\frac{1}{16}$ Spanish dollars, or $109\frac{1}{4}$ of the United States' dollar. If to this be added the expenses and charges of sending the money and converting it into English gold, it will cost 111; so that 111 is, at this moment, the real par of exchange between the United States and England. If, therefore, a bill at sight can be procured for less than this sum, or a bill at sixty days for one per cent. less, say 110 per cent. it is cheaper than sending silver; that is to say: he who has silver to send to England can purchase a bill on London for a greater amount than he would get if he shipped the silver itself, and of course exchange would be in favor of the United States against England. Now, such bills can be bought at a less rate, by more than one per cent. in every city in the United States.

This fact is conclusive as to the state of the currency. If the bank notes of the country were not equal to specie, specie would be at a premium, which it no where is at present. If the currency were unsounded, more must be paid of that currency in order to produce an equal amount of coin in another country, where these bank notes do not circulate. But if, as is the case at present, the bank notes are convertible into specie; if you can buy with bank notes as much as you can buy with silver; and if, in the transactions of the country abroad, the merchants, who, if the notes were not equal to coin, would go to the bank and ship the coin, can pay as much debt in foreign countries with the notes as by sending the coin; there seems nothing wanting to complete the evidence of the soundness and uniformity of the currency.

On the whole, the committee are of opinion that the present state of the currency is safe for the community and eminently useful to the Government; that, for some years past, it has been improving by the infusion into the circulating medium of a larger portion of coin, and the substitution of the paper of more solvent banks in lieu of those of inferior credit; and that, if left to the progress of existing laws and institutions, the partial inconveniences, which still remain, of the paper currency of the last war, will be wholly and insensibly remedied. Under these circumstances, they deem it prudent to abstain from all legislation; to abide by the practical good which the country enjoys, and to put nothing to hazard by doubtful experiments.

The committee submit, for the information of the Senate, certain questions propounded to the President of the Bank of the United States, together with his answers thereto, and a document furnished by that officer, showing the rates of exchange at which drafts are drawn by the Bank of the United States and its offices of discount and deposite; and ask to be discharged from the further consideration of the subject.

QUESTIONS SUBMITTED TO THE PRESIDENT OF THE BANK OF THE U. STATES,
WITH HIS ANSWERS.

Question 1. When the Bank went into operation, was not Philadelphia paper ten per cent. worse than Boston, and that much better than Baltimore?

Answer. *Philadelphia paper was 17 per cent. worse than Boston paper—9 to 9½ worse than New York paper—4½ better than Baltimore.*

Q. 2. Were not the State Banks indebted to the Government in large sums, which they could not have paid in sound currency? If so, to what amount? And did not the Bank in many instances assume those debts, and pay them in sound currency, (if so, to what amount?) and indulge those Banks until it was convenient for them to pay? and did not the Bank lose money by such indulgence?

A. In the years 1817 and 1818, the Government transferred to the bank at Philadelphia, from the State institutions, \$7,472,419 87, which was cashed, and \$3,336,691 67 of special deposite, to be collected by the bank, making \$10,809,111 54. The loss sustained by the bank, I cannot estimate. I should willingly compromise for a loss of only \$200,000.

Q. 3. Has the bank at any time oppressed any of the State banks?

A. Never. There are very few banks which might not have been destroyed by an exertion of the power of the bank. None have ever been injured. Many have been saved. And more have been, and are constantly relieved, when it is found that they are solvent, but are suffering under temporary difficulty.

Q. 4. When a State bank becomes indebted to the bank to an improper extent, what course do you pursue? Do you let them go beyond a certain amount, and what is that amount?

A. The great object is to keep the State banks within proper limits; to make them shape their business according to their means. For this purpose they are called upon to settle; never forced to pay specie, if it can be avoided, but payment is taken in their bills of exchange, or suffered to lie occasionally until the bank can turn round; no amount of debt is fixed, because the principle we wish to establish is, that every bank should always be ready to provide for its notes.

Q. 5. If you give drafts on any of the branches, or from one branch on another, or on the mother bank, what is the commission charged?

A. The charge for drafts is less than the transportation of specie. I send a detailed statement on this point.

Q. 6. Do you, and at every branch, pay specie on demand? Has there ever been a refusal?

A. Never.

Q. 7. Can you state whether specie is more or less abundant in the United States at present, than at any former period?

A. At the present moment, I think, specie is more abundant than usual. It comes in as usual. And the state of the exchanges with Europe is such that it is cheaper to buy bills, than to ship coin. The bank had, on the first instant, \$7,608,000, which is more than it has had for nine years past.

Q. 8. When the debt is annually paid off to foreigners, do they remit in specie or bills of exchange? Do you supply the means in either way?

A. When foreigners are paid off, a part is remitted in other stocks, a part goes in bills, a considerable portion of which are bills of the bank. Specie is never resorted to unless the bill market is so high as to make that mode of remittance cheaper.

Q. 9. Since you commenced the purchase and sale of bills of exchange, has the rate varied; if so, to what extent?

A. The operations of the bank in exchanges has had the effect of preventing the great fluctuations to which they were previously liable.

Q. 10. What is the reason that exchange on England continues above what was formerly considered the par, that is, the dollar valued at 4s. 6d. sterling? Is it that the intrinsic value of the dollar has been found to be less than 4s. 6d.? If so, what is that intrinsic value?

A. The reason is, that we choose to call our dollar 4s. 6d. when it never has been worth four and sixpence, and of course when it goes abroad, it is estimated not by the name we give it, but according to its real value.

RATES of EXCHANGE at which Drafts are drawn by the Banks of the United States and its Offices of Discount and Deposit.

On	Bk. U. States.	Portland.	Portsmouth.	Boston.	Providence.	Hartford.	New York.	Baltimore.	Washington.	Richmond.	Norfolk.	Fayetteville.	Charleston.	Savannah.	Mobile.	New Orleans.	St. Louis.	Nashville.	Louisville.	Lexington.	Cincinnati.	Pittsburg.	Buffalo.
At—	—	Para $\frac{1}{4}$	Par	Par	Par	Par	Par	Para $\frac{1}{2}$	$\frac{3}{4}$	1	1	Par	Par	Par	Par	Par	Para $\frac{1}{2}$	Para $\frac{1}{2}$					
Bk. U. St'es.	—	Para $\frac{1}{4}$	Par	Par	Par	Par	Par	Para $\frac{1}{2}$	$\frac{3}{4}$	1	1	Par	Par	Par	Par	Par	Para $\frac{1}{2}$	Para $\frac{1}{2}$					
Office—	—	Para $\frac{1}{4}$	Par	Par	Par	Par	Par	Para $\frac{1}{2}$	$\frac{3}{4}$	1	1	Par	Par	Par	Par	Par	Para $\frac{1}{2}$	Para $\frac{1}{2}$					
Portland	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Portsmouth	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Boston	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Providence	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Hartford	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
New York	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Baltimore	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Washington	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Richmond	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Norfolk	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Fayetteville	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Charleston	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Savannah	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Mobile	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
New Orleans	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
St. Louis	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Nashville	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Louisville	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Lexington	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Cincinnati	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Pittsburg	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—
Buffalo	Par	Par	Par	Para $\frac{1}{4}$	Par	Par	—	Par	Par	—	—	—	Para $\frac{1}{2}$	—	$\frac{1}{2}$ a 1	$\frac{1}{2}$ a 1	—	—	—	—	—	—	—

**Report of House Committee of Ways and Means, on Presidential
Message About Bank of United States**

[House Report 358, Twenty-First Congress, 1st Session, Pages 1-31]

BANK OF THE UNITED STATES.

APRIL 13, 1830.

Read, and laid upon the table.

MR. MCDUFFIE, from the Committee of Ways and Means, to which the subject had been referred, made the following

REPORT:

The Committee of Ways and Means, to whom was referred so much of the Message of the President as relates to the Bank of the United States, beg leave to report:

That they have bestowed upon the subject all the attention demanded by its intrinsic importance, and now respectfully submit the result of their deliberations to the consideration of the House. There are few subjects, having reference to the policy of an established government, so vitally connected with the health of the body politic, or in which the pecuniary interests of society are so extensively and deeply involved. No one of the attributes of sovereignty carries with it a more solemn responsibility, or calls in requisition a higher degree of wisdom, than the power of regulating the common currency, and thus fixing the general standard of value for a great commercial community, composed of confederated States.

Such being, in the opinion of the committee, the high and delicate trust exclusively committed to Congress by the Federal Constitution, they have proceeded to discharge the duty assigned to them with a corresponding sense of its magnitude and difficulty.

The most simple and obvious analysis of the subject, as it is presented by the message of the President, exhibits the following questions for the decision of the National Legislature:

1. Has Congress the constitutional power to incorporate a bank, such as that of the United States?

2. Is it expedient to establish and maintain such an institution?

3. Is it expedient to establish "a National Bank, founded upon the credit of the Government and its revenues?"

I. If the concurrence of all the departments of the Government, at different period of our history, under every administration, and during the ascendancy of both the great political parties, into which the country was divided, soon after the adoption of the present Constitution, shall be regarded as having the authority ascribed to such sanctions by the common consent of all well regulated communities, the constitutional power of Congress to incorporate a bank, may be assumed as a postulate no longer open to controversy. In little more

than two years after the Government went into operation, and at a period when most of the distinguished members of the Federal Convention were either in the Executive or Legislative councils, the act, incorporating the first bank of the United States, passed both branches of Congress by large majorities, and received the deliberate sanction of President Washington, who had then recently presided over the deliberations of the Convention. The constitutional power of Congress to pass the act of incorporation, was thoroughly investigated, both in the Executive Cabinet and in Congress, under circumstances, in all respects, propitious to a dispassionate decision. There was, at that time, no organization of political parties, and the question was therefore, decided by those, who, from their knowledge and experience, were peculiarly qualified to decide correctly; and who were entirely free from the influence of that party excitement and prejudice, which would justly impair, in the estimation of posterity, the authority of a legislative interpretation of the constitutional charter. No persons can be more competent to give a just construction to the Constitution, than those who had a principal agency in framing it; and no administration can claim a more perfect exemption from all those influences which, sometimes, pervert the judgments, even of the most wise and patriotic, than that of the Father of his Country, during the first term of his service.

Such were the circumstances, under which all the branches of the National Legislature solemnly determined that the power of creating a National Bank was vested in Congress by the Constitution. The bank thus created, continued its operations for twenty years—the period for which its charter was granted—during which time, public and private credit were raised, from a prostrate, to a very elevated condition, and the finances of the nation were placed upon the most solid foundation.

When the charter expired, in 1811, Congress refused to renew it, principally owing, as the committee believes to the then existing state of political parties. Soon after the bank was chartered, the two great parties that have since divided the country, began to assume an organized existence. Mr. Jefferson and Mr. Madison, the former in the Executive Cabinet, and the latter in Congress, had been opposed to the establishment of the bank, on constitutional grounds, and being placed at the head of the party most unfavorable to the extension of the powers of the Government, by implication, the bank question came to be regarded as, in some degree, the test of political principle.

When Mr. Jefferson came into power, upon the strong tide of a great political revolution, the odium of the Alien and Sedition laws was, in part, communicated to the Bank of the United States; and, although he gave his official sanction to an act, creating a new branch of that institution, at New Orleans, and to another to punish the counterfeiting of its bills, yet, when the question of renewing the charter came before Congress, it was discussed as a party question. And, though some of the most distinguished republicans, including Mr. Gallatin, then Secretary of the Treasury, and Mr. Crawford, then a member of the Senate, were decidedly in favor of the renewal, sustaining the measure by able arguments, the votes in both branches of Congress were distinctly marked as party votes. At no time, since

the commencement of the Government, has there existed a more violent party excitement, than that which marked the period under review. It was the period of the embargo, non-intercourse, and other commercial restrictions; when the indiscriminating opposition of the leaders of the federal party to the measures adopted by the administration, to vindicate our rights against British aggression, had caused the great majority of the American people to view these leaders as the apologists of a nation, already regarded in the light of a public enemy. When to these circumstances we add, that the stock of the bank was principally held by British subjects, and Americans of the unpopular party, the House will readily perceive how great were the national and party prejudices, which must have been arrayed against the proposition to renew its charter. It was stated by Mr. Clay, in a speech delivered in the Senate, that seven-tenths of the stock belonged to British subjects, and that certain English noblemen, and a late Lord Chancellor, were among the very largest of the stockholders. With all these difficulties to encounter, the proposition for renewing the charter was lost only by the casting vote of the President of the Senate, and by a majority of a single vote in the House of Representatives.

In less than three years after the expiration of the charter—the war with Great Britain having taken place in the mean time—the circulating medium became so disordered, the public finances so deranged, and the public credit so impaired, that the enlightened patriot, Mr. Dallas, who then presided over the Treasury Department, with the sanction of Mr. Madison, and, as it is believed, every member of the cabinet, recommended to Congress the establishment of a National Bank, as the only measure by which the public credit could be revived, and the fiscal resources of the Government redeemed from a ruinous, and otherwise incurable embarrassment: and, such had been the impressive lesson taught by a very brief, but fatal experience, that the very institution, which had been so recently denounced, and rejected by the republican party, being now recommended by a republican administration, was carried through both branches of Congress, as a republican measure, by an overwhelming majority of the republican party. It is true that Mr. Madison did not approve and sign the bill which passed the two Houses, because it was not such a bill as had been recommended by the Secretary of the Treasury, and because the bank it proposed to create, was not calculated, in the opinion of the President, to relieve the necessities of the country. But he premised his objections to the measure, by “waiving the question of the constitutional authority of the Legislature to establish an incorporated bank, as being precluded, in his opinion, by repeated recognitions, under varied circumstances, of the validity of such an institution in acts of the Legislative, Executive, and Judicial branches of the Government, accompanied by indications, in different modes, of a concurrence of the general will of the nation.” Another bill was immediately introduced, and would, in all probability, have become a law, had not the news of peace, by doing away the pressure of the emergency, induced Congress to suspend further proceedings on the subject, until the ensuing session. At the commencement of that session, Mr. Madison invited the attention of Congress to the subject, and Mr. Dallas again urged the necessity of

establishing a bank, to restore the currency, and facilitate the collection and disbursement of the public revenue; and so deep and solemn was the conviction upon the minds of the public functionaries, that such an institution was the only practicable means of restoring the circulating medium to a state of soundness, that, notwithstanding the decided opposition of all the State banks and their debtors, and, indeed, the whole debtor class of the community, the act, incorporating the present Bank of the United States, was passed by considerable majorities in both branches of Congress, and approved by Mr. Madison.

This brief history of the former and present bank, forcibly suggests a few practical reflections. It is to be remarked, in the first place, that, since the adoption of the Constitution, a bank has existed under the authority of the Federal Government, for thirty-three out of forty years; during which time, public and private credit have been maintained at an elevation fully equal to what has existed in any nation in the world: whereas, in the two short intervals, during which no national bank existed, public and private credit were greatly impaired, and, in the latter instance, the fiscal operations of the Government were almost entirely arrested. In the second place, it is worthy of special notice, that, in both the instances in which Congress has created a bank, it has been done under circumstances calculated to give the highest authority to the decision. The first instance, as has been already remarked, was in the primitive days of the republic, when the patriots of the Revolution, and the sages of the Federal Convention, were the leading members both of the Executive and Legislative councils; and when General Washington, who, at the head of her armies, had conducted his country to independence, and, as the head of the Convention, had presided over those deliberations which resulted in the establishment of the present Constitution, was the acknowledged President of a people, undistracted by party divisions. The second instance was under circumstances of a very different but equally decisive character. We find the very party which had so recently defeated the proposition to renew the charter of the old bank, severely schooled both by adversity and experience, magnanimously sacrificing the pride of consistency, and the prejudices of party, at the shrine of patriotism. It may be said without disparagement, that an assembly of higher talent and purer patriotism has never existed since the days of the Revolution, than the Congress by which the present bank was incorporated. If ever a political party existed, of which it might be truly said, that "all the ends they aimed at were their country's," it was the republican party of that day. They had just conducted the country through the perils of a war, waged in defence of her rights and honor, and, elevating their views far above the narrow and miserable ends of party strife, sought only to advance the permanent happiness of the people. It was to this great end, that they established the present bank.

In this review, it will be no less instructive than curious, to notice some of the changes made in the opinions of prominent men, yielding to the authority of experience. Mr. Madison, who was the leading opponent of the bank created in 1791, recommended and sanctioned the bank created in 1816; and Mr. Clay, who strenuously opposed the renewal of the charter in 1811, as strenuously supported the proposition to grant the charter in 1816.

That may be said of the bank charter, which can be said of few contested questions of constitutional power. Both the great political parties that have so long divided the country, have solemnly pronounced it to be constitutional, and there are but very few of the prominent men of either party, who do not stand committed in its favor. When, to this imposing array of authorities, the committee add the solemn and unanimous decision of the Supreme Court, in a case which fully and distinctly submitted the constitutional question to their cognizance, may they not ask, in the language of Mr. Dallas, "can it be deemed a violation of the right of private opinion to consider the constitutionality of a national bank as a question forever settled and at rest?"

And here the committee beg to be distinctly understood, as utterly disclaiming the idea of ascribing to the decision of any or of all the departments of the Government, upon a great constitutional question, the binding authority which belongs to judicial precedents, in cases of mere private right, depending upon the construction of the ordinary acts of the Legislature. No length of prescription, or concurrence of authority, can consecrate the usurpation of powers subversive of public liberty, and destructive of public happiness. But, where the power exercised is clearly conducive to the public welfare, and its constitutionality is merely doubtful, it would seem to be one of the most obvious dictates of practical wisdom, to regard the decision of those who had the best means of ascertaining the intention of the Constitution, and who were actuated by the most undoubted purity and disinterestedness of motive, as of sufficient authority at least to overrule theoretical objections and silence individual scruples.

The committee will now submit a few remarks, with the design of shewing, that, viewing the constitutionality of the bank as an original question, the arguments in its favor are at least as strong as those against it.

The earliest, and the principal objection urged against the constitutionality of a national bank, was, that Congress had not the power to create corporations. That Congress has a distinct and substantive power to create corporations, without reference to the objects entrusted to its jurisdiction, is a proposition which never has been maintained, within the knowledge of the committee; but, that any of the powers expressly conferred upon Congress, is subject to the limitation, that it shall not be carried into effect by the agency of a corporation, is a proposition which cannot be maintained, in the opinion of the committee.

If Congress, under the authority to pass *all laws*, necessary and proper for carrying into effect the powers vested in all or any of the departments of the Government, may rightfully pass a law inflicting the punishment of death, *without any other authority*, it is difficult to conceive why it may not pass a law, under the same authority, for the more humble purpose of creating a corporation. The power of creating a corporation, is one of the lowest attributes, or, more properly speaking, incidents, of sovereign power. The chartering of a bank, for example, does not authorize the corporation to do any thing, which the individuals composing it might not do without the charter. It is the right of every individual of the Union to give credit to whom he chooses, and to obtain credit where he can

get it. It is not the policy of any commercial country to restrict the free circulation of credit, whether in the form of promissory notes, bills of exchange, or bank notes. The charter of the Bank of the United States, therefore, merely enables the corporation to do, in an artificial capacity, and with more convenience, what it would be lawful for the individual corporators to do without incorporation. Mr. Girard established a bank in Philadelphia without a charter, which was in very high credit within the sphere of its circulation; and it cannot be doubted, that he might have formed a banking co-partnership with the principal capitalists in the other commercial cities of the Union, of which the bills would have had a general credit in every part of the country, particularly if the Federal Government had provided that these bills should be received in discharge of its dues. The only material particular in which the charter of the Bank of the United States confers a privilege upon the corporation, apparently inconsistent with the State laws, is, the exemption of the individual property of the corporators from responsibility for the debts of the corporation. But, if the community deal with the bank, knowing that the capital subscribed is alone liable for its debts, no one can complain either of imposition or injury; and, in point of fact, no one ever has complained on that score, or ever will. The real complaint against the bank, is not that it has not a sufficient basis for its credit, but that its credit is too extensive. The objection lies, therefore, not against the artificial character communicated to the stockholders by the charter, but against the pecuniary operations of the bank itself. Now, these operations consist in the use of its own capital—a faculty not surely derived from the Government, but, in the exercise of which, the Government imposes many useful restrictions for the benefit of itself and of the community.

The committee have presented this brief analysis of a bank corporation, with the view of showing that there is nothing in the nature of the thing, which renders it unfit to be an instrument in the hands of a government, admitted to be sovereign in its appropriate sphere, for carrying into effect powers expressly delegated.

It now remains for the committee to show that the Bank of the United States is a "necessary and proper," or, in other words, a natural and appropriate means, of executing the powers vested in the Federal Government. In the discussion of 1791, and also in that before the Supreme Court, the powers of raising, collecting, and disbursing the public revenue, of borrowing money on the credit of the United States, and paying the public debt, were those which were supposed most clearly to carry with them the incidental right of incorporating a bank, to facilitate these operations. There can be no doubt, that these fiscal operations are greatly facilitated by a bank, and it is confidently believed, that no person has presided twelve months over the Treasury, from its first organization to the present time, without coming to the conclusion, that such an institution is exceedingly useful to the public finances in time of peace, but indispensable in time of war. But as this view of the question has been fully unfolded in former discussions, familiar to the House, the committee will proceed to examine the relation which the Bank of the United States bears to another of the powers of the Federal Government, but slightly adverted to in former discussions of the subject.

The power to "coin money and fix the value thereof," is expressly and exclusively vested in Congress. This grant was evidently intended to invest Congress with the power of regulating the circulating medium. "Coin" was regarded, at the period of framing the Constitution, as synonymous with "currency," as it was then generally believed that bank notes could only be maintained in circulation by being the true representative of the precious metals. The word "coin," therefore, must be regarded as a particular term, standing as the representative of a general idea. No principle of sound construction will justify a rigid adherence to the letter, in opposition to the plain intention of the clause. If, for example, the gold bars of Ricardo should be substituted for our present coins, by the general consent of the commercial world, could it be maintained that Congress would not have the power to *make* such money, and fix its value, because it is not "coined?" This would be sacrificing sense to sound, and substance to mere form. This clause of the Constitution is analogous to that which gives Congress the power "to establish post roads." Giving to the word "establish" its restricted interpretation, as being equivalent to "fix," or "prescribe," can it be doubted that Congress has the power to establish a canal, or a river, as a post route, as well as a road? Roads were the ordinary channels of conveyance, and the term was, therefore, used as synonymous with "routes," whatever might be the channel of transportation, and, in like manner, "coin," being the ordinary and most known form of a circulating medium, that term was used as synonymous with currency.

An argument in favor of the view just taken, may be fairly deduced from the fact, that the States are expressly prohibited from "coining money, or emitting bills of credit," and from "making any thing but gold and silver a lawful tender in payment of debts." This strongly confirms the idea, that the subject of regulating the circulating medium, whether consisting of coin or paper, was, at the same time that it was taken from the control of the States, vested in the only depository in which it could be placed, consistently with the obvious design of having a common measure of value throughout the Union.

But, even if it should be conceded, that the grant of power to "coin money and fix the value thereof" does not, in its terms, give Congress the power of regulating any other than the "coined" currency of the Union, may not the power of regulating any substituted currency, and especially one which is the professed representative of coin, be fairly claimed as an incidental power—as an essential means of carrying into effect the plain intention of the Constitution, in clothing Congress with the principal power? This power was granted in the same clause with that to regulate weights and measures, and for similar reasons. The one was designed to ensure a uniform measure of value, as the other was designed to ensure a uniform measure of quantity. The former is decidedly the more important, and belong essentially to the General Government, according to every just conception of our system. A currency of uniform value is essential to what every one will admit to be of cardinal importance: the equal action of our revenue system, upon the different parts of the Union. The state of things which existed when the Bank was incorporated, furnished a most pregnant commentary on this clause of the Constitution. The currency of the country consisted of the paper of local banks, variously depreciated.

At one of the principal sea-ports the local currency was 20 per cent. below par. Now it was in vain for Congress to regulate the value of coin, when the actual currency, professing to be its equivalent, bore no fixed relation to it. This great and essential power of fixing the standard of value, was, in point of fact, taken from Congress, and exercised by some hundreds of irresponsible banking corporations, with the strongest human motives to abuse it, because their enormous profits resulted from the abuse. The power of laying and collecting imposts and excises, is expressly subject to the condition that they "shall be uniform throughout the United States;" and it is also provided, that "no preference shall be given, by any regulation of commerce, or *revenue*, to the ports of one State over those of another." Now, when it is known that the circulating medium of Baltimore was 20 per cent. below the value of the circulating medium of Boston, is it not apparent that an impost duty, though nominally uniform, would, in effect, make a discrimination in favor of Baltimore, proportioned to the depreciation of the local currency? Congress, therefore, not only had the power, but, as it seems to the committee, were under the most solemn constitutional obligations to restore the disordered currency; and the Bank of the United States was not only an appropriate means for the accomplishment of that end, but, in the opinion of the committee, the only safe and effectual means that could have been used. This view of the subject is in full accordance with the opinion of Mr. Madison, as expressed in his message of December, 1816. "But, says he, for the interest of the community at large, as well as for the purposes of the Treasury, it is essential that the nation should possess a currency of equal value, credit, and use, wherever it may circulate. The Constitution has entrusted Congress, exclusively, with the power of creating and regulating a currency of that description, and the measures which were taken, during the last Session, in execution of the power, give every promise of success. The Bank of the United States, under auspices the most favorable, cannot fail to be an important auxiliary."

Such are the authorities and such the arguments which have brought the committee to the conclusion, that the power to incorporate a bank is incidental to the powers of collecting and disbursing the public revenue; of borrowing money on the credit of the United States; of paying the public debt; and, above all, of fixing and regulating the standard of value, and thereby ensuring, at least so far as the medium of payment is concerned, the uniformity and equality of taxation.

II. The next question proposed for consideration, is the expediency of establishing an incorporated bank, with a view to promote the great ends already indicated. In discussing the constitutionality of such a measure, some of the considerations which render it inexpedient, have been slightly unfolded. But these require a more full and complete development, while others remain to be presented.

It must be assumed as the basis of all sound reasoning on this subject, that the existence of a paper currency, issued by banks deriving their charters from the State Governments, cannot be prohibited by Congress. Indeed, bank credit and bank paper are so extensively interwoven with the commercial operations of society, that, even if Congress had the constitutional power, it would be utterly impossible to produce so entire a change in the monetary system of the country, as

to abolish the agency of banks of discount, without involving the community in all the distressing embarrassments usually attendant on great political revolutions, subverting the titles to private property. The sudden withdrawal of some hundred millions of bank credit, would be equivalent, in its effects, to the arbitrary and despotic transfer of the property of one portion of the community to another, to the extent, probably, of half that amount. Whatever, therefore, may be the advantages of a purely metallic currency, and whatever the objections to a circulating medium partly composed of bank paper, the committee consider that they are precluded, by the existing state of things, from instituting a comparison between them, with a view to any practical result.

If they were not thus precluded, and it were submitted to them as an original question, whether the acknowledged and manifold facilities of bank credit and bank paper, are not more than counterbalanced by the distressing vicissitudes in trade incident to their use, they are by no means prepared to say, that they would not give a decided preference to the more costly and cumbersome medium.

But the question really presented for their determination, is not between a metallic and a paper currency, but between a paper currency of uniform value, and subject to the control of the only power competent to its regulation, and a paper currency of varying and fluctuating value, and subject to no common or adequate control whatever. On this question it would seem that there could scarcely exist a difference of opinion; and that this is substantially the question involved in considering the expediency of a national bank, will satisfactorily appear by a comparison of the state of the currency previous to the establishment of the present bank, and its condition for the last ten years.

Soon after the expiration of the charter of the first Bank of the United States, an immense number of local banks sprung up under the pecuniary exigencies produced by the withdrawal of so large an amount of bank credit, as necessarily resulted from the winding up of its concerns—an amount falling very little short of fifteen millions of dollars. These banks being entirely free from the salutary control which the Bank of the United States had recently exercised over the local institutions, commenced that system of imprudent trading and excessive issues, which speedily involved the country in all the embarrassments of a disordered currency. The extraordinary stimulus of a heavy war expenditure, derived principally from loans, and a corresponding multiplication of local banks, chartered by the double score in some of the States, hastened the catastrophe which must have occurred, at no distant period, without these extraordinary causes. The last year of the war presented the singular and melancholy spectacle of a nation abounding in resources, a people abounding in self-devoting patriotism, and a Government reduced to the very brink of avowed bankruptcy, solely for the want of a national institution, which, at the same time that it would have facilitated the Government loans and other Treasury operations, would have furnished a circulating medium of general credit in every part of the Union. In this view of the subject, the committee are fully sustained by the opinion of Mr.

Dallas, then Secretary of the Treasury, and by the concurring and almost unanimous opinion of all parties in Congress: for, whatever diversity of opinion prevailed, as to the proper basis and organization of a bank, almost every one agreed that a national bank, of some sort, was indispensably necessary to rescue the country from the greatest of financial calamities.

The committee will now present a brief exposition of the state of currency at the close of the war, of the injury which resulted from it, as well to the Government as to the community, and their reasons for believing that it could not have been restored to a sound condition, and cannot now be preserved in that condition, without the agency of such an institution as the Bank of the United States.

The price current appended to this report will exhibit a scale of depreciation in the local currency, ranging through various degrees to twenty, and even to twenty-five per cent. Among the principal Eastern cities, Washington and Baltimore were the points at which the depreciation was greatest. The paper of the banks in these places, was from 20 to 22 per cent. below par. At Philadelphia the depreciation was considerably less, though even there it was from 17 to 18 per cent. In New York and Charleston, it was from 7 to 10 per cent. But in the interior of the country, where banks were established, the depreciation was even greater than at Washington and Baltimore. In the Western part of Pennsylvania, and particularly at Pittsburg, it was 25 per cent. These statements, however, of the relative depreciation of bank paper at various places, as compared with specie, give a very inadequate idea of the enormous evils inflicted upon the community, by the excessive issues of bank paper. No proposition is better established than that the value of money, whether it consists of specie or paper, is depreciated in exact proportion to the increase of its quantity, in any given state of the demand for it. If, for example, the banks, in 1816, doubled the quantity of the circulating medium by their excessive issues, they produced a general degradation of the entire mass of the currency, including gold and silver, proportioned to the redundancy of the issues, and wholly independent of the relative depreciation of bank paper at different places, as compared with specie. The nominal money price of every article was of course one hundred per cent. higher than it would have been, but for the duplication of the quantity of the circulating medium. Money is nothing more nor less than the measure by which the relative value of all articles of merchandise is ascertained. If, when the circulating medium is fifty millions, an article should cost one dollar, it would certainly cost two, if, without any increase of the uses of a circulating medium, its quantity should be increased to one hundred millions. This rise in the price of commodities, or depreciation in the value of money, as compared with them, would not be owing to the want of credit in the bank bills, of which the currency happened to be composed. It would exist, though these bills were of undoubted credit, and convertible into specie at the pleasure of the holder, and would result simply from the redundancy of their quantity. It is important to a just understanding of the subject, that the relative depreciation of bank paper at different places, as compared with specie, should not

be confounded with the general depreciation of the entire mass of the circulating medium, including specie. Though closely allied, both in their causes and effects, they deserve to be separately considered.

The evils resulting from the relative depreciation of bank paper at different places, are more easily traced to their causes, more palpable in their nature, and consequently more generally understood by the community. Though much less ruinous than the evils resulting from the general depreciation of the whole currency, they are yet of sufficient magnitude to demand a full exposition.

A very serious evil, already hinted at, which grew out of the relative depreciation of bank paper, at the different points of importation, was its inevitable tendency to draw all the importations of foreign merchandise to the cities where the depreciation was greatest, and divert them from those where the currency was comparatively sound. If the Bank of the United States had not been established, and the Government had been left without any alternative but to receive the depreciated local currency, it is difficult to imagine the extent to which the evasion of the revenue laws would have been carried. Every State would have had an interest to encourage the excessive issues of its banks, and increase the degradation of its currency, with a view to attract foreign commerce. Even in the condition which the currency had reached in 1816, Boston, and New York, and Charleston, would have found it advantageous to derive their supplies of foreign merchandise through Baltimore; and commerce would undoubtedly have taken that direction had not the currency been corrected. To avoid this injurious diversion of foreign imports, Massachusetts, and New York, and South Carolina, would have been driven, by all motives of self defence and self interest, to degrade their respective currencies at least to a par with the currency of Baltimore; and thus a rivalry in the career of depreciation would have sprung up, to which no limit can be assigned. As the tendency of this state of things would have been to cause the largest portion of the revenue to be collected at a few places, and in the most depreciated of the local currency, it would have followed that a very small part of that revenue would have been disbursed at the points where it was collected. The Government would consequently have been compelled to sustain a heavy loss upon the transfer of its funds to the points of expenditure. The annual loss which would have resulted from these causes alone, cannot be estimated at a less sum than two millions of dollars.

But the principal loss which resulted from the relative depreciation of bank paper at different places, and its want of general credit, was that sustained by the community in the great operations of commercial exchange. The extent of these operations annually, may be safely estimated at sixty millions of dollars. Upon this sum the loss sustained by the merchants, and planters, and farmers, and manufacturers, was not probably less than an average of ten per cent. being the excess of the rate of exchange beyond its natural rate in a sound state of the currency, and beyond the rate to which it has been actually reduced by the operations of the Bank of the United States. It will be thus perceived, that an annual tax of six millions of dollars was levied from the industrious and productive classes, by the large moneyed capitalists in our commercial cities, who were engaged in the business of brokerage. A variously depreciated currency, and a fluctuating state of

the exchanges, open a wide and abundant harvest to the money brokers; and it is not, therefore, surprising, that they should be opposed to an institution, which, at the same time that it has relieved the community from the enormous tax just stated, has deprived them of the enormous profits which they derived from speculating in the business of exchange. In addition to the losses sustained by the community, in the great operations of exchange, extensive losses were suffered throughout the interior of the country, in all the smaller operations of trade, as well as by the failure of the numerous paper banks, puffed into a factitious credit by fraudulent artifices, and having no substantial basis of capital to ensure the redemption of their bills.

But no adequate conception can be formed of the evils of a depreciated currency, without looking beyond the relative depreciation, at different places, to the general depreciation of the entire mass. It appears from the report of Mr. Crawford, the Secretary of the Treasury in 1820, that during the general suspension of specie payments, by the local banks, in the years 1815 and 1816, the circulating medium of the United States had reached the aggregate amount of one hundred and ten millions of dollars, and that, in the year 1819, it had been reduced to forty-five millions of dollars, being a reduction of fifty-nine per cent. in the short period of four years. The committee are inclined to the opinion, that the severe and distressing operation of restoring a vicious currency to a sound state, by the calling in of bank paper, and the curtailment of bank discounts, had carried the reduction of the currency, in 1819, to a point somewhat lower than was consistent with the just requirements of the community for a circulating medium, and that the bank discounts have been gradually enlarged since that time, so as to satisfy those requirements. It will be assumed, therefore, that the circulating medium of the United States has been fifty-five millions of dollars for the last ten years, taking the average.

Even upon this assumption it will follow, that the national currency has been one hundred per cent. more valuable for the last ten years, than it was in 1816. In other words, two dollars would purchase no more of any commodity in 1816, than one dollar has been capable of purchasing at any time since 1819. It is obvious, therefore, that the depreciation of the paper of particular banks, at any particular time, as compared with specie, furnishes no criterion by which to ascertain the general depreciation of the whole currency, including specie, as compared with the value of that currency at a different period. A specie dollar in 1816, would purchase no more than half as much as a paper dollar will purchase at present.

Having endeavored to explain, thus briefly, the general depreciation resulting from a redundant currency, the committee will now proceed to point out some of the injurious consequences which have resulted from those great changes in the standard of value, which have been unavoidably produced by the correction of the redundancy.

An individual who borrowed a sum of money in 1816, and paid it in 1820, evidently returned to the lender double the value received from him; and one who paid a debt in 1820, which he had contracted in 1816, as evidently paid double the value he had stipulated to pay, though nominally the same amount in money. It is in this way that fluctuations in the quantity and value of the currency interfere, in the most unjust and injurious manner, between debtor and creditor.

And when banks have the power of suspending specie payments, and of arbitrarily contracting and expanding their issues, without any general control, they exercise a more dangerous and despotic power over the property of the community, than was ever exercised by the most absolute government. In such a state of things, every man in the community holds his property at the mercy of money making corporations, which have a decided interest to abuse their power.

By a course of liberal discounts and excessive issues for a few years, followed by a sudden calling in of their debts and contraction of their issues, they would have the power of transferring the property of their debtors to themselves, almost without limit. Debts contracted when their discounts were liberal, and the currency of course depreciated, would be collected when their discounts were almost suspended, and the currency of course unnaturally appreciated; and in this way the property of the community might pass under the hammer, from its rightful owners to the banks, for less than one half its intrinsic value. If the committee have not greatly mistaken the matter, there is more of history than of speculation in what they have here presented to the consideration of the House.

It is impossible to form any thing like an accurate estimate of the injuries and losses sustained by the community, in various ways, by the disorders and fluctuations of the currency, in the period which intervened between the expiration of the old bank charter, and the establishment of the present bank. But some tolerable notion may be formed of the losses sustained by the Government, in its fiscal operations, during the war.

The committee have given this part of the subject an attentive and careful examination, and they cannot estimate the pecuniary losses of the Government, sustained exclusively for the want of a sound currency, and an efficient system of finance, at a sum less than forty-six millions of dollars. If they shall make this apparent, the House will have something like a standard for estimating the individual losses of the community.

The Government borrowed, during the short period of the war, eighty millions of dollars, at an average discount of fifteen per cent., giving certificates of stock, amounting to eighty millions of dollars, in exchange for sixty-eight millions of dollars, in such bank paper as could be obtained. In this statement, Treasury notes are considered as stock, at twenty per cent. discount. Upon the very face of the transaction, therefore, there was a loss of twelve millions of dollars, which would, in all probability, have been saved, if the Treasury had been aided by such an institution as the Bank of the United States. But the sum of sixty-eight millions of dollars, received by the Government, was in a depreciated currency, not more than half as valuable as that in which the stock given in exchange for it, has been and will be redeemed. Here, then, is another loss of thirty-four millions, resulting, incontestibly and exclusively, from the depreciation of the currency, and making, with the sum lost by the discount, forty-six millions of dollars. While, then, the Government sustained this great pecuniary loss in less than three years of war, amounting annually to more than the current expenses of the Government in time of peace, it is worth while to inquire, who were the persons who profited to this enormous amount by the derangement of the cur-

gency? It will be found that the whole benefit of this speculation upon the necessities of the Government was realized by stockjobbers and money brokers, the very same class of persons who profited so largely by the business of commercial exchanges, in consequence of the disorders of the currency, and who have the same interest in the recurrence of those disorders as lawyers have in litigation, or physicians in the diseases of the human frame. Having presented these general views of the evils which existed previous to the establishment of the Bank of the United States, it remains for the committee to inquire how far this institution has effected a remedy of those evils.

The first great question which arises under this branch of the inquiry is, whether or no the bank has corrected the disorders of the circulating medium, by providing a paper currency, convertible into specie at the pleasure of the holder, and of equal value with specie at all points of the Union?

The Chief Magistrate, in that part of his first message which relates to the Bank of the United States, expresses the opinion, that "it has failed in the great end of establishing a uniform and sound currency." After giving to this opinion all the consideration to which it is so justly entitled, from the eminent station and high character of the citizen by whom it is entertained, the committee are constrained to express their respectful but decided dissent from it. It is true, that the bank does not, in all cases, redeem the bills issued by any one of its branches, indiscriminately at all the other branches; and it is in reference to this fact, as the committee presume, that the President expresses the opinion that the institution has failed to establish "a uniform and sound currency."

It is confidently believed, that no one of the persons who were principally instrumental in establishing the bank, ever entertained an idea that it would attempt to redeem its bills at any of its offices, other than those by which they should be respectively issued. The charter certainly contains no such requirement, and it would have been highly inexpedient if it had, to say nothing of its obvious injustice. The inevitable effect of such a requirement, would have been to compel the bank to perform the whole of the commercial exchanges of the country, without any compensation. It would not be more unjust to require a Rail Road Company to transport all the productions of the country without compensation. No institution could stand such an operation; and it was the injudicious attempt of the first direction of the bank to do it, that principally contributed to the embarrassments of 1819. A committee was appointed by the House of Representatives, in that year, to investigate the management of the bank; and in the report of that committee, as well as in the discussions to which it gave rise in the House, this attempt of the direction to redeem the bills of the institution, indiscriminately, at all its branches, was indicated as one of the causes of the existing embarrassment. No one who participated in the debate, pretended to allege that the bank was bound to redeem its bills indiscriminately, or that it was expedient that it should do so. The most that any one did, was to apologise for the unwise attempt.

But it yet remains for the committee to show that this indiscriminate redeemability of the bills of all the branches of the bank, is not necessary to "the establishment of a uniform and sound currency."

Human wisdom has never effected, in any other country, a nearer approach to uniformity in the currency, than that which is made by the use of the precious metals. If, therefore, it can be shown that the bills of the United States' Bank, are of equal value with silver at all points of the Union, it would seem that the proposition is clearly made out, that the bank has accomplished "the great end of establishing a uniform and sound currency." It is not denied that the bills of the mother bank, and of all its branches, are invariably and promptly redeemed in specie, whenever presented at the offices by which they have been respectively issued, and at which, upon their face, they purport to be payable. Nor is it denied that the bills of the bank, and of all the branches, are equal to specie in their respective spheres of circulation. Bills, for example, issued by the mother bank, are admitted to be equal to silver in Pennsylvania, and all those parts of the adjacent States of which Philadelphia is the market. But it is contended that these bills, not being redeemable at Charleston and New Orleans, are not of equal value with silver to the merchant who wishes to purchase cotton with them, in those cities. Now, if the Philadelphia merchant had silver, instead of bank bills, he certainly could not effect his purchases with it in Charleston or New Orleans, without having the silver conveyed to those places; and it is equally certain that he could not have it conveyed there, without paying for its transportation and insurance. These expenses constitute the natural rate of exchange between those cities, and indicate the exact sum which the merchant would give as a premium for a bill of exchange, to avoid the trouble and delay of transporting his specie. It is obvious, therefore, that, even for these distant operations of commerce, silver would be no more valuable than the bills of the bank: for these would purchase a bill of exchange on either of the cities mentioned, precisely as well as silver. If the operation should be reversed, and the planter of Louisiana or South Carolina should desire to place his funds in Philadelphia with a view to purchase merchandise, he would find the bills of the branch bank in either of those States, entirely equivalent to silver in effecting his object. Even, therefore, if the bank had not reduced the rate of the exchanges, it might be safely asserted, that its bills would be of equal value with silver at every point in the Union, and for every purpose, whether local or general.

But it is impossible to exhibit any thing like a just view of the beneficial operations of the bank, without adverting to the great reduction it has effected, and the steadiness it has superinduced, in the rate of the commercial exchanges of the country. Though this branch of the business of the bank has been the subject of more complaint, perhaps, than any other, the committee have no hesitation in saying, it has been productive of the most signal benefits to the community, and deserves the highest commendation. It has been already stated that it has saved the community from the immense losses resulting from a high and fluctuating state of the exchanges. It now remains to show its effect in equalizing the currency. In this respect, it has been productive of results more salutary than were anticipated by the most sanguine advocates of the policy of establishing the bank. *It has actually furnished a circulating medium more uniform than specie.* This proposition is susceptible of the clearest demonstration. If the whole circulating medium were specie, a planter of Louisiana, who

should desire to purchase merchandise in Philadelphia, would be obliged to pay one per cent. either for a bill of exchange on this latter place, or for the transportation and insurance of his specie. His specie at New Orleans, where he had no present use for it, would be worth one per cent. less to him than it would be in Philadelphia, where he had a demand for it. But, by the aid of the Bank of the United States, one half of the expense of transporting specie is now saved to him. The bank, for one half of one per cent. will give him a draught upon the mother bank at Philadelphia, with which he can draw either the bills of that bank, or specie, at his pleasure. In like manner, the bank and its branches will give draughts from any point of the Union to any other where offices exist, at a per centage greatly less than it would cost to transport specie, and in many instances at par. If the merchant or planter, however, does not choose to purchase a draught from the bank, but prefers transmitting the bills of the office where he resides to any distant point, for commercial purposes, although these bills are not strictly redeemable at the point to which they are transmitted, yet, as they are receivable in payment of all dues to the Government, persons will be generally found willing to take them at par; and if they should not, the bank will receive them frequently at par, and always at a discount much less than would pay the expense of transporting specie. The fact that the bills of the bank and its branches are indiscriminately receivable at the customhouses and land offices, in payment of duties, and for the public lands, has an effect in giving uniformity to the value of these bills, which merits a more full and distinct explanation.

For all the purposes of the revenue, it gives to the national currency that perfect uniformity, that ideal perfection, to which a currency of gold and silver, in so extensive a country, could have no pretensions. A bill issued at Missouri is of equal value with specie at Boston, in payment of duties; and the same is true of all other places, however distant, where the bank issues bills, and the Government collects its revenue. When it is, moreover, considered, that the bank performs, with the most scrupulous punctuality, the stipulation to transfer the funds of the Government to any point where they may be wanted, free of expense, it must be apparent that the committee are correct, to the very letter, in stating that the bank has furnished, both to the Government and to the people, *a currency of absolutely uniform value in all places, for all the purposes of paying the public contributions, and disbursing the public revenue.* And when it is recollected that the Government annually collects and disburses more than 23 millions of dollars, those who are at all familiar with the subject will at once perceive that bills, which are of absolutely uniform value for this vast operation, must be very nearly so for all the purposes of general commerce.

Upon the whole, then, it may be confidently asserted, that no country in the world has a circulating medium of greater uniformity than the United States; and that no country of any thing like the same geographical extent has a currency at all comparable to that of the United States on the score of uniformity. The committee have seen the statement of an intelligent traveller, who has visited almost every part of Europe, exhibiting the great variations of the currency in different parts of the same empire or kingdom. In Russia, the bills of the Bank of St. Petersburg have a very limited circulation. At Riga,

and throughout Courland, Livonia, and all the Southern parts of the empire, the currency is exclusively of silver coins. In Denmark, the notes of the Bank of Copenhagen are current only in Zealand, the others islands, and Jutland, but will not pass at all in Sleswic and Holstein, which constitute the best portion of the kingdom. Since the Congress of Vienna, Germany is divided into thirty-nine separate States, each having a distinct currency, though represented in the Diet at Frankfort. Out of the territory in which these several currencies are issued, they are mere articles of merchandise; which circumstance has given rise in every town to a numerous and distinct class of tradesmen, called money changers. How far these separate and unconnected currencies have a tendency to embarrass commerce, may be inferred from the fact, that a traveller going from St. Petersburg to Calais will lose upon the unavoidable changes of money an average of six per cent. In France, the bills of the bank are of such large denominations as to be adapted only to the greater operations of commerce, and are principally confined to the bankers and extensive traders in Paris. The general currency is silver; and, to avoid the trouble of carrying this to distant parts of the kingdom, gold pieces, or bills of exchange, which are preferable, are purchased at a premium of from one and a half to four per cent. After this brief review of the currencies of Europe, the committee will barely state, as a conclusive vindication of our currency from the imputation of unsoundness, that there is no point in the Union, at which a bill of the United States' Bank, issued at the opposite extremity of the country, is at a discount of more than one-fourth of one per cent.

In confirmation of the views here presented, as to the comparative uniformity of the currency furnished by the bank, and, also, as to the obligation of the bank to redeem its bills, indiscriminately, at all the offices, the committee will present a few brief extracts from the speech of a statesman, whose opinions have every title to authority on these important subjects. Mr. Lowndes, in discussing the question, how far the bank had performed the great duty for which it was created, used the following decided language in 1819, when the currency had not reached the point of uniformity it has now attained by half of one per cent.

"The great object of the Government in chartering the bank, was to provide a currency which should have that degree of stability and uniformity in its value which is required by the interests both of our commerce and revenue. A currency, equally valuable at every place and every time, cannot be provided by human wisdom. The nearest approach to this object has been generally supposed to be afforded by the employment of gold and silver as the measures of value. The 14th Congress did not aim at ideal perfection; they wished to combine with the conveniences of bank circulation an uniformity of value equal to that which was possessed by the precious metals; and the means which they employed to secure this uniformity were simple and effectual, by enjoining, under a heavy penalty, the payment of all its notes in coin, upon demand. In the report, indeed, the notes of the national bank are said to be now 'on the same footing with those of local banks.' Of the footing on which local bank notes stood, he should speak hereafter; but the price current upon his table informed him, that the greatest discount on branch notes of the United States

was three-fourths of one per cent. This was a value much more uniform than that which coin could be expected to have in so extensive a country. He had been lately looking into a book on political economy, which had been published here, with high, and, in respect to its clearness and precision, with just commendations—the work of Mr. Tracy. He inferred from one of his chapters, that the difference of exchange between Marseilles and Paris was often from two to three percent. If, with all the facilities afforded by the internal improvements in which France is so rich, with a currency consisting almost exclusively of gold and silver, the variation in the value of money is three times greater *in her territory than on our continent*, can it be said, that, in this respect, the bank has not fulfilled the objects of its institution? Before its establishment, the value of bank notes, even in the commercial States, had varied twenty per cent from each other; and, as none of them bore a fixed proportion to the precious metals, or to any natural standard, it was impossible to assign any limit to their depreciation. You have required that the currency furnished by the national bank should be every where convertible into silver, and it is so. You have expected that it should be as uniform as coin, and it is more so. He would not detain the committee by reading a paper, which he had prepared with that intention, containing the state of exchange, since the establishment of the bank, with England, France, and Holland: for he found himself occupying much more of their time than he had expected. But he believed that any member, who should turn his attention to the subject, would remark its steadiness during that period. He thought himself justified in drawing from this fact a conclusion highly favorable to the bank.”

In reference to the great depreciation of the paper of the local banks, previous to the establishment of that of the United States, he said:

“Did the interests or duty of the Government of the United States permit that this currency should be received by it? Some dissatisfaction was expressed because the branch notes of the United States’ Bank were at a discount of three-fourths of one per cent. He read from a price current the state of the market for bank notes, by which it appeared that notes, which were insisted to be in very good credit, varied from a discount of two and a half to one of seven, fifteen, twenty-five, and even thirty per cent. Was our revenue to be received in these notes? How were they to be employed? They might be expended in the district in which they were issued. But was the expenditure of every district to be exactly limited to its revenue? What became of the Union if it were so? He spoke of the thing, and not the name. Our Union might dissolve in imbecility as well as be destroyed by violence. Did not union imply, that the resources of one State, its money as well as its men, might be employed for the defence of another?”

“But, if the Government were willing to bear the loss of a depreciated and unequal currency, it must neglect the plainest principle of the Constitution in doing so—equality of taxation. The committee must ‘well remember, that, before the establishment of the National Bank, such was the unequal value of currency in the different States, that the merchants paid duties, varying fifteen per cent. from each other, on the same articles.’”

On the question, whether the bank was bound to redeem, indiscriminately, the bills of all its branches, he said :

"He should not argue that the bank was not bound to pay its notes, indiscriminately, at all its offices. He believed that nobody now contended that it was." * * * "It was no unfair account of the practical operation of the system of which he was speaking, to say that it gave to the branches where the exchange was unfavorable, the entire disposition of the specie of those branches where the exchange was favorable. Upwards of six millions of specie have been sent to the branch of New York, besides the amount which has been paid by the subscribers of the bank there; but, in issuing notes which the bank of New York has been obliged to redeem, every branch throughout the country has drawn upon a fund, with whose condition at the time it could not be acquainted." * * *

* * * "Such a system might be expected to produce inconvenient changes in the distribution of bank capital, an extreme facility of obtaining loans at one time, and unexpected contractions of discount at another." * * * "Whenever the state of exchange is unfavorable, whenever the just principles of banking require a reduction of discounts, then, under this system of indiscriminate payment of its notes, the bank has nothing to fear from a draught of specie, and is encouraged to lend to every applicant. Wherever the exchange is favorable, and on the sound principles of banking, an enlarged accommodation might be given to the community—there the flow of notes from every State whose exchange is unfavorable, contracts or suspends all the operations of the bank. Thus, wherever discounts should be enlarged, the tendency of this system is to reduce them, and to enlarge them wherever they should be reduced."

Independently of the gross injustice of requiring the bank to perform all the exchanges of this extensive confederacy without any compensation, these enlightened views show most conclusively its inexpediency and injustice, as it regards the different sections of the Union. It would inevitably render those parts of the Union where the bank issues were prudent and moderate, tributary to those where the issues were injudicious and excessive. In this way, the very inequality in the currency, which the bank was designed to correct, would be perpetuated by the vain attempt to make it perform impossibilities. The power of annihilating space, of transporting money or any other article to the most distant points, without the loss of time or the application of labor, belongs to no human institution.

But the salutary agency of the Bank of the United States, in furnishing a sound and uniform currency, is not confined to that portion of the currency which consists of its own bills. One of the most important purposes which the bank was designed to accomplish, and which, it is confidently believed, no other human agency could have effected, under our federative system of Government, was the enforcement of specie payments on the part of numerous local banks, deriving their charters from the several States, and whose paper, irredeemable in specie, and illimitable in its quantity, constituted the almost entire currency of the country. Amidst a combination of the greatest difficulties, the bank has almost completely succeeded in the performance of this arduous, delicate, and painful duty. With exceptions, too inconsiderable to merit notice, all the State banks in the Union have resumed specie payments. Their bills, in the respective spheres of

their circulation, are of equal value with gold and silver; while, for all the operations of commerce, beyond that sphere, the bills or the checks of the Bank of the United States are even more valuable than specie. And even in the very few instances in which the paper of State banks is depreciated, those banks are winding up their concerns; and it may be safely said, that no citizen of the Union is under the necessity of taking depreciated paper, because a sound currency cannot be obtained. North Carolina is believed to be the only State where paper of the local banks is irredeemable in specie, and consequently depreciated. Even there, the depreciation is only one or two per cent., and what is more important, the paper of the Bank of the United States can be obtained by all those who desire it, and have an equivalent to give for it.

The committee are aware, that the opinion is entertained by some, that the local banks would, at some time or other, either voluntarily, or by the coercion of the State Legislatures, have resumed specie payments. In the very nature of things this would seem to be an impossibility. It must be remembered that no banks ever made such large dividends as were realized by the local institutions, during the suspension of specie payments. A rich and abundant harvest of profit was opened to them, which the resumption of specie payments must inevitably blast. While permitted to give their own notes, bearing no interest, and not redeemable in specie, in exchange for better notes bearing interest, it is obvious, that the more paper they issued, the higher would be their profits. The most powerful motive that can operate upon moneyed corporations, would have existed, to prevent the State banks from putting an end to the very state of things, from which their excessive profits proceeded. Their very nature must have been changed, therefore, before they could have been induced to cooperate, voluntarily, in the restoration of the currency. It is quite as improbable that the State Legislatures would have compelled the banks to do their duty. It has already been stated, that the tendency of a depreciated currency to attract importations to the points of greatest depreciation, and to lighten the relative burthens of federal taxation, would naturally produce, among the States, a rivalry in the business of excessive bank issues. But there remains to be stated, a cause, of more general operation, which would have prevented the interposition of the State Legislatures to correct those issues.

The banks were, directly and indirectly, the creditors of the whole community, and the resumption of specie payments necessarily involved a general curtailment of discounts, and withdrawal of credit, which would produce a general and distressing pressure upon the entire class of debtors. These constituted the largest portion of the population of all the States where specie payments were suspended, and bank issues excessive. Those, therefore, who controlled public opinion in the States, where the depreciation of the local paper was greatest, were interested in the perpetuation of the evil. Deep and deleterious, therefore, as the disease evidently was, in many of the States, their Legislatures could not have been expected to apply a remedy, so painful as the compulsion of specie payments would have been, without the aid of the Bank of the United States. And here it is worthy of special remark, that, while that bank has compelled the local banks to resume specie payments, it has most materially

contributed, by its direct aid and liberal arrangements, to enable them to do so, and that with the least possible embarrassment to themselves and distress to the community. If the State Legislatures had been ever so anxious to compel the banks to resume specie payments, and the banks ever so willing to make the effort, the committee are decidedly of the opinion that they could not have done it, unaided by the Bank of the United States, without producing a degree of distress incomparably greater than has been actually experienced. They will conclude their remarks on this branch of the subject by the obvious reflection, that, if Congress, at the close of the war, had left it to the States to restore the disordered currency, this important function of sovereignty would have been left with those from whom the Constitution has expressly taken it, and by whom it could not be beneficially or effectually exercised. But another idea, of considerable plausibility, is not without its advocates. It is said that this Government, by making the resumption and continuance of specie payments the condition upon which the State banks should receive the Government deposites, might have restored the currency to a state of uniformity. Without stopping to give their reasons for believing that specie payments could not have been restored in this way, and that, even if they could, a uniform currency of general credit, throughout the Union, would not have been provided, the committee will proceed to give their reasons for thinking that such a connexion between the Federal Government and the State banks would be exceedingly dangerous to the purity of both. While there is a National Bank, bound by its charter to perform certain stipulated duties, and entitled to receive the Government deposites as a compensation, fixed by the law creating the charter, and only to be forfeited by the failure to perform those duties, there is nothing in the connexion at all inconsistent with the independence of the bank, and the purity of the Government. The country has a deep interest that the bank should maintain specie payments, and the Government an additional interest that it should keep the public funds safely, and transfer them, free of expense, wherever they may be wanted. The Government, therefore, has no power over the bank, but the salutary power of enforcing a compliance with the terms of its charter. Every thing is fixed by the law, and nothing left to arbitrary discretion. It is true that the Secretary of the Treasury, with the sanction of Congress, would have the power to prevent the bank from using its power unjustly and oppressively, and to punish any attempt, on the part of the Directors, to bring the pecuniary influence of the institution to bear upon the politics of the country, by withdrawing the Government deposites from the offending branches. But this power would not be lightly exercised by the Treasury, as its exercise would necessarily be subject to be reviewed by Congress. It is, in its nature, a salutary corrective, creating no undue dependence on the part of the bank.

But the state of things would be widely different, if there was no National Bank, and it was left to the discretion of the Secretary of the Treasury to select the local banks in which the Government deposites should be made. All the State banks would, in that case, be competitors for the favor of the Treasury; and no one, who will duly consider the nature of this sort of patronage, can fail to perceive, that, in the hands of an ambitious man, not possessed of perfect purity and unbending integrity, it would be imminently dangerous to the public

liberty. The State banks would enter the lists of political controversy, with a view to obtain this patronage; and very little sagacity is required to foresee, that, if there should ever happen to be an administration disposed to use its patronage to perpetuate its power, the public funds would be put in jeopardy by being deposited in banks unworthy of confidence, and the most extensive corruption brought to bear upon the elections throughout the Union. A state of things more adverse to the purity of the Government—a power more liable to be abused—can scarcely be imagined. If five millions of dollars were annually placed in the hands of the Secretary of the Treasury, to be distributed at his discretion, for the purposes of internal improvement, it would not invest him with a more dangerous and corrupting power.

In connexion with this branch of the subject, the committee will briefly examine the grounds of a complaint, sometimes made against the Bank of the United States. It is alleged that this bank, availing itself of the government deposits, consisting in some places principally of local paper, makes heavy and oppressive draughts on the local banks for specie, and thus compels them to curtail their discounts, to the great injury of the community. In the first place, it is to be remarked, that one of the highest duties of the bank—the great object for which it was established—was to prevent the excessive issues of local paper; and this duty can only be performed, by enforcing upon the State banks the payment of specie for any excess in their issues. But the committee are induced to believe, that this complaint is principally owing, so far as it now exists, to the fact, that the operations of the Federal Treasury are mistaken for the operations of the bank, because the bank is the agent by whom those operations are performed. This institution receives the Government deposits in the paper of the local banks, certainly in no spirit of hostility to those banks. On the contrary, it tends to give them credit, and is designed to have that effect. But the Bank of the United States is not only bound to pay in specie, or its own bills, what it receives for the Government in local paper, but to transfer the funds to any part of the Union where they may be required for disbursement. Let it be assumed, that the Government collects annually, at the Custom-house in Charleston, one million of dollars in local bank notes, and disburses in South Carolina only one hundred thousand, it would result from this, that the Government would have nine hundred thousand dollars of local bank paper deposited in the Charleston branch, which the bank would be bound by its charter, and for the national benefit, to transfer perhaps to Washington or Norfolk. As this paper would not answer the purposes of the Government at those places, the bank would be, of course, compelled to provide specie, or bills that will command specie at those places. It is obvious, then, that it is the inequality in the collection and disbursement of the revenue, that produces the evil in question. If all the revenue collected in Charleston were disbursed in the State, no draughts would be made upon the local banks for specie. The Bank of the United States, so far from being justly obnoxious to any complaint on this score, has greatly mitigated the action of the Treasury upon the local banks, by means of the liberal arrangements which its large capital and numerous branches have enabled it to make with them. The degree in which that institution has reduced the rate of exchange, may

be fairly assumed as that in which it has mitigated the action of the Treasury upon the State banks. If, for example, there existed no national bank, and the deposits of the revenue collected in Charleston were made in one of the local banks, what would be the effect of transferring, annually, nine hundred thousand dollars to Washington or Norfolk? The local banks, having no branches at either of those places, instead of transmitting draughts, as is now generally done, would be compelled to transmit specie. The bank in which the Government deposits were made, would consequently be under the necessity of demanding specie from all the other banks, in a manner, and to an extent, much more oppressive than any thing that can be imputed to the Bank of the United States. If, to avoid these specie draughts, the local banks should purchase bills on Washington or Norfolk, they would probably cost five or six per cent. even in a tolerable state of the currency, which would be a loss to the banks almost to the full extent of the premium.

Although the expediency of renewing the charter of the present bank is not a question now submitted for the decision of Congress, the committee consider it so far involved in the matter referred to them, as to render it their duty to present some considerations bearing on that question, in addition to what they have said on the general expediency of maintaining such an institution. If a national bank, similar to the present, be a necessary and proper agent for the accomplishment of the great purposes heretofore indicated, the only remaining question would seem to be, whether the charter of the present stockholders should be renewed, or a new set of stockholders incorporated.

In considering this question, Congress will, of course, be governed in some degree, by the terms on which the present stockholders will agree to accept a renewal of their charter. But, as the committee have satisfactory reasons for believing that terms eminently advantageous to the Government can be obtained, they will proceed to some other inquiries. What, then, would be the effect of refusing to renew the present charter? And, in the first place, what are the inducements for pursuing that course?

It is sometimes alleged that the present stockholders are large capitalists, and, as the stock of the bank is some 20 per cent. above par, that a renewal of the charter would be equivalent to a grant to them of 20 per cent. upon their capital. It is true that a small proportion of the capital of the company belongs to very wealthy men. Something more than two millions of that owned in the United States belongs to persons holding upwards of one hundred thousand dollars each. It is also true that foreigners own seven millions, or one-fifth of the capital. But, on the other hand, it is to be remarked that the Government, in trust for the people of the United States, holds seven millions; that persons owning less than five thousand dollars each, hold four millions six hundred and eighty-two thousand; and that persons owing between five and ten thousand dollars each, hold upwards of three millions. It is also worthy of remark, that a very considerable portion of the stock—very nearly six millions—is held by trustees and guardians, for the use of females and orphan children, and charitable and other institutions. Of the twenty-eight millions of the stock which is owned by individuals, only three millions four hundred and fifty-three thousand is now held by the original sub-

scribers. All the rest has been purchased at the market prices—a large portion of it, probably, when those prices were higher than at present. Most of the investments made by wills, and deeds, and decrees in equity, for the use of females and minors, are believed to have been made when the stock was greatly above par. From this brief analysis, it will appear that there is nothing in the character or situation of the stockholders, which should make it desirable to deprive them of the advantage which they have fairly gained, by an application of their capital to purposes highly beneficial, as the committee have attempted to show to the Government and people of the United States. If foreigners own seven millions of the stock of the bank, our own government owns as much; if wealthy men own more than two millions, men in moderate circumstances own between seven and eight millions; and widows, orphans, and institutions devoted to charitable and other purposes, own nearly six millions.

But the objection that the stock is owned by men of large capital would apply with equal, if not greater force, to any bank that could be organized. In the very nature of things, men who have large surplus capitals are the principal subscribers at the first organization of a bank. Farmers and planters, merchants and manufacturers, having an active employment for their capitals, do not choose to be the first adventurers in a bank project. Accordingly, when the present bank went into operation, it is believed that most of the capital was owned by large capitalists, and under a much more unequal distribution than exists at present. The large amount of stock now held in trust for females and minors, has been principally, if not entirely, purchased since the bank went into operation; and the same remark is generally applicable to the stock in the hands of small holders. It is only when the character of a bank is fully established, and when its stock assumes a steady value, that these descriptions of persons make investments in it.

It is morally certain, therefore, that, if another distinct institution were created, on the expiration of the present charter, there would be a much greater portion of its capital subscribed by men of large fortunes, than is now owned by persons of this description, of the stock of the United States' Bank. Indeed, it might be confidently predicted, that the large capitalists who now hold stock in that bank, would, from their local position and other advantages, be the first to forestall the subscriptions to the new bank, while the small stockholders, scattered over the country, would be probably excluded, and the females and minors, and others interested in trust investments made by decrees in equity, would be almost necessarily excluded as the sanction of a court could scarcely be obtained, after the passage of the new act of incorporation, in time to authorize a subscription.

To destroy the existing bank, therefore, after it has rendered such signal services to the country, merely with a view to incorporate another, would be an act rather of cruelty and caprice, than of justice and wisdom, as it regards the present stockholders. It is no light matter to depreciate the property of individuals, honestly obtained, and usefully employed, to the extent of five million six hundred thousand dollars, and the property of the Government, to the extent of one million four hundred thousand dollars, purely for the sake of change. It

would indicate a fondness for experiment, which a wise Government will not indulge upon slight considerations.

But the great injury which would result from the refusal of Congress to renew the charter of the present bank, would, beyond all question, be that which would result to the community at large. It would be difficult to estimate the extent of the distress which would naturally and necessarily result from the sudden withdrawal of more than forty millions of credit, which the community now enjoys from the bank. But this would not be the full extent of the operation. The Bank of the United States, in winding up its concerns, would not only withdraw its own paper from circulation, and call in its debts, but would unavoidably make such heavy draughts on the local institutions for specie, as very greatly to curtail their discounts. The pressure upon the active, industrious, and enterprising classes, who depend most on the facilities of bank credit, would be tremendous. A vast amount of property would change hands at half its value, passing under the hammer, from the merchants, manufacturers, and farmers, to the large moneyed capitalists, who always stand ready to avail themselves of the pecuniary embarrassments of the community. The large stockholders of the present bank, the very persons whose present lawful gains it would be the object of some to cut off, having a large surplus money capital thrown upon their hands, would be the very first to speculate upon the distresses of the community, and build up princely fortunes upon the ruins of the industrious active classes. On the other hand, the females and minors, and persons in modern circumstances, who hold stock in the institution, would sustain an injury, in no degree mitigated by the general distress of the community.

A very grave and solemn question will be presented to Congress, when they come to decide upon the expediency of renewing the charter of the present bank. That institution has succeeded in carrying the country through the painful process necessary to cure a deep-seated disease in the national currency. The nation, after having suffered the almost convulsive agonies of this necessary remedy, is now restored to perfect health. In this state of things, it will be for Congress to decide whether it is the part of wisdom to expose the country to a degree of suffering almost equal to that which it has already suffered, for the purpose of bringing back that very derangement of the currency, which has been remedied by a process, as necessary as it was distressing.

If the Bank of the United States were destroyed, and the local institutions left without its restraining influence, the currency would almost certainly relapse into a state of unsoundness. The very pressure which the present bank, in winding up its concerns, would make upon the local institutions, would compel them either to curtail their discounts when most needed, or to suspend specie payments. It is not difficult to predict which of these alternatives they would adopt, under the circumstances in which they would be placed. The imperious wants of a suffering community would call for discounts, in language which could not be disregarded. The public necessities would demand, and public opinion would sanction, the suspension, or at least an evasion, of specie payments.

But, even if this desperate resort could be avoided in a period of peace and general prosperity, neither reason nor experience will per-

mit us to doubt, that a state of war would speedily bring about all the evils which so fatally affected the credit of the Government and the national currency, during the late war with Great Britain. We should be again driven to the same miserable round of financial expedients, which, in little more than two years, brought a wealthy community almost to the very brink of a declared national bankruptcy, and placed the Government completely at the mercy of speculating stockjobbers.

The Committee feel warranted, by the past experience of the country, in expressing it as their deliberate opinion, that, in a period of war, the financial resources of the country could not be drawn into efficient operation without the aid of a national bank, and that the local banks would certainly resort to a suspension of specie payments. The maxim is eminently true in modern times, that money is the sinew of military power. In this view of the subject, it does appear to the committee, that no one of the institutions of the country, not excepting the army or navy, is of more vital importance than a national bank. It has this decided advantage over the army and navy: while they are of scarcely any value except in war, the bank is not less useful than either of them in war, and is also eminently useful in peace. It has another advantage, still greater. If, like the army or navy, it should cost the nation millions annually to sustain it, the expediency of the expenditure might be doubted. But, when it actually saves to the Government and to the country, as the committee have heretofore attempted to show, more millions annually than are expended in supporting both the army and navy, it would seem that, if there was any one measure of national policy, upon which all the political parties of the country should be brought to unite, by the impressive lessons of experience, it is that of maintaining a national bank.

It is due to the persons, who, for the last ten years, have been concerned in the administration of the bank, to state, that they have performed the delicate and difficult trust committed to them, in such a manner, as, at the same time, to accomplish the great national ends for which it was established, and promote the permanent interest of the stockholders, with the least practicable pressure upon the local banks. As far as the committee are enabled to form an opinion, from careful inquiry, the bank has been liberal and indulgent in its dealings with these institutions, and with scarcely an exception, now stands in the most amicable relation to them. Some of those institutions have borne the most disinterested and unequivocal testimony in favor of the bank.

It is but strict justice also to remark, that the direction of the mother bank appears to have abstained, with scrupulous care, from bringing the power and influence of the bank to bear upon political questions, and to have selected, for the direction of the various branches, business men in no way connected with party politics. The committee advert to this part of the conduct of the directors, not only with a view to its commendation, but for the purpose of expressing their strong and decided conviction that the usefulness and stability of such an institution will materially depend upon a steady and undeviating adherence to the policy of excluding party politics and political partizans from all participation in its management. It is gratifying to conclude this branch of the subject, by stating, that the affairs of the present bank, under the able, efficient, and faithful guidance of its two last presidents and their associates, have been brought from a state of great em-

barrassment into a condition of the highest prosperity. Having succeeded in restoring the paper of the local banks to a sound state, its resources are now such as to justify the directors in extending the issue and circulation of its paper so as to satisfy the wants of the community, both as it regards bank accommodations and a circulating medium. Upon the soundest principles of banking, the very ample resources of the institution would justify the directors in granting accommodations to a much greater extent than they have yet done; and though they have increased the circulation of their paper from four and a half to fourteen millions, since January, 1823, they are ready and willing to increase it still further, by discounting bills of exchange and other business paper. It is believed that the discounts and issues of the institution are now actually limited by the want of applications resting upon these the only substantial and safe foundations of bank credit and circulation.

III. Having said thus much on the constitutionality and expediency of an incorporated National Bank, the only question which remains to be examined by the committee is, the expediency of establishing "a National Bank founded upon the credit of the Government and its revenues."

It is presumed to have been the intention of the President, in suggesting the inquiry as to a bank founded upon the credit and revenues of the Government, to be understood as having allusion to a bank of discount and deposit. Such a bank, it is taken for granted, would have branches established in various parts of the Union, similar to those now established by the Bank of the United States, and co-extensive with them. The great object of furnishing a national currency, could not be accomplished, with an approach to uniformity, without the agency of such branches; and another object, second only in importance to the one just stated, the extension of the commercial facilities of bank accommodations to the different parts of the Union, could not be at all effected without such agency. If there should be simply a great central bank established at the seat of Government, without branches to connect its operations with the various points of the commerce of the Union, the promise to pay specie for its notes, whenever presented, would be almost purely nominal. Of what consequence would it be to a merchant or planter of Louisiana, or a manufacturer or farmer of Maine, that he could obtain specie for bills of the national bank, on presenting them at the City of Washington—a place wholly unconnected either with Louisiana or Maine by any sort of commercial intercourse, and where, consequently, these bills would never come in the regular course of trade? A promise to pay specie at a place so remote from the place of circulation, and where the bills would never come but at a great expense, and for the sole purpose of being presented for payment, would neither give credit to the notes, nor operate as an effective check upon excessive issues. Whatever credit such notes might have, at a distance from the place of issue, would not be because they were redeemable at the pleasure of the holder—for such would not be the fact: but principally because of the ultimate responsibility of the Government, and of their being receivable in payment of all dues to the Treasury. They would rest, therefore, upon almost precisely the same basis of credit as the paper money of our Revolution, the assignats of Revolutionary France, and the Treasury notes of the late war. These were receivable in dis-

charge of debts due to the Treasury, and the Government was of course ultimately responsible for their payment; yet the two former depreciated almost to nothing, and the latter, though bearing interest, sunk to 20 per cent. below par. But the notes of a central Government Bank, without branches, would be subject to depreciation from a cause which constitutes a conclusive objection to such an institution. *There would be nothing to limit excessive issues but the discretion and prudence of the Government or of the direction.* Human wisdom has never devised any adequate security against the excessive issues, and, consequently, the depreciation of bank paper, but its actual, and easy, and prompt convertibility into specie at the pleasure of the holder. Experience has shown that, where the paper of a bank is, by any means, habitually circulated at places remote from the point where it is issued, and not connected with it by a regular commercial intercourse, there will not exist that easy and prompt convertibility which is so essential to the credit of bank paper. When bank bills are confined to their appropriate sphere of circulation, a redundant issue is certainly and immediately followed by a run upon the bank for specie. This timely admonition is as useful to the bank as it is to the community: for it enables the directors to avoid, with unflinching certainty, an excess equally injurious to both, and which no human sagacity could anticipate or prevent, by calculation merely. Whatever, therefore, in a system of bank circulation, prevents the reflux of redundant issues, necessarily destroys the only adequate security against these injurious and ruinous excesses.

But a Government Bank, without branches, would be obnoxious to another objection, which could not be obviated. Its loans would be confined to the District of Columbia; or, if extended to the various parts of the Union—to say nothing of the inconvenience to which it would expose those at a distance who obtained accommodations—they would be unavoidably granted without any knowledge of the circumstances of the persons upon whose credit the Government would depend for re-payment. It would, in fact, be, for all useful purposes, a mere District Bank.

These views of the subject have brought the committee to the conclusion, that, if a Government Bank should be established, it would have at least as many branches as the Bank of the United States and probably a much greater number. Few administrations would have the firmness to resist an application to establish a branch, coming from any quarter of the Union, however injudicious the location might be, upon correct principles of commerce and banking.

The bank of the United States now employs five hundred agents, in the various parts of the Union where its offices are established. From this fact some idea may be formed of the very great addition which would be made to the patronage of the Executive Government by the establishment of such a bank as the one under consideration.

But the patronage resulting from the appointment—the annual appointment—of these agents, great as it would doubtless be, would be insignificant and harmless, when compared with that which would result from the dispensation of bank accommodations to the standing amount of at least fifty millions of dollars! The mind almost instinctively shrinks from the contemplation of an idea so ominous to the purity of the Government and the liberties of the people. No government, of which the committee have any knowledge, except, perhaps, the

despotism of Russia, was ever invested with a patronage at once so prodigious in its influence and so dangerous in its character. In the most desperate financial extremities, no other European government has ever ventured upon an experiment so perilous. If the whole patronage of the English monarchy were concentrated in the hands of the American Executive, it may be well doubted whether the public liberty would be so much endangered by it as it would by this vast pecuniary machine, which would place in the hands of every administration fifty millions of dollars, as a fund for rewarding political partizans.

Without assuming that a corrupt use would be made of this new species of government patronage, a very slight acquaintance with the practice of all political parties, whatever may be their professions, will be sufficient to satisfy any reflecting mind that all the evil consequences of corruption would flow from its exercise. Have not our political contests too frequently degenerated into a selfish scramble for the offices of the country? Are there not those who sincerely and honestly believe that these offices are legitimate objects of political warfare, and the rightful reward of the victorious party? And, disinterested and patriotic as the great body of every political party is admitted to be, the fact is no less true than it is lamentable, that the most devoted and active partizans are very often mere soldiers of fortune, who watch the political signs, and enlist, at the eleventh hour, under the banners of the party most likely to prove successful. Such being, more or less, the composition of all political parties, what would be the probable use made of fifty millions of bank patronage, by a political party which conscientiously held the doctrine that all the offices in the gift of the Executive should be divided among the partizans of a successful political leader? Would not the same principle be even more applicable to bank loans? and would not the Treasury of the United States, under the sanctifying influence of party delusion and party infatuation, be literally plundered, by mercenary retainers, bankrupts in fortune, and adventurers in politics?

Even if the administration should be ever so much disposed to restrain the abuse of this patronage, it would be utterly impracticable to exercise any efficient control over the great number of bank directors who would be scattered over the Union, and who, upon all the known principles of human nature, it may be confidently predicted, would principally consist of busy and officious political partizans.

Such would be the depositaries—acting, not under the public eye, but under the protecting mystery of a sort of concealment and secrecy deemed indispensable in banking operations—to whom not only the whole Treasury of the Union would be confided, to be squandered, perhaps, in profligate favoritism, but the tremendous power of putting the whole property of the nation under mortgage, for the redemption of the bills issued at their discretion. To say nothing of the utter insecurity of the public revenues under such a system, a new species of legislative power, unknown to the Constitution, would be committed to these irresponsible bank directors, of which no human sagacity can predict the consequences.

A just analysis of the operation of granting loans by this Government bank, in exchange for the notes of private individuals, will show that it involves the exercise, on the part of the directors, of the twofold power of appropriating the public revenue in the most dangerous

of all forms—discretionary loans—and of pledging the responsibility of the Government, to an unlimited extent, for the payment of the debts at the same time created against it. These are among the highest functions of legislative power, and have been expressly and exclusively vested in Congress. Unless, therefore, it be assumed, that Congress may rightfully transfer the powers with which it is invested to these bank directors, it will be difficult to find any warrant, either in the letter or spirit of the Constitution, for the creation of this tremendous engine of pecuniary influence. It may, indeed, be doubted, whether all the branches of the legislative authority united, have any constitutional power to lend the public revenue, either to individuals, corporations, or States, without reference to the objects to which it shall be applied. But, whatever may be the power of Congress on this subject, it appears to the committee to be inexpedient, in every view of the question, that the Government should be converted into a great money lender. There is no species of trade in which it would be wise for the Government to embark; but of all the variety of pursuits known to individual enterprise, that of lending money by the Government to the citizens of the country, would be fraught with the most pernicious consequences.

In the first place, it is a business to which, in the very nature of things, no Government is adapted, and, least of all, a popular Government. There is no employment of capital that requires a more vigilant and skilful superintendence. Nothing but the ever active motive of individual interest can supply the watchfulness necessary to secure a banking institution against the grossest frauds and impositions. In pecuniary transactions, few men are to be found who will serve others, in cases involving the exercise of discretionary power, with the same fidelity that they would serve themselves; and, when we consider the strong motives, both of private friendship and political attachment, which would operate on the directors of a Government bank, to bestow its favors without impartiality or prudence, it requires but little sagacity to foresee that enormous losses would be annually sustained by the insolvency of the Government debtors.

All Governments have found it expedient to place the public Treasury under the guardianship of a high and confidential officer, aided, in the enforcement of a rigid responsibility, by a system of checks and counterchecks, operating upon all the subordinate officers concerned in collecting and disbursing the public revenue. Such is our own system. No discretion is vested in the chief officer of the Treasury, much less in those that are subordinate, in the appropriation of a single dollar of the public money. "No money can be drawn from the Treasury but in consequence of appropriations made by law." How far these wise and provident safeguards, and this constitutional barrier, would be prostrated by placing not only the public revenue, but the public credit, at the disposal of some hundreds of bank directors in various parts of the Union, is a very grave question for the consideration of the House.

Our own experience has demonstrated the great danger of having large masses of the community indebted to the Government. It was a deep conviction of this danger that induced Congress to abolish the system of credit sales in the disposition of the public lands. Congress has been compelled to yield to the pressing importunities of the purchasers of these lands, by granting them not only repeated indul-

gencies, but by remitting some millions of the debt. What, then, would be the situation of the Government, with a debt of fifty millions diffused throughout the country, and due to it from the most active, enterprising, and influential classes of the community? Nothing that has not happened can be more certain, than that every unfavorable vicissitude in trade, every period of commercial distress and embarrassment, would give rise to importunate and clamorous calls for indulgence, and for an injudicious extension of discounts, which no administration would have the firmness to resist. Every one who has witnessed the urgency and unanimity with which the representatives of the States indebted for public lands have pressed the claims of their citizens for indulgence and remission, must be satisfied, that, if the citizens of all the States should become indebted much more largely for bank loans, the Government would have scarcely any faculty of resistance, when appeals for indulgence should come from all quarters of the Union, sustained by the strong plea of public distress and embarrassment.

The policy of extending indulgence to the public debtors, and of granting more liberal loans to the community, would, in the natural course of things, become the favorite theme of those who aspired to popular favor. Political parties would come to be divided upon the question of observing towards the public debtors a strict banking policy, indispensable to the maintenance of specie payments, on the one hand, or a liberal Government policy, necessarily involving a suspension of specie payments, on the other. And when it is considered that the whole class of debtors, always the most numerous and active portion of the community, would be naturally in favor of increasing bank issues, and extending bank indulgences, it can scarcely be doubted that specie payments would be suspended in the first great pecuniary exigency, growing out of embarrassments in our commerce, or deficiencies in our revenue.

The Government, therefore, which is under the most sacred obligations to constrain all the banks to maintain specie payments, with a view to the uniformity and soundness of the currency, would, by its own example, perpetuate the great national evil of a fluctuating and depreciated circulating medium.

These evils, which would be so highly probable in time of peace, would be almost certain in the event of war. The temptation to supply the Federal Treasury by the easy process of bank issues, rather than resort to the unpopular process of internal taxation, would be too fascinating to be resisted. We should thus experience, what every nation has experienced in like circumstances, the manifold evils of a mere paper currency, having no relation to any standard of intrinsic value. In these views the committee are fully sustained by the opinion of Mr. Lowndes, expressed in 1819. These are his words: "That the destruction of the [United States] Bank would be followed by the establishment of paper money, he firmly believed; he might almost say, he knew. It was an extremity from which the House would recoil, if now proposed; but if the resolution on the table were passed, it would very soon be proposed. The subject was too large for an incidental discussion. Gentlemen thought the amount of Government paper might be limited, and depreciation prevented, by the rate of interest which should be exacted. Inadequate every where, the security was particularly ineffectual in the United States."

But the inevitable tendency of a Government bank to involve the country in a paper system, is not, in the opinion of the committee, the greatest objection to it. The powerful, and, in the hands of a bad administration, the irresistible and corrupting influence which it would exercise over the elections of the country, constitutes an objection more imposing than all others united. No matter by what means an administration might get into power, with such a tremendous engine in their hands, it would be almost impossible to displace them without some miraculous interposition of Providence.

Deeply impressed with the conviction that the weak point of a free Government is the absorbing tendency of Executive patronage, and sincerely believing that the proposed bank would invest that branch of the Government with a weight of moneyed influence more dangerous in its character, and more powerful in its operation, than the entire mass of its present patronage, the committee have felt that they were imperiously called upon, by the highest considerations of public duty, to express the views they have presented, with a frankness and freedom demanded by the occasion. It is, at the same time, due to their own feelings, that they should state unequivocally their conviction, that the suggestion of the Chief Magistrate, which they have thus freely examined, proceeded from motives of the most disinterested patriotism, and was exclusively designed to promote the welfare of the country. This is not the mere formal and heartless homage, sometimes offered up to official station, either from courtesy or interest, but a tribute which is eminently due, and cheerfully rendered, to the exalted character of the distinguished individual on whom it is bestowed.

Extract of a letter from an intelligent merchant in Charleston, South Carolina, to the Chairman of the Committee of Ways and Means, illustrating the exchange operations of the Bank of the United States.

"This effect of diminishing the vast difference of exchange between the various points of the country, was evidently produced by the bank. The advantages produced by this institution, in the intercourse between the Western and Atlantic States, can be duly appreciated only by one who sees, passing before him, the actual operation of the system of exchange it has created. For example: Lexington, in Kentucky, annually accumulates a large surplus of funds to her credit in Charleston, derived from the sale of horses, hogs, and other live stock, driven to that as well as to other Southern markets by her citizens. Philadelphia is indebted to Charleston for exchange remitted, dividends on bank stock, &c. and Lexington is indebted to Philadelphia for merchandise. Without the transportation of a single piece of coin, Lexington draws on Charleston, and remits the check to Philadelphia in payment of her debt there; which operation adjusts the balance between the three points of the triangle almost without expense or trouble. Could such facilities be obtained from any other than an institution having branches in different parts of the Union, acting as co-partners in one concern? Local banks, whatever might be their willingness, could not accommodate in the same manner and to a like extent." * * * * *

"The discounting of bills on the low terms established by the Branch Bank at this place, is a great benefit to the agricultural interest, particularly in enhancing the price of cotton and rice; and were the bank to stop its operations, there is no saying how far these staples would

be depressed. The private dealers in exchange would take the place of the bank in that business, and their profits on bills would be taken out of the pockets of the planters, as the merchants would always regulate the price they would give for an agricultural production, by the high or low rate at which they could negotiate their bills. On account of its connexion with all parts of the Union, the bank affords this important advantage to the public; it is always a purchaser and always a seller of exchange at fixed and low rates, and thus prevents extortion by private dealers." * * * * * "Before this bank went into operation, exchange was from 8 to 10 per cent. either for or against Charleston, which was a loss to the planter to that amount on all the produce of Georgia and South Carolina, and indeed you might say, all the produce of the Southern and Western States." * * * * *

"If the Bank of the United States were destroyed, the local banks would again issue their paper to an excessive amount; and while a few adventurous speculators would be much benefitted by such an issue, the honest and unsuspecting citizens of our country would, finally, be the losers. If we look back to what took place in New York, Pennsylvania, the Western States, and even in our own State, we shall see the grossest impositions committed by banks, commencing with a few thousand dollars in specie, buying up newspapers to puff them as specie-paying banks, in order to delude the public, and, after getting their bills in circulation, blowing up, and leaving the unsuspecting planter and farmer victims of a fraud, by which they were deprived of the hard earnings of years of honest industry. But, sir, I believe the bank owes a great deal of the opposition which exists, and has existed, to the fact that it has put down these fraudulent institutions, got up by combinations and conspiracies of speculators; and who, after receiving large dividends, managed to destroy the credit of their own paper, and, by the agency of brokers, bought it up at half its nominal value.

"Since I last wrote you, I had a conversation with a gentleman in the confidence of some of the moneyed men of the North, and he says they are determined to break up the United States' Bank, to enable them to use their money to advantage; as that institution gives so many facilities to the community, as to deprive them of their former profits." * * *

"There is another consideration: the distress would be immense, which a refusal to renew the charter would produce among those who are indebted to the institution: for I find that to this branch, the planters owe upwards of a million of dollars; and I have no hesitation in saying, as safe a debt as is owing to any bank in the Union. But if the bank should wind up its affairs, these planters could not get credit from other institutions; and as the bank can sue in the United States' Court, where judgment is obtained almost at once, property would be greatly depressed, and moneyed men would buy it up for half its value. Throughout the Union, all classes would suffer, except those who should hold up their money to go into the brokerage business, or buy property at a sacrifice. If I were sure the bank would not be rechartered, I would convert my property into money, with a view to dealing in exchange. I could make a vast fortune by it."

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Second Annual Message—Andrew Jackson

Twenty-First Congress, 2d Session

DECEMBER 6, 1830.

[Source: James D. Richardson, A Compilation of the Messages and Papers of the Presidents, Vol. 2, pp. 1091-1092]

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The importance of the principles involved in the inquiry whether it will be proper to recharter the Bank of the United States requires that I should again call the attention of Congress to the subject. Nothing has occurred to lessen in any degree the dangers which many of our citizens apprehend from that institution as at present organized. In the spirit of improvement and compromise which distinguishes our country and its institutions it becomes us to inquire whether it be not possible to secure the advantages afforded by the present bank through the agency of a Bank of the United States so modified in its principles and structure as to obviate constitutional and other objections.

It is thought practicable to organize such a bank with the necessary officers as a branch of the Treasury Department, based on the public and individual deposits, without power to make loans or purchase property, which shall remit the funds of the Government, and the expense of which may be paid, if thought advisable, by allowing its officers to sell bills of exchange to private individuals at a moderate premium. Not being a corporate body, having no stockholders, debtors, or property, and but few officers, it would not be obnoxious to the constitutional objections which are urged against the present bank; and having no means to operate on the hopes, fears, or interests of large masses of the community, it would be shorn of the influence which makes that bank formidable. The States would be strengthened by having in their hands the means of furnishing the local paper currency through their own banks, while the Bank of the United States, though issuing no paper, would check the issues of the State banks by taking their notes in deposit and for exchange only so long as they continue to be redeemed with specie. In times of public emergency the capacities of such an institution might be enlarged by legislative provisions.

These suggestions are made not so much as a recommendation as with a view of calling the attention of Congress to the possible modifications of a system which can not continue to exist in its present form without occasional collisions with the local authorities and perpetual apprehensions and discontent on the part of the States and the people.

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Third Annual Message—Andrew Jackson

Twenty-Second Congress, 1st Session

DECEMBER 6, 1831.

[Source: James D. Richardson, a Compilation of the Messages and Papers of the Presidents, Vol. 2, p. 1121]

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Entertaining the opinions heretofore expressed in relation to the Bank of the United States as at present organized, I felt it my duty in my former messages frankly to disclose them, in order that the attention of the Legislature and people should be seasonably directed to that important subject, and that it might be considered and finally disposed of in a manner best calculated to promote the ends of the Constitution and subserve the public interests. Having thus conscientiously discharged a constitutional duty, I deem it proper on this occasion, without a more particular reference to the views of the subject then expressed, to leave it for the present to the investigation of an enlightened people and their representatives.

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Annual Report, Secretary of Treasury (Louis McLane)

Twenty-Second Congress, 1st Session

DECEMBER 7, 1831.

[Source: House Doc. 3, 22d Congress, 1st Session, pp. 7-10, 18-19]

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It will be thus perceived that the Government has the means, if properly employed, of reimbursing the whole of the public debt, by purchase or otherwise, on or before the 3d of March, 1833.

The moral influence which such an example would necessarily produce throughout the world, in removing apprehension, and inspiring new confidence in our free institutions, cannot be questioned. Seventeen years ago, the country emerged from an expensive war, encumbered with a debt of more than one hundred and twenty-seven millions, and in a comparatively defenceless state. In this short period it has promptly repealed all the direct and internal taxes which were imposed during the war, relying mainly upon revenue derived from imports and sales of the public domain. From these sources, besides providing for the general expenditure, the frontier has been extensively fortified, the naval and maritime resources strengthened, and part of the debt of gratitude to the survivors of the revolutionary war discharged. We have, moreover, contributed a large share to the general improvement, added to the extent of the Union by the purchase of the valuable territory of Florida, and finally acquired the means of extinguishing the heavy debt incurred in sustaining the late war, and all that remained of the debt of the revolution.

The anxious hope with which the people have looked forward to this period, not less than the present state of the public mind, and the real interests of the community at large, recommend the prompt application of these means to that great object, if it can be done consistently with a proper regard for other important considerations.

Of these means, as has already been shown, the shares owned by the Government in the Bank of the United States are an indispensable

part; and for the reimbursement of the debt within the period contemplated, it will be necessary to effect a sale of them for a sum not less than eight millions of dollars.

The stock created by the United States for their subscription to the Bank having been actually paid previously to the 1st of July last, their interest in that institution has ceased to be nominal merely, and the shares form a part of the fiscal resources applicable to the public demands.

The objects connected with the early reimbursement of the public debt are more important than the interest of the Government as a mere stockholder; and it is therefore respectfully recommended to Congress to authorize the sale of those shares for a sum not less than \$8,000,000.

A sale of so large an amount in the public market could not be expected to produce more than the par value, and, if attempted under circumstances calculated to shake public confidence in the stability of the institution, would, in all probability, prove wholly abortive. For these reasons, it is deemed advisable to effect a sale to the Bank itself—a measure believed to be practicable on terms satisfactory both to the United States and that institution.

In submitting this proposition to the wisdom of Congress, it is not intended that its adoption should be founded on any pledge for the renewal of the charter of the Bank. Considering, however, the connexion of the proposition with the Bank, and viewing the whole subject as a necessary part of the plans for the improvement and management of the revenue, and for the support of public credit, the undersigned feels it his duty to accompany it with a frank expression of his opinions.

The act of Congress to establish the Treasury Department makes it the duty of the Secretary of the Treasury to digest and prepare plans for the support of public credit, and for the improvement and management of the revenue. The duties enjoined, as well by this act as by the subsequent one of the 10th of May, 1800, requiring the Secretary "to digest, prepare, and lay before Congress, at the commencement of every session, a report on the subject of finance, containing estimates of the public revenue and public expenditures, and plans for improving or increasing the revenues from time to time, for the purpose of giving information to Congress, in adopting modes for raising the money requisite to meet the public expenditures," have been supposed to include not merely the application of the resources of the Government, but the whole subject of the currency, and the means of preserving its soundness.

On this supposition, the first Secretary of the Treasury, in his memorable reports of January and December, 1790, recommended a national bank as "an institution of primary importance to the finances, and of the greatest utility in the operations connected with the support of public credit"; and various communications since made to Congress show that the same views were entertained of their duties by others who have succeeded him in the Department.

The performance of the duties thus enjoined by law upon the Secretary of the Treasury implies, however, no commitment of any other department of the Government, each being left free to act according to the mode pointed out by the Constitution.

The important charge confided to the Treasury Department, and on which the operations of the Government essentially depend, in the

improvement and management of the revenue and the support of public credit, and of transferring the public funds to all parts of the United States, imperiously requires from the Government all the facilities which it may constitutionally provide for those objects, and especially for regulating and preserving a sound currency.

As early as May, 1781, the Congress of the United States, convened under the articles of confederation, approved the plan of a national bank submitted to their consideration by Mr. Morris, then superintendent of the finances, and, on the 31st of December, of the same year, "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, incorporating such an institution, under the named and style of "The President, Directors, and Company of the Bank of North America." The aid afforded by that institution was acknowledged to have been of essential consequence during the remaining period of the war, and its utility subsequent to the peace of little less importance.

The authority of the present Government to create an institution for the same purposes cannot be less clear. It has, moreover, the sanction of the executive, legislative, and judicial authorities, and a majority of the people of the United States, from the organization of the Government to the present time. If public opinion cannot be considered the infallible expounder, it is among the soundest commentators of the Constitution. It is undoubtedly the wisest guide and only effective check to those to whom the administration of the Constitution is confided; and it is believed, that, in free and enlightened States, the harmony not less than the welfare of the community is best promoted by receiving as settled those great questions of public policy in which the constituted authorities have long concurred, and in which they have been sustained by the unequivocal expression of the will of the people.

The indispensable necessity of such an institution for the fiscal operations of the Government in all its departments, for the regulation and preservation of a sound currency, for the aid of commercial transactions generally, and even for the safety and utility of the local banks, is not doubted, and, as is believed, has been shown in the past experience of the Government, and in the general accommodation and operations of the present bank.

The present institution may indeed be considered as peculiarly the offspring of that necessity, springing from the inconveniences which followed the loss of the first Bank of the United States, and the evils and distresses incident to the excessive, and, in some instances, fraudulent issues of the local banks during the war. The propriety of continuing it, is to be considered not more in reference to the expediency of banking generally, than in regard to the actual state of things, and to the multiplicity of State banks already in existence, and which can neither be displaced, nor in other manner controlled in their issues of paper by the General Government. This is an evil not to be submitted to; and the remedy at present applied, while it preserves a sound currency for the country at large, promotes the real interests of the local banks, by giving soundness to their paper.

If the necessity of a banking institution be conceded or shown, that which shall judiciously combine the power of the Government with private enterprise is believed to be most efficacious. The Govern-

ment would thus obtain the benefit of individual sagacity in the general management of the Bank, and, by means of its deposits and share in the direction, possess the necessary power for the prevention of abuse.

It is not intended to assert that the Bank of the United States, as at present organized, is perfect, or that the essential objects of such an institution might not be attained by means of an entirely new one, organized upon proper principles, and with salutary limitations. It must be admitted, however, that the good management of the present bank, the accommodation it has given the Government, and the practical benefits it has rendered the community, whether it may or may not have accomplished all that was expected from it, and the advantages of its present condition, are circumstances in its favor, entitled to great weight, and give it strong claims upon the consideration of Congress in any future legislation upon the subject.

To these may be added the knowledge the present bank has acquired of the business and wants of the various portions of this extensive country, which, being the result of time and experience, is an advantage it must necessarily possess over any new institution.

It is to be observed, moreover, that the facilities of capital actually afforded by the present institution to the agricultural, commercial, and manufacturing industry of all parts of the Union, could not be withdrawn, even by transferring them to another institution, without a severe shock to each of those interests, and to the relations of society generally.

To similar considerations, it may be presumed, is to be traced the uniform policy of the several States of the Union, of rechartering their local institutions with such modifications as experience may have dictated, in preference to creating new ones.

Should any objection be felt or entertained on the score of monopoly, it might be obviated by placing, through the means of a sufficient premium, the present institution upon the footing of a new one, and guarding its future operations by such judicious checks and limitations as experience may have shown to be necessary.

These considerations, and others which will be adverted to in a subsequent part of this report, the experience of the Department in the trying periods of its history, and the convictions of his own judgment, concurring with those of the eminent men who have preceded the undersigned in its administration, induce him to recommend the expediency of rechartering the present bank at the proper time, and with such modifications, as, without impairing its usefulness to the Government and the community, may be calculated to recommend it to the approbation of the Executive, and, what is vitally important, to the conference of the people.

Should Congress deem it expedient to authorize the sale of the bank shares for a sum not less than eight millions of dollars, the reimbursement of the public debt on or before the 3d of March, 1833, may be confidently anticipated; and from that period the amount of revenue applicable to that object will be no longer required.

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If the adjustment suggested to Congress by the views hazarded in this report be in any wise entitled to their respect, it is not unreasonable to hope that the various topics of national concern at present

engaging the attention of the people may facilitate rather than embarrass the task. The interests of agriculture, commerce, and manufactures, and the final disposition of the public lands, are the prominent, and necessary, and immediate objects of public policy. As incident, however, and indeed necessary, to the security and prosperity of these great interests, the preservation of a sound currency cannot escape attention. On the soundness and steadiness of this indispensable medium of exchange depend the value and stability of every description of property, not less than the activity of every branch of business; and it is not to be doubted that the commercial and manufacturing industry would be most severely and immediately affected by any derangement of this spring of their prosperity.

The measures of the Central Government in respect to the tariff, to objects of public improvement, to the public lands, and to the Bank of the United States, are the sources of the existing solicitude throughout the country. For the permanent adjustment of all, in a manner to promote the harmony of all parts of the Union, and elevate the moral character of the country, the wisdom and patriotism of the Government and of the people can alone be looked to.

Independently of the considerations connected with the currency, the interests both of the Government and individuals involved in the Bank of the United States make the stability of that institution an object of great importance. No reason is perceived why this great interest should not be equally considered in the scheme of deference, and concession, and compromise, which the public safety, not less than the national prosperity, so urgently recommends. While conflicting interests and opinions on other subjects are invited to meet on middle ground, and, on the altar of common good, each to offer something for the preservation of concord and union throughout this favored land, the advocates and opposers of the existing system for regulating the currency may also be expected to join in the same patriotic sacrifice.

It is not perceived that any other satisfactory basis for a scheme of general adjustment can be devised, than that which shall pay a just regard to the interests of all, and observe a proper deference to the public will. On this ground mainly, one portion of the agricultural interest has been invited, to accommodate opinions conscientiously formed and ardently advocated to opposite opinions more successfully maintained by other and more powerful interests. The invitation could not be more appropriately recommended, than by affording an example in other cases founded upon the same principle. Acquiescence in the public will is not less the duty of Government than of the people themselves. The utmost respect is felt for an independent exercise of conscientious opinions; but, in a country like ours, though a sense of duty authorizes all fair attempts to convince the public mind, it equally dictates a ready acquiescence by all in the public will finally expressed.

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**Report of House Committee of Ways and Means, on Renewal of
Charter of Bank of United States**

[House Report 283, Twenty-second Congress, 1st Session, Pages 1-4, 49-60]

RENEW CHARTER BANK UNITED STATES.

FEBRUARY 9, 1832.

VIEWS OF THE MAJORITY.

Mr. McDUFFIE, from the Committee of Ways and Means, to which the subject had been referred, made the following

REPORT:

The Committee of Ways and Means, in obedience to the orders of the House, have had under consideration the memorial of the President, Directors, and Company of the Bank of the United States, and also sundry memorials from other sources, relative to the renewal of the charter of the said bank, and herewith report a bill for the renewal of the said charter, with certain modifications.

The committee will not now go into the consideration of the constitutional power of Congress to incorporate the Bank of the United States, nor of the expediency of maintaining such an institution, with a view to preserve a sound and uniform currency, and to facilitate and equalize the fiscal operations of the Government. For the exposition of their views on these interesting and important questions, and of the great public benefits which have resulted from the operations of the bank, in regulating and reducing the rates of the commercial exchanges of the country, they ask leave to refer to the report made by the Committee of Ways and Means, on the 13th day of April, 1830, which they adopt as a part of this report.

The several memorials, presented by sundry citizens of the United States, praying Congress to grant them and their associates a charter for a new bank, with privileges similar to those now enjoyed by the Bank of the United States, have been duly considered by the committee. They can perceive no adequate motive, however, for creating a new bank, instead of continuing the present; but, on the contrary, very strong objections against adopting such a course. The only inducements which can justify Congress in establishing any bank, are exclusively of a public nature. The interest of the stockholders, though necessarily involved as an incident, is quite a subordinate

consideration. The maintenance of a uniform currency, and the facilities afforded for collecting, transferring, and disbursing the public revenue, are the great and paramount objects to be accomplished by such an institution; and to sacrifice these to the imaginary claims of persons who may desire to speculate in the stock of a new institution, would be perverting high public trust to mere individual purposes.

With the intimate knowledge of the pecuniary wants and resources of the several portions of the Union, which it must have acquired by the experience of sixteen years, the present institution is doubtless better qualified than any new corporation could be, to fulfil the great public ends of such an establishment. In the unquestionable ability with which its affairs have been administered for the last ten years, and in the fidelity with which it has discharged all its duties to the Government and to the country, we have an assurance of future usefulness, which the applicants for a new bank certainly could not furnish. On the contrary, some of the new schemes brought forward in the memorials referred to the committee, are so utterly extravagant as to furnish just cause of alarm to all reflecting men. The present bank, though it has dealt largely in public securities, and, for several years past, held large amounts of Government stock, has, notwithstanding, found it difficult to find employment for a capital of thirty-five millions, in the safe and legitimate business of banking; yet we have applications to incorporate a banking company with a capital of fifty millions. The present bank has not realized more than five per cent. on its comparatively small capital; yet some of the projectors of new banking schemes propose to give a bonus of one million of dollars a year to the General and State Governments, for the privilege of banking on a capital of fifty millions; and expositions have been presented to the public, holding out the idea that such a bank might keep in circulation one hundred millions of its paper, and grant loans to the enormous extent of two hundred millions! In the opinion of the committee, such projects as these can only proceed from a spirit of bold and hazardous speculation, and from those who are entirely unacquainted with the practical operations of banking; and nothing in the shape of a pecuniary bonus could justify Congress in making the dangerous experiment of committing to such hands the great duties of maintaining a sound currency, and of keeping in safety, and transferring without delay or expense, the revenues of this extensive confederacy.

An opinion has been sometimes expressed, as plausible perhaps as it is delusive, that all the people of the United States are entitled to the option of subscribing for the stock of a Bank of the United States, and that, consequently, it would be an unjust preference to renew the charter of the present company. If a new bank were created, it is almost certain that the stock would go into fewer and less meritorious hands than that of the present bank, and the rest of the people of the United States would have still greater cause to complain of their exclusion, if, when the institution acquired the public confidence, its stock should be considerably above par. Men of accumulated capital, not engaged in business, and stockjobbers, are invariably the first subscribers for the stock of a new bank; and it is impossible to conceive any substantial reason why the present stockholders, who have done so much for the country, should be superseded, at the hazard of great

public detriment, merely to gratify the speculating views of a still smaller number of persons, principally large moneyed capitalists and dealers in public stocks. It should be recollected, too, that a considerable portion of those who hold stock in the present bank are widows and orphans, who probably paid very nearly the present market price for the stock; and it is certain that, in the scramble for new subscriptions, most of those would be excluded by the classes of persons to which the committee have just alluded. For a more full explanation of their views on this point, they will refer the House to the report, already noticed, of a former Committee of Ways and Means.

It remains for the committee to give a brief explanation of the modifications they have proposed of the existing charter. The reservation of the power of revoking it, at any time after ten years, upon giving three years' notice of such intention, will create a responsibility in the bank, which may be extremely salutary, without creating too great a dependence upon Congress. The change proposed in the form of the bonus, is in some degree connected with this change in the tenure of the charter, and is recommended by other considerations. An annual sum, paid in the shape of interest on the Government deposits, will have the recommendation of making the amount of the bonus depend upon the extent of the benefit which the bank may derive from the public revenues, at the same time that it renders the Government an important service by the safe custody of these revenues. The authority given to the President of the United States to appoint one of the directors of each of the branches, rests upon the same principle with the existing authority to appoint a portion of the directors of the mother bank. It may be a matter of great convenience and utility for the Government to have a sentinel to give notice of any irregularities or abuses that may creep into the direction of the several branches. The prohibition against issuing draughts or checks for twenty dollars, or any smaller sum, will exclude from common circulation a description of paper, of which considerable complaint has been made in some quarters of the Union. This, however, has rendered it indispensably necessary to authorize other officers, as well as the President and Cashier, to sign and countersign bills for circulation. If this provision be not made, the whole time of the President and Cashier would be taken up in signing bills, to the entire exclusion of the more important functions of administration and superintendence; and yet these officers would not have the physical ability to execute the necessary signatures. The expediency of prohibiting the issue of any notes at branches where they are not payable, is too obvious to require comment. It is essential to protect the State banks against ruinous draughts for specie on the part of the Bank of the United States.

These provisions, in addition to those which are contained in the original charter, afford all the safeguards which can be reasonably required for the public security. The monthly statements which are made of the debts due by the bank, of the moneys deposited therein, of the notes in circulation, and the specie in hand; the right of the Secretary of the Treasury to inspect the books of the bank, and to withdraw the public deposits, subject to the approbation of Congress; the right of "a committee of either house of Congress to inspect the books and examine the proceedings of the bank;" its obligation to pay specie for its notes on demand, under a heavy penalty; and the provision that "the total amount of the debts which the said corporation shall at any

time owe, over and above the debts due for money deposited, shall not exceed the amount of its capital;”—all these guards against imprudent and excessive issues, with the constant supervision of the Government directors, furnish ample guarantees for the faithful performance of its duties to the public, and undoubted securities to the holders of its notes, not only that they will be ultimately, but promptly, paid.

A BILL TO RENEW AND MODIFY THE CHARTER OF THE BANK OF THE UNITED STATES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act, entitled “an act to incorporate the subscribers to the Bank of the United States,” approved the tenth day of April, one thousand eight hundred and sixteen, shall be continued in force for the period of twenty years from the third day of March, one thousand eight hundred and thirty-six, and that the power shall be reserved to Congress to repeal this act at any time after ten years from the third of March, one thousand eight hundred and thirty-six, upon giving three years’ notice of such intended repeal to the President and Directors of the said bank.

SEC. 2. *And be it further enacted,* That the President of the United States, after the third day of March, one thousand eight hundred and thirty-six, shall appoint one of the directors of each of the branches of the said bank, in the same manner as he now appoints a portion of the directors of the mother bank, and with the same limitations, as to their eligibility and term of service.

SEC. 3. *And be it further enacted,* That any officers of the mother bank, who may be selected by the Board of Directors, and designated to the Secretary of the Treasury of the United States, shall be authorized to sign and countersign notes, which shall be binding and obligatory on the said corporation, in like manner as if the same were signed and countersigned by the President and principal Cashier or Treasurer.

SEC. 4. *And be it further enacted,* That the said bank is hereby prohibited from issuing any notes which are not, upon the face of them, declared to be payable at the office from which they may be issued; and, also, from drawing any draughts, or checks, for twenty dollars, or any smaller sum.

SEC. 5. *And be it further enacted,* That it shall be the duty of the bank to furnish, annually, on the first day of January, to the chief officer of the Treasury of each State, a list of the holders of stock in said bank, who are resident in such State, with the amount of the stock held by each stockholder; and nothing contained in the charter of said bank, or in this act, shall be deemed to restrain the several States from taxing the real estate of the said bank situated therein, respectively, or the proprietary interest of their respective citizens in the stock of the said bank, to the same extent that they may tax other real estate within their jurisdiction, and like interests in the stock of other corporations, or money lent at interest.

SEC. 6. *And be it further enacted,* That, in consideration of the exclusive privileges and benefits conferred by this act upon the said bank, the President, Directors, and Company thereof, shall pay to the United States, out of the corporate funds thereof, on the third day of March, one thousand eight hundred and thirty-seven, and on

the same day of each year thereafter, during the continuance of the charter, an interest at the rate of per centum upon the deposits, from time to time, to the credit of the Treasurer of the United States in the said bank, and its branches, during the preceding year.

SEC. 7. *And be it further enacted*, That, after the third day of March one thousand eight hundred and thirty-six, the said bank shall not establish any additional branch thereof, without the consent of Congress.

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VIEWES OF THE MINORITY.

The undersigned, differing from the majority of the Committee of Ways and Means, in their report of a bill to renew the charter of the Bank of the United States, ask leave to submit the views which they entertain upon a subject of so much importance to the general interests of the American people.

The question of establishing a National Bank has been, from the commencement of the Government down to the present time, deemed, by many of the wisest and best of men, an unconstitutional exercise of power, and of extremely doubtful policy.

We cannot concede the principle that the constitution of the country should change with the change of political parties, when clearly understood; nor be broken down by the array of legal decisions, and the names of great men, whose opinion may vary, from time to time, according to circumstances. It was designed for a far nobler purpose—a safeguard and guarantee of rights on the part of the weak, against the oppressions of the strong.

In this point of view, we have looked upon it as an instrument of delegated powers only, conferring nothing more than what is expressly granted upon its face, or clearly necessary to carry into effect any one of the specified powers. According to this rule, which, it is believed, all parties concur in admitting to be the true one of construction, we propose to test the establishment of a National Bank.

We find, soon after the Government went into operation, the question came up for decision, and may be said to have formed the first line of distinction between the two great political parties at that day, usually denominated federal and republican. And, although President Washington signed the first bill chartering the Bank of the United States, it was under such circumstances as by no means to claim for it a clear authority, settling the constitutional difficulty.

After the subject had been debated in both Houses of Congress, it was a matter of grave deliberation with the then cabinet; so much so, that the President was brought to pause: and not till the last moment allowed by the constitution for the approval, did he give it his official sanction. It is well known, at that day, that his cabinet was equally divided upon the question—Mr. Jefferson and Mr. Randolph opposing it upon constitutional grounds, and Mr. Hamilton and Mr. Knox supporting the power. In this state of things do we find him signing the charter, which perhaps he should have done, according to the rule suggested by Mr. Jefferson, "that unless the President's mind, on a view of every thing which is urged for and against this

bill, is tolerably clear that it is unauthorized by the constitution; if the pro and con hang so even as to balance his judgment; a just respect for the wisdom of the legislature would naturally decide the balance in favor of their opinion. It is chiefly for cases where they are clearly misled by error, ambition, or interest, that the constitution has placed a check in the negative of the President." The opinion of Mr. Jefferson upon this leading measure of the then dominant party in Congress, expresses so fully our views on the constitutional point, that it is herewith appended, and made a part of this report. In confirmation of the principles therein contained, and which we believe governed the republican party in those times, who awfully feared that construction and implication would do away the restraints which the constitution had imposed upon Congress, (and, there is too much reason to think, has of late been the case,) we see Mr. Madison then standing by the side of Mr. Jefferson, the foremost and boldest in debate in the House of Representatives, denouncing the incorporation of the bank, in the following strong, emphatic terms: "That it was condemned by the silence of the constitution, condemned by the rule of interpretation arising out of the constitution; condemned by its tendency to destroy the main characteristic of the constitution; condemned by the exposition of the friends of the constitution, whilst depending before the public; condemned by the apparent intention of the parties which ratified the constitution; condemned by the explanatory amendments proposed by Congress themselves, to the constitution; and he hoped it would receive its final condemnation by the vote of the House."

If it be claimed for the decision of this question at that day, that it was made by the patriots of the revolution, and the sages of the federal convention, with Washington at their head, something is also due to the opinion of those, who, differing from them, were equally patriots of the revolution, and members of the federal convention; the latter believing that the constitution was a grant of specific powers, saw at once this fatal admission, depending upon construction altogether, would lead to others still more dangerous, and finally end in consolidation, or a government unlimited as the Parliament of Great Britain. The tendency seemed to be, to give that form and structure to the Federal Government in a course of legislation, which had failed to be adopted in convention, and this they most fearfully apprehended; not without cause, for we find the alien and sedition laws were afterwards passed, deriving their existence from the same power of implication, so justly condemned by the American people as acts of usurpation, as to have resulted in the election of Mr. Jefferson. Fortunately for the country, these were acts affecting the rights of person and the liberty of speech and of the press, in which were seen more clearly the injustice and oppression than the bank charter, which indirectly operated upon them to an injurious extent, under the specious pretence of dispensing benefits.

Accordingly, in 1811, when the bank came forward for a renewal of its charter, the same party which brought Mr. Jefferson into the administration, and continued Mr. Madison, was found opposing the application upon the very same grounds taken in 1791, which resulted in its rejection.

The war immediately following, the Government was enabled to prosecute it to a successful issue without the aid of the bank, under the

most disadvantageous circumstances, being illy prepared for such a contest, and against the united strength of the opposition, who had recently been defeated in this, their most favorite measure. That a bank would have added facilities to the Government in carrying on the operations of the war, may be granted, without giving any weight to the argument in the absence of a power authorizing its establishment. It is believed, however, like the rest of the banks, it would have been compelled to have suspended specie payments; and been found inadequate towards reducing the rate of exchange, or correcting the then depreciated state of the currency. If after so short a period, when going into operation in the year 1818, with eight millions and upwards of Government deposits, the bank was almost reduced to the necessity of stopping specie payments; how can it be expected to stand the shock of a general depreciation of currency, which a state of war must always bring upon the country? The nation itself, with all its resources, was unable to escape the calamity, and its credit was reduced much lower than many of these local institutions.

Such appears to have been the history of the bank up to the period of 1816, when it was last chartered, and the particular circumstances of the times operating upon it whenever brought to the consideration of Congress; and although the Supreme Court of the United States has since decided in favor of its constitutionality, it is an authority resting entirely upon the principles of 1791, which first brought it into existence, but afterwards repudiated; and is, therefore, entitled to that weight alone which reason and argument can furnish. We are not responsible for the change of opinion in men upon questions of great political importance, leaving the decision at all times to their conscience and their country. But we do not recognise any precedent, either legislative or judicial, as settling what we conceive to be a fundamental principle, nowhere found in the constitution itself, nor fairly deducible from it by any legitimate rule of interpretation.

It is a fact worthy of remark, that at every period when the question arose for chartering a Bank of the United States, it was after the country had experienced all the evils of a depreciated currency, and was just returning to a wholesome circulation. The continental paper money brought into existence the North American Bank; the funding system and the assumption act, that of the first Bank of the United States, and the depreciated paper money at the close of the late war, the present institution.

Like causes will always produce like effects; and what has occurred to the Bank of England may be considered as applicable to any Bank of the United States, under similar circumstances. In 1797, a run was made upon the Bank of England. It applied to Government, its greatest creditor, for relief. Mr. Pitt had no money, but gave an order restricting the bank from paying its notes in gold. This order was extended six months after a general peace, and continued a quarter of a century afterwards.

From the general derangement of the circulating medium, during the war, and the low state to which the credit of the Government had sunk, the expedient was again resorted to, upon the recommendation of the Secretary of the Treasury, of establishing a national bank, which, after passing both branches of the Legislature, was returned by Mr. Madison, with his objections. It was renewed in 1816, after peace, and received his sanction.

The condition of the currency at that time, and the great losses sustained by the Treasury in the collection of the revenue, it is believed, induced many to surrender up opinions previously entertained in regard to the establishment of a national bank, to the supposed necessity of the case, and public opinion. The danger was, however, over, and these evils would have been corrected in a short time by commerce and internal trade resuming their accustomed channels. The great credit that is attributed to the United States' Bank in causing specie payments to be restored by the local institutions, is by no means merited to the extent generally claimed for it. The arrangement of the banks in the several States of the Union, with this view, at a stated period shortly after peace, together with the compulsory process of some of the States, aided by the joint resolution of the two Houses of Congress instructing the Secretary of the Treasury to receive only the notes of specie-paying banks for all debts to the Government, brought about this result even before the United States' Bank was fairly in operation. This, it is at all times competent for the officer of the Treasury to do, by refusing, in the collection of the revenue, the notes of all banks failing to pay specie; which would prove as salutary a check against excessive issues as any supposed agency of the bank, and is the only rightful control which the Government should exercise over such local institutions of the States. To say that you can, by the application of a principle in this way, restrain *their power*, is to say that you can *destroy them altogether*. We have seen the President of the Bank, upon the interrogatory put to him, "Has the bank, at any time, oppressed any of the State banks?" after answering negatively, affirming the fact, that "*there are very few banks which might not have been destroyed by an exertion of the power of the bank.*"

We do not mean to go into all the reasoning, which, at different times and in different places, has been employed to disprove arguments founded on implication in favor of the constitutionality of the bank. This has been so often done, and is so well understood, that it will be merely sufficient to state the positions, and leave the deductions to be drawn out by the investigating mind.

It is admitted by all parties, that the constitution is not only a grant of *enumerated*, but *limited* powers, to a certain extent; that nothing is conferred, but what is expressly given, or clearly necessary to the execution of a given power. With this view, and to satisfy those who opposed the ratification upon the ground that all power would be assumed, unless further restrained, was the tenth amendment adopted, which declares, "the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

It is not pretended by any one to affirm that there is a distinct, substantive power in the constitution to create a corporation, or to establish a bank with corporate powers; yet it is claimed as one of the *necessary* means to effectuate a given purpose in the constitution. We are naturally led to inquire, in the first place, what is the *end* to be accomplished, in order to determine whether the *means* are appro-

priate? It is said you have the power to raise and collect taxes; to borrow money; to regulate commerce; to declare war; to coin money, and regulate the value thereof. We admit that these are all specific grants of power, but should like to know upon which of them it is intended, at this time, to locate the bank? It was very happily and forcibly said by a Senator, in debate upon this question in 1811, (Mr. Clay,) that "this vagrant power to erect a bank, after having wandered throughout the whole constitution in quest of some congenital spot to fasten upon, has been at length located by the gentleman from Georgia, (Mr. Crawford) on that provision to lay and collect taxes."

It cannot be necessary now to raise money by taxation; nor to borrow, having more than we could wish; nor to regulate commerce, which if left to individual enterprise, will regulate itself without any such agency, under the rules which have been prescribed by law; nor to declare war and raise armies; and we humbly conceive, it is not necessary to the power to coin money, and regulate the value thereof. The question to be determined by every rational mind, is, whether the bank can be considered, in the common acceptation of the words, "*necessary and proper*," as an adjunct to carry into effect any of the above objects. Not that it is more convenient, more useful, or more needful than another which is ordinarily adopted. A corporation is said to be one of the lowest attributes appertaining to sovereignty, and classed among the incidents of a power. We think it of a much higher order, originating from the very source of sovereignty itself, and must be considered as a distinct, substantive power, and not one of the attributes belonging to every power. It resides in the King of England, although not exclusively. The sovereignty here belongs to the people, except that portion of it which they have transferred to the Federal Government. Corporations are viewed with distrust by all governments, and properly denominated in law, as bodies without souls. They are invested with exclusive privileges beyond the rest of society, permitted to hold property in mortmain, and may be so constituted as to change the course of descents in the several States, so far as their corporate character is concerned; and so protected with the panoply of the legislature and the judiciary, that their rights are held inviolable, and not to be reached by law without their consent. It is all this, and even more; and yet we are told that it is the mere incident—the *necessary* mean to carry into effect one of the principal powers.

Let us trace the extent to which this doctrine leads, and see if it be not subversive of every limitation placed upon Congress by the grant of delegated powers.

You have the power to regulate commerce. According to the opinion of some, that authorizes you to protect manufacturers; the best *mean*, that is, the *necessary and proper mean*, is an act of incorporation, therefore, it is constitutional to protect manufactures by an act of incorporation; and every such company now in the United States may, with equal propriety, apply to Congress for an act of incorporation,

as the stockholders of the bank, who, to a certain extent, are nothing but traders and dealers in paper money independent of the fiscal operations of the Government. Again: it may be considered, in the wisdom of our legislation, that Congress has power to colonize the free people of color: certainly the most *necessary*, the most *convenient*, and *proper* way, would be to incorporate at once the Colonization Society, and vest your funds there, which could be better managed for the purpose. What is there to prevent Congress from incorporating every internal improvement company, and becoming part stock owner, holding out, as it does, a more *convenient*, *responsible*, and *economical mean* in the disbursement of public moneys, than any which has heretofore been used? Why, nothing, but to raise this power from an incident, where it has been placed by the Supreme Court in the decision of the bank, in the case of McCulloch against the State of Maryland, and consider it as a principal which there is strong reason to believe was intended by the framers of the constitution excluding it from the instrument. Even as a mean, we think it a strained construction to erect a corporation, to execute any one of the enumerated powers which can be carried on without it, though perhaps not quite so well.

It is laid down in the report of the Committee of Ways and Means upon this subject, made in 1830, that, "if Congress, under the authority to pass *all laws necessary and proper* for carrying into effect the powers vested in all or any of the departments of the Government, may rightfully pass a law inflicting the punishment of death, *without any other authority*, it is difficult to conceive why it may not pass a law, under the same authority, for the more humble purpose of creating a corporation." Now let us see how the parallel runs: In the first place there should be a fitness, a due relationship, between the power and the incident to justify it. It has been likened to the power "to establish post offices and post roads," by which you undertake to pass a law punishing, with death or imprisonment, the robbing or stopping of the United States' mail. Every one must see that your law establishing post offices and post roads would fail to be executed without a power to punish for its violation; and no one has ever denied but what it was a *necessary and proper* mean to execute the end. But not so to collect and disburse the revenue, to borrow money, &c., because all these can be done through the simple agency of your Treasury Department without the aid of the bank. But is the creation of this corporation a "more humble purpose" than the law to protect the Post Office Department from robbers and assassins; which, if it is not stained with as much blood, is marked with as cruel imprisonment against the counterfeiting of its notes, and, in our opinion, *illegal orders*, otherwise called *drafts*; and this brings us to ask, where is the power obtained to punish for counterfeiting the notes of the Bank of the United States? Now, mark the difference between the "*more humble purpose*" of creating this corporation, and the incidental power of punishment under the post office law. The power to punish is derived incidentally

from the right to establish the office or road. The power to create the corporation is said to be incidental to some other power, and then the power to punish is incidental to that; so, we have the incident of an incident to a power, carrying with it the right of punishing with death or imprisonment. So far, then, from being the less, it becomes the greater power, and makes the less equal the greater.

Under the law establishing the North American Bank, no power was attempted to be exercised providing against counterfeiting its notes or seal, deeming it unauthorized by the articles of confederation. We find in the constitution the power given "to coin money, and regulate the value thereof:" it was not even left to implication, as it might have been fairly done, to provide against counterfeiting and debasing the same. But, from the great necessity of the case, and out of abundant caution, knowing that the power did not exist during the confederation, did the convention insert the clause also, "to provide for the punishment of counterfeiting the securities and current coin of the United States." A bank note is neither a Government *security*, nor *current coin*; and, therefore, without this provision of the constitution, it is the creature of the corporation itself, and must, therefore, look to that for protection. To give protection, it should be shown to be a principal, substantive power in the constitution; which cannot be done, as it is nowhere among the enumerated articles.

These views are applicable to every branch of the subject depending upon construction and implication; and it is, therefore, deemed unnecessary to press them further. It is, however, a little strange to think, that, after ransacking all the powers of the constitution, under which to locate this *incident*, as it is called, it is at last found to reside under the power "to coin money, and regulate the value thereof." Now, what is the plain meaning of all this? Has not this power executed itself, long since, without the aid of a bank or corporation? nor is either necessary for the purpose. Coin is a term known all over the world, as applicable to metallic substances as money, in contradistinction of paper. Who ever heard of a mint coining paper? It is a generic term, of which there are different species, and paper is but the representative of money. It is capable of division and subdivision into aliquot parts; and the proper business of regulation is, to say of what each part shall consist. This has been the interpretation of the clause, under consideration, from the foundation of the Government down to the present time, and the necessary laws made in pursuance thereof. A committee of this House has been raised, the present session, to regulate the value of "coin;" and, I am sure, they do not mean to do so by a bank charter, or an act of incorporation: for, these are the measures the Committee of Ways and Means have to consider, which are separate and distinct from the regulation of the current coin. The incident here, then, does not follow the principal. If the States are authorized to establish banks, and issue paper founded on a specie basis, and thereby vitiate the circulating medium,

by stopping payment, or over issues, it does not follow that you have the right to control them, by substituting the same currency, which is liable to the same consequences. Your power, under the constitution, must be perfect; and if it be the State banks you design to reach in this way, which supposes an incompetency in the respective Legislatures to govern them, you can march directly up to the object, and suppress them altogether. But it is not the *paper currency* which Congress is entrusted with the power of regulating; and here lies the error of the argument, in supposing a case which does not exist.

It is the duty of Congress to collect the revenue, and this is the appropriate power, if any were to be found, to which this subject refers itself, depending, as it does, upon implication. And if so, it should have been confined to that object, and that alone. But it is something more. It is a thing capable of being seen and felt; a body of individuals invested with all the powers and privileges of an exclusive trading company dealing in paper, which it would be in the power of any one of the States to suppress in an individual or private company, without such authority. It is, moreover, capable of holding real estate to a large amount within the States, which the constitution expressly confines to special cases, and has done business, as appears by the last returns, to an amount upwards of one hundred and twenty-seven millions of dollars, while it is alone responsible for its debts in its corporate capacity. It is, therefore, too great a power to rest upon *construction and implication merely*.

That the bank adds facilities to trade and commerce generally, and, to a certain extent, regulates the course of exchange, will not be questioned; but does that justify Congress in erecting a broker's shop to do what is the business of individual enterprise, and the natural channel of trade itself?

So a commercial company would be very *convenient*, nay, *useful*, for all these purposes; and it would be just as much within the competency of Congress to establish one in the city of New York, Boston, or Philadelphia, to trade to the East Indies, or anywhere else, under the idea of *facilitating* commerce and *regulating* exchanges, as to establish a bank. Other illustrations might be furnished, were it necessary, going to show the danger of this power of implication, when carried beyond its natural legitimate sphere, which may be used to raise up an independent power, and thus do away all the limitations and restraints imposed upon Congress by the constitution; and so we think of the bank incorporation.

It would seem to be a safe rule of constructing the constitution, that, in all doubtful cases, where the power is not expressed, nor clearly necessary to execute the purpose, it is better to refrain than exercise it. If we had no other lights but reason to guide us in this instance, the previous decisions of Congress and the judiciary would be entitled to that weight which they deserve as authority for settling a constitutional question founded upon opinion merely. But when

we have the best evidence the nature of the case admits of, the journals of the federal convention which adopted the constitution, and since published, we do not feel ourselves at liberty to reject it, and range at large again over the wide field of speculative opinion to find out what they meant.

Among various propositions submitted to the convention in a resolution, some of which were adopted, there is one to grant charters of incorporation generally. It has been argued from this, that although they did not choose to grant the power generally, it does not follow that they were unwilling for it to be used as a means in executing any one of the specified powers. It seems that they were unwilling to grant it, either for general or special purposes. For, it farther appears, that it was proposed to grant charters of incorporation in cases where the public good may require them, and the authority of a single state may be incompetent, which they did not choose to incorporate into the constitution. Can it, for a moment, be supposed that they designedly excluded it from among the enumerated powers, with a view that it might be impliedly exercised? This would be to accuse them of a species of fraud, of imposition upon the people, which we are not willing to believe. The true secret how it came to be left out, is disclosed in Mr. Jefferson's memoirs, by a note made of the transactions in the convention upon the evidence of two of its members, which is as follows: "Baldwin mentions at table the following fact: When the bank bill was under discussion in the House of Representatives, Judge Wilson came in and was standing by Baldwin. Baldwin reminded him of the following fact, which passed in the grand convention. Among the enumerated powers given to Congress, was one to erect corporations. It was, on debate, struck out. Several particular powers were then proposed. Among others, Robert Morris proposed to give Congress a power to establish a national bank. Gouverneur Morris opposed it, observing that it was extremely doubtful whether the constitution they were framing could ever be passed at all by the people of America; that to give it its best chance, however, they should make it as palatable as possible, and put nothing into it not very essential, which might raise up enemies; that his colleague (Robert Morris) well knew that 'a bank' was, in their State, (Pennsylvania,) the very watchword of party; that a *bank* had been the great bone of contention between the two parties of the State, from the establishment of their constitution—having been erected, put down, and erected again, as either party preponderated; that, therefore, to insert this power, would instantly enlist against the whole instrument the whole of the anti-bank party in Pennsylvania. Whereupon it was rejected, as was every other special power, except that of giving copyrights to authors, and patents to inventors; the general power of incorporating being whittled down to this shred. Wilson agreed to the fact." This, it should seem, ought to settle the question, whether an incorporation be a general or incidental power.

We propose now to submit some other views against the expediency of renewing the present charter of the Bank of the United States, in addition to what has been already said connected with the other branch of the subject. The arguments relied upon in its favor, seem to be chiefly those regarding the fiscal operations of the Government, the rate of exchange, and the uniformity of currency.

Although these considerations may have had their influence in the original creation of the charter, the reason, in a great measure, having ceased which brought it into existence, does away the necessity of its continuance. There are, however, other paramount considerations, growing out of the corruptions and influences which the bank might exert, not only upon the head, but every department of the Government, executive, legislative, and judicial, calculated to destroy the purity, virtue, and independence of our political institutions, that far outweigh, in our estimation, any supposed benefits conferred by it upon either the Government or the people. We are not going into a view of the principles of banking to prove what is well settled in political economy, that every paper dollar in circulation takes the place of a silver one. It is an evil existing in every State of this Union, which you proposed to cure, not by restraining, but increasing the issues to a tenfold degree. It is, to be sure, a prohibition against the extension of the paper of the State banks, which you come into the market to supply, not with any additional specie capital, but with a currency of the same character and denomination, deriving its superiority from the value imparted to it by legislation, of being made receivable in all debts to the Government of the United States. The banks of the several States paying specie, it is true, are upon the same footing, in this respect. But suppose, from any unforeseen circumstances, such, for instance, as a run upon the bank for specie, which it would be unable to meet, as happened to the Bank of England in 1797, and it became necessary to stop payment; how would the case then stand? Why, these notes would still be receivable in payment, and the bank continue to issue and deal in paper, while protected in specie payments, and demand of other banks their notes in specie. We know it will be said that the charter is not founded upon such a state of things, and, therefore, unwarranted; but it is within the range of probability; and justice to the Government, as well as the community, would authorize the measure to save the bank, upon the maxim that "*necessitas habet non legem.*"

So far as the fiscal operations of the Government are concerned, which now consist chiefly in transferring its funds from one part of the country to the other, a bank, with a capital of thirty-five millions of dollars, can scarcely be necessary, after the payment of the public debt, when the expenditures of the Government will not require more than eleven millions of dollars. It is believed the Secretary of the Treasury will find no difficulty in managing its concerns through the agency of the State banks, upon nearly as favorable terms as it now

does through the United States' Bank, and less injuriously upon different parts of the country. There could always be found some one, if not all, of good credit to entitle it to the confidence of the department for the purpose; and, if not, it would be his business to make them so, under the resolution of 1816, by rejecting their notes. To this it is objected, that you place the execution of your laws into the power of agents not created by you, and therefore irresponsible. They would be responsible to you in the same way that they are responsible to every body else, in the payment of their debts; and it is supposing a want of confidence in the States who created them, that they would not do *their* duty in compelling them to pay specie for their notes. They, on the other hand, with equal propriety, might distrust you in the performance of your duty, in this respect, as it regards the Bank of the United States. In reasoning from the condition of the local banks in 1816, and the supposed agency of the United States' Bank in reducing the depreciated circulating medium from one hundred and ten millions of dollars to forty-five millions, within four years, is claiming too much; and such a state of things cannot be expected again to happen without the like causes, when the United States' Bank would be found in the same, if not a worse, situation. The losses therefore consequent upon that period, should not be considered as applicable to the present peaceful times.

The city of New York collects much the greater part of the revenue arising from imports, and a draft upon that place would always command a premium in the south and west, where the course of exchange is usually against them; and, in this way, the holder would profit by the rate of exchange, whereas he is now driven to the necessity of purchasing of the bank a domestic bill for the purpose, which forms so very profitable a part of its business, being \$16,691,129 34, as appears by the report of the last year's monthly returns of its condition. At what price these bills are obtained, is best known to those who have been compelled to deal in them. They would likewise be relieved from that constant drain of specie which is constantly going on through the branches, which are but conduits to the mother bank in collecting it for transportation. If the withdrawal of specie from the community, and supplying its place with paper, be the *uniform currency* which the bank was intended to produce, then has it most happily effected the purpose. The circumstance of the notes being receivable in payment to the Government, has given them a universality of character, and a circulation so far removed from the place where issued, that they do not return for payment; and this operation, it is found, can be carried on with perfect safety in the south and the west, where the excessive issue of paper appears. The notes of the local banks would be confined within a small compass, and, constantly coming back upon them for payment, would always keep a constant supply of specie in circulation. It is a little curious to see the systematic course of trade in specie carried on of late years by the

bank through its branches, exclusively, to the south and west. That, while the specie on hand has remained about stationary, the issues of notes have considerably increased; and the annexed table of the returns, for the month of December last, will show the condition of those branches, and their ability to take up their notes. Since the 1st of July, 1827, when, in order to evade the provisions of the charter requiring the *notes and bills* of the bank made payable on demand to be signed by the President, and countersigned by the principal cashier or treasurer, (which Congress refused to amend, so as to authorize it to be done by an agent or agents,) it appears, that branch drafts, as they are called, but, in our opinion, nothing but common orders, in violation of the charter, have been issued, principally at those branches, to the amount of 7,096,765 dollars, of which there is supposed to be in circulation 5,029,000 dollars. During the same period, specie to the very large amount of 8,317,790 51 has been drawn from the same branches to the parent bank. These drafts or orders, instead of finding their way to the mother bank, where they purport to be payable, remain in the country where issued, and circulate as paper in place of the specie thus withdrawn. They are receivable in all payments to the Government, but not of individuals, unless as a matter of favor; they are neither *bills* nor *notes* made payable on demand, such as the charter describes as a circulating medium, wanting the most important essentials, the signatures of the President and Cashier; and, therefore, are properly receivable nowhere.

The bank, then, to be entitled to our favor, should show, by its conduct, and the management of its affairs, that it is worthy to deserve it. It may have been faithful to the interests of the stockholders, but it should also appear that its power has not been used to the oppression of the community, nor for any improper purpose. Before, therefore, we could give it our sanction, were it deemed constitutional and expedient, it should undergo the severest scrutiny by an investigating committee, with power to send for persons and papers.

We have seen it at the period when the President, in the discharge of his official duties, thought proper to call the attention of Congress to the subject, instead of taking heed and curtailing its discounts, with a view to the probable expiration of its charter, going on extending its accommodations regardless of the admonition; creating new interests, and making new friends, relying upon its own influence and the supposed strength of public opinion, to carry it through. The directors congratulating the stockholders at the last annual meeting upon the fidelity and success with which the institution had been managed, (and thereupon receiving thanks,) having done business, for the last year, to the amount of one hundred million of dollars, we find resort had to the charter, in defiance of Congress; and, in the penal part of it, taking the word *order* to mean an *authority*, upon which have been circulated seven millions of dollars in the shape of money, to the injury of the public by its not being receivable, except at the pleasure of the bank; thereby destroying to a certain extent that uniformity in the currency which had been claimed for it: that, according to Mr. Cheves's report, within twenty-seven months after it first went into operation, it was

so badly conducted on the part of the then directors, by speculations upon the stock far beyond its real value, and otherwise, as to have brought it within one month of a state of complete bankruptcy, with all the aid of the Government to support it, amounting to eight millions of dollars. We now find the whole amount of notes issued to be \$40,621,211 18; one half of which may be considered in circulation, with but \$7,038,823 12 on hand. The picture is here presented, to be drawn out by others.

We moreover view it as one of the most stupendous engines of political power that was ever erected; capable of being exerted not only against the head, but every branch of the Government; corrupting by its money, and aweing by its power, the virtuous and independent action of the representatives of the people, in prostituting them to its base and sinister purposes. Whole States are liable to be operated upon in this way, and made to surrender their principles by the reward and temptations held out in a loan; in case, for instance, the question depended upon a renewal of its charter or not. On the other hand, we can well conceive that an ambitious man, happening by chance to get to the head of the administration, perhaps by its influence, might make it subservient to his views in maintaining his position against the will of the people, by corrupting the very source itself of the elective franchise; in subsidizing the presses of the country; and causing branches to be established in different places, not in reference to the public good, but to promote his own political views, and the interests of the bank. It is not sufficient to say that this is reasoning upon a state of corruption which heretofore has not existed, and Congress would have it in its power to control at a stated period by a repeal of the charter; but, if it be a probable consequence of the system itself, it is not claiming too much to suppose that it may be employed this way at some time or other.

It is also a question of the gravest consideration at this time, not only with the American Congress, but the whole people, how far it is expedient to incorporate a moneyed institution, the stock of which is capable of being held by foreigners in sufficient quantity to control the whole transactions of the system. In time of war, loans beyond the amount which the charter authorizes, might be withheld, and even funds furnished the enemy of our common country, to be used against us; and, in this way, the whole operations of the Government be paralyzed by this influence abroad! Already we see the amount of eight millions and a half held by foreigners, nearly one-fourth of the whole capital stock; and, in case of renewal, there is no doubt but other large investments will take place!

With these views, we are opposed to a renewal of the charter of the Bank of the United States; and more particularly at this time, when two elections of representatives to Congress, under the present census, are to intervene, before the expiration of the charter.

M. ALEXANDER.
NATHAN GAITHER.

* * * * *

Bill To Renew Charter of Bank of the United States

[This bill, vetoed by President Jackson (pp. 214-228 below), is now in the Senate records, National Archives.]

TWENTY-SECOND CONGRESS OF THE UNITED STATES;

At the first Session, Begun and held at the City of Washington, on Monday, the fifth day of December, one thousand eight hundred and thirty one

AN ACT

to modify and continue the act entitled, "An act to incorporate the subscribers to the Bank of the United States."

Be it enacted, By the Senate and House of Representatives of the United States of America in Congress assembled, THAT, the act entitled, "An act to incorporate the subscribers to the Bank of the United States" approved on the tenth day of April, in the year one thousand eight hundred and sixteen, shall continue in full force and effect for the term of fifteen years from and after the period therein limited for its expiration, to wit: the third day of March, in the year one thousand eight hundred and thirty six; and that all the rights, interest, properties, powers and privileges secured by the said act with all the rules, conditions, restrictions and duties therein prescribed and imposed be and remain after the said third day of March in the year one thousand eight hundred and thirty-six, during the said fifteen years as if the said limitation, in the said act had not been made, subject nevertheless to the modifications and changes hereinafter expressed. Section 2. And be it further enacted, That the Directors of said Corporation shall have power to appoint two more Officers with authority to sign and countersign any or all the notes thereof the denomination of each of which shall be less than one hundred dollars, which notes when signed and countersigned by the said Officers respectively shall to all intents and purposes be binding and obligatory upon the said corporation as if the same had been signed by the President and countersigned by the principal Cashier or Treasurer thereof, and it shall be the duty of the Director of the said Corporation to make known in writing and as soon as may be to the Secretary of the Treasury the names of the Officers who shall be appointed by virtue of this provision: Provided: That from and after the third day of March, one thousand eight hundred and thirty six, no Branch Bank draft, or other bank paper not payable at the place where issued shall be put in circulation as currency by the Bank or any of its officers except notes of the denomination of fifty dollars or of some greater sum. Section 3. And be it further enacted, That it shall not be lawful for

the said Corporation to issue, pay out or put in circulation any note or notes of a denomination less than fifty dollars, which shall not upon the faces thereof, respectively, be payable at the Bank or Office of Discount and Deposit whence they shall be issued, paid out or put in circulation. Section 4. And be it further enacted, That the notes or bills of the said corporation, although the same be upon the faces thereof respectively made payable at one place only shall nevertheless be received by the said Corporation at the Bank or at any of the Offices of Discount and Deposit thereof, if tendered in liquidation or payment of any balance or balances due to said Corporation or to such Office of Discount and Deposit from any other incorporated Bank. Section 5. And be it further enacted, That it shall not be lawful after the said third day of March, in the year one thousand eight hundred and thirty six, for the said Corporation to hold, keep and retain for a period exceeding five years after the date of acquiring the same any right, title or interest, except by way of mortgage or judgement lien in security of debts, to any lands, tenements and hereditaments other than those requisite for its accommodation in relation to the convenient transacting of its business; and it shall be the duty of said Corporation, within the aforesaid period of five years to sell, dispose of or otherwise bona fide divest itself of all right title and interest to any lands, tenements and hereditaments conveyed to it in satisfaction of debts previously contracted in the course of its dealings or purchased at sales upon judgements which shall have been obtained for such debts, and for any and every violation of this provision the said Corporation shall be subject to a penalty of ten thousand dollars to be recovered in the name of the United States of America by a qui-tam action of debt instituted in any court of the United States having jurisdiction of the same; one half of which shall inure to the benefit of the informer and the other half to the use of the United States. Section 6. And be it further enacted, That from and after the said tenth day of April, in the year one thousand eight hundred and thirty six, it shall not be lawful for the Directors of the said Corporation to have, establish or retain more than two Offices of Discount and Deposit in any State: Provided; That nothing herein contained shall prevent the said corporation from retaining any of the Branches which are now established. Section 7. And be it further enacted, That in consideration of the exclusive benefits and privileges continued by this act to the said corporation for fifteen years as aforesaid, the said Corporation shall pay to the United States, the annuity or yearly sum of two hundred thousand dollars, which said sum shall be paid on the fourth day of March, in each and every year during the said term of fifteen years. Section 8. And be it further enacted, That it shall be lawful for Congress to provide by law that the said Bank shall be restrained at any time after the third day of March, in the year one thousand eight hundred and thirty six from making, issuing or keeping in circulation any notes or bills of said Bank or any of its Offices of a less

sum or denomination than twenty dollars. Section 9. And be it further enacted, That the Cashier of the Bank shall annually report to the Secretary of the Treasury the names of all Stockholders, who are not resident citizens of the United States; and on application of the Treasurer of any State shall make out and transmit to such Treasurer a list of Stockholders residing in or citizens of such State with the amount of Stock owned by each. Section 10. And be it further enacted, That so much of any act or acts of Congress heretofore passed and now in force supplementary to or in any wise connected with the said original act of incorporation approved on the tenth day of April, in the year one thousand eight hundred and sixteen as is not inconsistent with this act shall be continued in full force and effect, during the said fifteen years after the said third day of March, in the year, one thousand eight hundred and thirty six. Section 11. And be it further enacted, That it shall be the duty of the President and Directors of the said Bank on or before the first day of the next session of Congress to signify to the President of the United States their acceptance on behalf of the Bank of the United States of the terms and conditions in this act contained and if they shall fail to do so on or before the day above mentioned, that then this act shall cease to be in force.

A. STEVENSON,
Speaker of the House of Representatives,
J. C. CALHOUN,
Vice President of the United States
and President of the Senate.

I certify that this act did originate in the Senate.

WALTER LOWRIE,
Secretary.

one thousand eight hundred and sixteen as is not inconsistent with this act shall be continued in full force and effect during the said fifteen years after the said third day of March, in the year one thousand eight hundred and thirty six. Section 11. And be it further enacted, That it shall be the duty of the President and Directors of the said Bank on or before the first day of the next session of Congress to signify to the President of the United States their acceptance on behalf of the Bank of the United States of the terms and conditions in this act contained and if they shall fail to do so on or before the day above mentioned, that then this act shall cease to be in force.

Attest

J. C. Calhoun

Speaker of the House of Representatives

Vice President of the United States
and President of the Senate.

Testify that this act did originate in the Senate.

Matto Lora Secretary

**Veto Message—Andrew Jackson, on Bill To Renew Charter of
Bank of United States**

Twenty-Second Congress, 1st Session

JULY 10, 1832.

[Source : James D. Richardson, A Compilation of the Messages and Papers of the Presidents, Vol. 2, pp. 1139-1154]

To the Senate :

The bill "to modify and continue" the act entitled "An act to incorporate the subscribers to the Bank of the United States"¹ was presented to me on the 4th July instant. Having considered it with that solemn regard to the principles of the Constitution which the day was calculated to inspire, and come to the conclusion that it ought not to become a law, I herewith return it to the Senate, in which it originated, with my objections.

A bank of the United States is in many respects convenient for the Government and useful to the people. Entertaining this opinion, and deeply impressed with the belief that some of the powers and privileges possessed by the existing bank are unauthorized by the Constitution, subversive of the rights of the States, and dangerous to the liberties of the people, I felt it my duty at an early period of my Administration to call the attention of Congress to the practicability of organizing an institution combining all its advantages and obviating these objections. I sincerely regret that in the act before me I can perceive none of those modifications of the bank charter which are necessary, in my opinion, to make it compatible with justice, with sound policy, or with the Constitution of our country.

The present corporate body, denominated the president, directors, and company of the Bank of the United States, will have existed at the time this act is intended to take effect twenty years. It enjoys an exclusive privilege of banking under the authority of the General Government, a monopoly of its favor and support, and, as a necessary consequence, almost a monopoly of the foreign and domestic exchange. The powers, privileges, and favors bestowed upon it in the original charter, by increasing the value of the stock far above its par value, operated as a gratuity of many millions to the stockholders.

An apology may be found for the failure to guard against this result in the consideration that the effect of the original act of incorporation could not be certainly foreseen at the time of its passage. The act before me proposes another gratuity to the holders of the same stock, and in many cases to the same men, of at least seven millions more. This donation finds no apology in any uncertainty as to the effect of the act. On all hands it is conceded that its passage will increase at least 20 or 30 per cent more the market price of the stock, subject to the payment of the annuity of \$200,000 per year secured by the act, thus adding in a moment one-fourth to its par value. It is not our own citizens only who are to receive the bounty of our Government. More than eight millions of the stock of this bank are held by foreigners. By this act the American Republic proposes virtually to make them a present of some millions of dollars. For these gratuities to foreigners and to some of our own opulent citizens the act secures no equivalent whatever. They are the certain gains of the present stockholders under the operation of this act, after making full allowance for the payment of the bonus.

Every monopoly and all exclusive privileges are granted at the expense of the public, which ought to receive a fair equivalent. The many millions which this act proposes to bestow on the stockholders of the existing bank must come directly or indirectly out of the earnings of the American people. It is due to them, therefore, if their Government sell monopolies and exclusive privileges, that they should at least exact for them as much as they are worth in open market. The value of the monopoly in this case may be correctly ascertained. The twenty-eight millions of stock would probably be at an advance of 50 per cent, and command in market at least \$42,000,000, subject to the payment of the present bonus. The present value of the monopoly, therefore, is \$17,000,000, and this the act proposes to sell for three millions, payable in fifteen annual installments of \$200,000 each.

It is not conceivable how the present stockholders can have any claim to the special favor of the Government. The present corporation has enjoyed its monopoly during the period stipulated in the original contract. If we must have such a corporation, why should not the Government sell out the whole stock and thus secure to the people the full market value of the privileges granted? Why should not Congress create and sell twenty-eight millions of stock, incorporating the purchasers with all the powers and privileges secured in this act and putting the premium upon the sales into the Treasury?

But this act does not permit competition in the purchase of this monopoly. It seems to be predicated on the erroneous idea that the present stockholders have a prescriptive right not only to the favor but to the bounty of Government. It appears that more than a fourth part of the stock is held by foreigners and the residue is held by a few hundred of our own citizens, chiefly of the richest class. For their benefit does this act exclude the whole American people from competition in the purchase of this monopoly and dispose of it for many millions less than it is worth. This seems the less excusable because some of our citizens not now stockholders petitioned that the door of competition might be opened, and offered to take a charter on terms much more favorable to the Government and country.

But this proposition, although made by men whose aggregate wealth is believed to be equal to all the private stock in the existing bank, has been set aside, and the bounty of our Government is proposed to be again bestowed on the few who have been fortunate enough to secure the stock and at this moment wield the power of the existing institution. I can not perceive the justice or policy of this course. If our Government must sell monopolies, it would seem to be its duty to take nothing less than their full value, and if gratuities must be made once in fifteen or twenty years let them not be bestowed on the subjects of a foreign government nor upon a designated and favored class of men in our own country. It is but justice and good policy, as far as the nature of the case will admit, to confine our favors to our own fellow citizens, and let each in his turn enjoy an opportunity to profit by our bounty. In the bearings of the act before me upon these points I find ample reasons why it should not become a law.

It has been urged as an argument in favor of rechartering the present bank that the calling in its loans will produce great embarrassment and distress. The time allowed to close its concerns is ample, and if it has been well managed its pressure will be light, and heavy only in case its management has been bad. If, therefore, it shall

produce distress, the fault will be its own, and it would furnish a reason against renewing a power which has been so obviously abused. But will there ever be a time when this reason will be less powerful? To acknowledge its force is to admit that the bank ought to be perpetual, and as a consequence the present stockholders and those inheriting their rights as successors be established a privileged order, clothed both with great political power and enjoying immense pecuniary advantages from their connection with the Government.

The modifications of the existing charter proposed by this act are not such, in my view, as make it consistent with the rights of the States or the liberties of the people. The qualification of the right of the bank to hold real estate, the limitation of its power to establish branches, and the power reserved to Congress to forbid the circulation of small notes are restrictions comparatively of little value or importance. All the objectionable principles of the existing corporation, and most of its odious features, are retained without alleviation.

The fourth section provides "that the notes or bills of the said corporation, although the same be, on the faces thereof, respectively made payable at one place only, shall nevertheless be received by the said corporation at the bank or at any of the offices of discount and deposit thereof if tendered in liquidation or payment of any balance or balances due to said corporation or to such office of discount and deposit from any other incorporated bank." This provision secures to the State banks a legal privilege in the Bank of the United States which is withheld from all private citizens. If a State bank in Philadelphia owe the Bank of the United States and have notes issued by the St. Louis branch, it can pay the debt with those notes, but if a merchant, mechanic, or other private citizen be in like circumstances he can not by law pay his debt with those notes, but must sell them at a discount or send them to St. Louis to be cashed. This boon conceded to the State banks, though not unjust in itself, is most odious because it does not measure out equal justice to the high and the low, the rich and the poor. To the extent of its practical effect it is a bond of union among the banking establishments of the nation, erecting them into an interest separate from that of the people, and its necessary tendency is to unite the Bank of the United States and the State banks in any measure which may be thought conducive to their common interest.

The ninth section of the act recognizes principles of worse tendency than any provision of the present charter.

It enacts that "the cashier of the bank shall annually report to the Secretary of the Treasury the names of all stockholders who are not resident citizens of the United States, and on the application of the treasurer of any State shall make out and transmit to such treasurer a list of stockholders residing in or citizens of such State, with the amount of stock owned by each." Although this provision, taken in connection with a decision of the Supreme Court, surrenders, by its silence, the right of the States to tax the banking institutions created by this corporation under the name of branches throughout the Union, it is evidently intended to be construed as a concession of their right to tax that portion of the stock which may be held by their own citizens and residents. In this light, if the act becomes a law, it will be understood by the States, who will probably proceed to levy a tax equal to

that paid upon the stock of banks incorporated by themselves. In some States that tax is now 1 percent, either on the capital or on the shares, and that may be assumed as the amount which all citizen or resident stockholders would be taxed under the operation of this act. As it is only the stock *held* in the States and not that *employed* within them which would be subject to taxation, and as the names of foreign stockholders are not to be reported to the treasurers of the States, it is obvious that the stock held by them will be exempt from this burden. Their annual profits will therefore be 1 percent more than the citizen stockholders, and as the annual dividends of the bank may be safely estimated at 7 percent, the stock will be worth 10 or 15 percent more to foreigners than to citizens of the United States. To appreciate the effects which this state of things will produce, we must take a brief review of the operations and present condition of the Bank of the United States.

By documents submitted to Congress at the present session it appears that on the 1st of January, 1832, of the twenty-eight millions of private stock in the corporation, \$8,405,500 were held by foreigners, mostly of Great Britain. The amount of stock held in the nine Western and Southwestern States is \$140,200, and in the four Southern States is \$5,623,100, and in the Middle and Eastern States is about \$13,522,000. The profits of the bank in 1831, as shown in a statement to Congress, were about \$3,455,598; of this there accrued in the nine Western States about \$1,640,048; in the four Southern States about \$352,507, and in the Middle and Eastern States about \$1,463,041. As little stock is held in the West, it is obvious that the debt of the people in that section to the bank is principally a debt to the Eastern and foreign stockholders; that the interest they pay upon it is carried into the Eastern States and into Europe, and that it is a burden upon their industry and a drain of their currency, which no country can bear without inconvenience and occasional distress. To meet this burden and equalize the exchange operations of the bank, the amount of specie drawn from those States through its branches within the last two years, as shown by its official reports, was about \$6,000,000. More than half a million of this amount does not stop in the Eastern States, but passes on to Europe to pay the dividends of the foreign stockholders. In the principle of taxation recognized by this act the Western States find no adequate compensation for this perpetual burden on their industry and drain of their currency. The branch bank at Mobile made last year \$95,140, yet under the provisions of this act the State of Alabama can raise no revenue from these profitable operations, because not a share of the stock is held by any of her citizens. Mississippi and Missouri are in the same condition in relation to the branches at Natchez and St. Louis, and such, in a greater or less degree, is the condition of every Western State. The tendency of the plan of taxation which this act proposes will be to place the whole United States in the same relation to foreign countries which the Western States now bear to the Eastern. When by a tax on resident stockholders the stock of this bank is made worth 10 or 15 per cent more to foreigners than to residents, most of it will inevitably leave the country.

Thus will this provision in its practical effect deprive the Eastern as well as the Southern and Western States of the means of raising a revenue from the extension of business and great profits of this

institution. It will make the American people debtors to aliens in nearly the whole amount due to this bank, and send across the Atlantic from two to five millions of specie every year to pay the bank dividends.

In another of its bearings this provision is fraught with danger. Of the twenty-five directors of this bank five are chosen by the Government and twenty by the citizen stockholders. From all voice in these elections the foreign stockholders are excluded by the charter. In proportion, therefore, as the stock is transferred to foreign holders the extent of suffrage in the choice of directors is curtailed. Already is almost a third of the stock in foreign hands and not represented in elections. It is constantly passing out of the country, and this act will accelerate its departure. The entire control of the institution would necessarily fall into the hands of a few citizen stockholders, and the ease with which the object would be accomplished would be a temptation to designing men to secure that control in their own hands by monopolizing the remaining stock. There is danger that a president and directors would then be able to elect themselves from year to year, and without responsibility or control manage the whole concerns of the bank during the existence of its charter. It is easy to conceive that great evils to our country and its institutions might flow from such a concentration of power in the hands of a few men irresponsible to the people.

Is there no danger to our liberty and independence in a bank that in its nature has so little to bind it to our country? The president of the bank has told us that most of the State banks exist by its forbearance. Should its influence become centered, as it may under the operation of such an act as this, in the hands of a self-elected directory whose interests are identified with those of the foreign stockholders, will there not be cause to tremble for the purity of our elections in peace and for the independence of our country in war? Their power would be great whenever they might choose to exert it; but if this monopoly were regularly renewed every fifteen or twenty years on terms proposed by themselves, they might seldom in peace put forth their strength to influence elections or control the affairs of the nation. But if any private citizen or public functionary should interpose to curtail its powers or prevent a renewal of its privileges, it can not be doubted that he would be made to feel its influence.

Should the stock of the bank principally pass into the hands of the subjects of a foreign country, and we should unfortunately become involved in a war with that country, what would be our condition? Of the course which would be pursued by a bank almost wholly owned by the subjects of a foreign power, and managed by those whose interests, if not affections, would run in the same direction there can be no doubt. All its operations within would be in aid of the hostile fleets and armies without. Controlling our currency, receiving our public moneys, and holding thousands of our citizens in dependence,

it would be more formidable and dangerous than the naval and military power of the enemy.

If we must have a bank with private stockholders, every consideration of sound policy and every impulse of American feeling admonishes that it should be *purely American*. Its stockholders should be composed exclusively of our own citizens, who at least ought to be friendly to our Government and willing to support it in times of difficulty and danger. So abundant is domestic capital that competition in subscribing for the stock of local banks has recently led almost to riots. To a bank exclusively of American stockholders, possessing the powers and privileges granted by this act, subscriptions for \$200,000,000 could be readily obtained. Instead of sending abroad the stock of the bank in which the Government must deposit its funds and on which it must rely to sustain its credit in times of emergency, it would rather seem to be expedient to prohibit its sale to aliens under penalty of absolute forfeiture.

It is maintained by the advocates of the bank that its constitutionality in all its features ought to be considered as settled by precedent and by the decision of the Supreme Court. To this conclusion I can not assent. Mere precedent is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power except where the acquiescence of the people and the States can be considered as well settled. So far from this being the case on this subject, an argument against the bank might be based on precedent. One Congress, in 1791, decided in favor of a bank; another, in 1811, decided against it. One Congress, in 1815, decided against a bank; another, in 1816, decided in its favor. Prior to the present Congress, therefore, the precedents drawn from that source were equal. If we resort to the States, the expressions of legislative, judicial, and executive opinions against the bank have been probably to those in its favor as 4 to 1. There is nothing in precedent, therefore, which, if its authority were admitted, ought to weigh in favor of the act before me.

If the opinion of the Supreme Court covered the whole ground of this act, it ought not to control the coordinate authorities of this Government. The Congress, the Executive, and the Court must each for itself be guided by its own opinion of the Constitution. Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it, and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and of the President to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval as it is of the supreme judges when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges, and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to

control the Congress or the Executive when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.

But in the case relied upon the Supreme Court have not decided that all the features of this corporation are compatible with the Constitution. It is true that the court have said that the law incorporating the bank is a constitutional exercise of power by Congress; but taking into view the whole opinion of the court and the reasoning by which they have come to that conclusion, I understand them to have decided that inasmuch as a bank is an appropriate means for carrying into effect the enumerated powers of the General Government, therefore the law incorporating it is in accordance with that provision of the Constitution which declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying those powers into execution." Having satisfied themselves that the word "*necessary*" in the Constitution means "*needful*," " *requisite*," "*essential*," "*conducive to*," and that "a bank" is a convenient, a useful, and essential instrument in the prosecution of the Government's "fiscal operations," they conclude that to "use one must be within the discretion of Congress" and that "the act to incorporate the Bank of the United States is a law made in pursuance of the Constitution;" "but," say they, "*where the law is not prohibited and is really calculated to effect any of the objects intrusted to the Government, to undertake here to inquire into the degree of its necessity would be to pass the line which circumscribes the judicial department and to tread on legislative ground.*"

The principle here affirmed is that the "degree of its necessity," involving all the details of a banking institution, is a question exclusively for legislative consideration. A bank is constitutional, but it is the province of the Legislature to determine whether this or that particular power, privilege, or exemption is "necessary and proper" to enable the bank to discharge its duties to the Government, and from their decision there is no appeal to the courts of justice. Under the decision of the Supreme Court, therefore, it is the exclusive province of Congress and the President to decide whether the particular features of this act are *necessary* and *proper* in order to enable the bank to perform conveniently and efficiently the public duties assigned to it as a fiscal agent, and therefore constitutional, or *unnecessary* and *improper*, and therefore unconstitutional.

Without commenting on the general principle affirmed by the Supreme Court, let us examine the details of this act in accordance with the rule of legislative action which they have laid down. It will be found that many of the powers and privileges conferred on it can not be supposed necessary for the purpose for which it is proposed to be created, and are not, therefore, means necessary to attain the end in view, and consequently not justified by the Constitution.

The original act of incorporation, section 21, enacts "that no other bank shall be established by any future law of the United States during the continuance of the corporation hereby created, for which the faith of the United States is hereby pledged: *Provided*, Congress may renew existing charters for banks within the District of Columbia not increasing the capital thereof, and may also establish any other bank or banks in said District with capitals not exceeding in the whole \$6,000,000 if they shall deem it expedient." This provision is continued in force by the act before me fifteen years from the 3d of March, 1836.

If Congress possessed the power to establish one bank, they had power to establish more than one if in their opinion two or more banks had been "necessary" to facilitate the execution of the powers delegated to them in the Constitution. If they possessed the power to establish a second bank, it was a power derived from the Constitution to be exercised from time to time, and at any time when the interests of the country or the emergencies of the Government might make it expedient. It was possessed by one Congress as well as another, and by all Congresses alike, and alike at every session. But the Congress of 1816 have taken it away from their successors for twenty years, and the Congress of 1832 proposes to abolish it for fifteen years more. It can not be "*necessary*" or "*proper*" for Congress to barter away or divest themselves of any of the powers vested in them by the Constitution to be exercised for the public good. It is not "*necessary*" to the efficiency of the bank, nor is it "*proper*" in relation to themselves and their successors. They may *properly* use the discretion vested in them, but they may not limit the discretion of their successors. This restriction on themselves and grant of a monopoly to the bank is therefore unconstitutional.

In another point of view this provision is a palpable attempt to amend the Constitution by an act of legislation. The Constitution declares that "the Congress shall have power to exercise exclusive legislation in all cases whatsoever" over the District of Columbia. Its constitutional power, therefore, to establish banks in the District of Columbia and increase their capital at will is unlimited and uncontrollable by any other power than that which gave authority to the Constitution. Yet this act declares that Congress shall *not* increase the capital of existing banks, nor create other banks with capitals exceeding in the whole \$6,000,000. The Constitution declares that Congress shall have power to exercise exclusive legislation over this District "*in all cases whatsoever*," and this act declares they shall not. Which is the supreme law of the land? This provision can not be "*necessary*" or "*proper*" or *constitutional* unless the absurdity be admitted that whenever it be "*necessary and proper*" in the opinion of Congress they have a right to barter away one portion of the powers vested in them by the Constitution as a means of executing the rest.

On two subjects only does the Constitution recognize in Congress the power to grant exclusive privileges or monopolies. It declares that "Congress shall have power to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." Out of this express delegation of power have grown our laws of patents and copyrights. As the Constitution expressly delegates to Congress the power to grant exclusive privileges in these cases as the means of executing the substantive power "to promote the progress of science and useful arts," it is consistent with the fair rules of construction to conclude that such a power was not intended to be granted as a means of accomplishing any other end. On every other subject which comes within the scope of Congressional power there is an ever-living discretion in the use of proper means, which can not be restricted or abolished without an amendment of the Constitution. Every act of Congress, therefore, which attempts by grants of monopolies or sale of exclusive privileges for a limited time, or a time without limit, to restrict or extinguish its own discretion in the choice of means to execute its delegated powers is equivalent to a legislative amendment of the Constitution, and palpably unconstitutional.

This act authorizes and encourages transfers of its stock to foreigners and grants them an exemption from all State and national taxation. So far from being "*necessary and proper*" that the bank should possess this power to make it a safe and efficient agent of the Government in its fiscal operations, it is calculated to convert the Bank of the United States into a foreign bank, to impoverish our people in time of peace, to disseminate a foreign influence through every section of the Republic and in war to endanger our independence.

The several States reserved the power at the formation of the Constitution to regulate and control titles and transfers of real property, and most, if not all, of them have laws disqualifying aliens from acquiring or holding lands within their limits. But this act, in disregard of the undoubted right of the States to prescribe such disqualifications, gives to aliens stockholders in this bank an interest and title, as members of the corporation, to all the real property it may acquire within any of the States of this Union. This privilege granted to aliens is not "*necessary*" to enable the bank to perform its public duties, nor in any sense "*proper*," because it is vitally subversive of the rights of the States.

The Government of the United States have no constitutional power to purchase lands within the States except "for the erection of forts, magazines, arsenals, dockyards, and other needful buildings," and even for these objects only "by the consent of the legislature of the State in which the same shall be." By making themselves stockholders in the bank and granting to the corporation the power to purchase lands for other purposes they assume a power not granted in

the Constitution and grant to others what they do not themselves possess. It is not *necessary* to the receiving, safe-keeping, or transmission of the funds of the Government that the bank should possess this power, and it is not *proper* that Congress should thus enlarge the powers delegated to them in the Constitution.

The old Bank of the United States possessed a capital of only \$11,000,000, which was found fully sufficient to enable it with dispatch and safety to perform all the functions required of it by the Government. The capital of the present bank is \$35,000,000—at least twenty-four more than experience has proved to be *necessary* to enable a bank to perform its public functions. The public debt which existed during the period of the old bank and on the establishment of the new has been nearly paid off, and our revenue will soon be reduced. This increase of capital is therefore not for public but for private purposes.

The Government is the only "*proper*" judge where its agents should reside and keep their offices, because it best knows where their presence will be "*necessary*." It can not, therefore, be "*necessary*," or "*proper*" to authorize the bank to locate branches where it pleases to perform the public service, without consulting the Government, and contrary to its will. The principle laid down by the Supreme Court concedes that Congress can not establish a bank for purposes of private speculation and gain, but only as a means of executing the delegated powers of the General Government. By the same principle a branch bank can not constitutionally be established for other than public purposes. The power which this act gives to establish two branches in any State, without the injunction or request of the Government and for other than public purposes, is not "*necessary*" to the due *execution* of the powers delegated to Congress.

The bonus which is exacted from the bank is a confession upon the face of the act that the powers granted by it are greater than are "*necessary*" to its character of a fiscal agent. The Government does not tax its officers and agents for the privilege of serving it. The bonus of a million and a half required by the original charter and that of three millions proposed by this act are not exacted for the privilege of giving "the necessary facilities for transferring the public funds from place to place within the United States or the Territories thereof, and for distributing the same in payment of the public creditors without charging commission or claiming allowance on account of the difference of exchange," as required by the act of incorporation, but for something more beneficial to the stockholders. The original act declares that it (the bonus) is granted "in consideration of the exclusive privileges and benefits conferred by this act upon the said bank," and the act before me declares it to be "in consideration of the exclusive benefits and privileges continued by this act to the said corporation for fifteen years, as aforesaid." It is therefore for "exclusive privileges and benefits" conferred for their own use and emolument, and not for the

advantage of the Government, that a bonus is exacted. These surplus powers for which the bank is required to pay can not surely be "necessary" to make it the fiscal agent of the Treasury. If they were, the exaction of a bonus for them would not be "proper."

It is maintained by some that the bank is a means of executing the constitutional power "to coin money and regulate the value thereof." Congress have established a mint to coin money and passed laws to regulate the value thereof. The money so coined, with its value so regulated, and such foreign coins as Congress may adopt are the only currency known to the Constitution. But if they have other power to regulate the currency, it was conferred to be exercised by themselves, and not to be transferred to a corporation. If the bank be established for that purpose, with a charter unalterable without its consent, Congress have parted with their power for a term of years, during which the Constitution is a dead letter. It is neither necessary nor proper to transfer its legislative power to such a bank, and therefore unconstitutional.

By its silence, considered in connection with the decision of the Supreme Court in the case of *McCulloch* against the State of Maryland, this act takes from the States the power to tax a portion of the banking business carried on within their limits, in subversion of one of the strongest barriers which secured them against Federal encroachment. Banking, like farming, manufacturing, or any other occupation or profession, is a *business*, the right to follow which is not originally derived from the laws. Every citizen and every company of citizens in all of our States possessed the right until the State legislatures deemed it good policy to prohibit private banking by law. If the prohibitory State laws were now repealed, every citizen would again possess the right. The State banks are a qualified restoration of the right which has been taken away by the laws against banking, guarded by such provisions and limitations as in the opinion of the State legislatures the public interest requires. These corporations, unless there be an exemption in their charter, are, like private bankers and banking companies, subject to State taxation. The manner in which these taxes shall be laid depends wholly on legislative discretion. It may be upon the bank, and the stock, upon the profits, or in any other mode which the sovereign power shall will.

Upon the formation of the Constitution the States guarded their taxing power with peculiar jealousy. They surrendered it only as it regards imports and exports. In relation to every other object within their jurisdiction, whether persons, property, business, or professions, it was secured in as ample a manner as it was before possessed. All persons, though United States officers, are liable to a poll tax by the States within which they reside. The lands of the United States are liable to the usual land tax, except in the new States, from whom agreements that they will not tax unsold lands are exacted when they are admitted into the Union. Horses, wagons, any beasts or vehicles,

tools, or property belonging to private citizens, though employed in the service of the United States, are subject to State taxation. Every private business, whether carried on by an officer of the General Government or not, whether it be mixed with public concerns or not, even if it be carried on by the Government of the United States itself, separately or in partnership, falls within the scope of the taxing power of the State. Nothing comes more fully within it than banks and the business of banking, by whomsoever instituted and carried on. Over this whole subject-matter it is just as absolute, unlimited, and uncontrollable as if the Constitution had never been adopted, because in the formation of that instrument it was reserved without qualification.

The principle is conceded that the States can not rightfully tax the operations of the General Government. They can not tax the money of the Government deposited in the State Banks, nor the agency of those banks in remitting it; but will any man maintain that their mere selection to perform this public service for the General Government would exempt the State banks and their ordinary business from State taxation? Had the United States, instead of establishing a bank at Philadelphia, employed a private banker to keep and transmit their funds, would it have deprived Pennsylvania of the right to tax his bank and his usual banking operations? It will not be pretended. Upon what principle, then, are the banking establishments of the Bank of the United States and their usual banking operations to be exempted from taxation? It is not their public agency or the deposits of the Government which the States claim a right to tax, but their banks and their banking powers, instituted and exercised within State jurisdiction for their private emolument—those powers and privileges for which they pay a bonus, and which the States tax in their own banks. The exercise of these powers within a State, no matter by whom or under what authority, whether by private citizens in their original right, by corporate bodies created by the States, by foreigners or the agents of foreign governments located within their limits, forms a legitimate object of State taxation. From this and like sources, from the persons, property, and business that are found residing, located, or carried on under their jurisdiction, must the States, since the surrender of their right to raise a revenue from imports and exports, draw all the money necessary for the support of their governments and the maintenance of their independence. There is no more appropriate subject of taxation than banks, banking, and bank stocks, and none to which the States ought more pertinaciously to cling.

It can not be *necessary* to the character of the bank as a fiscal agent of the Government that its private business should be exempted from that taxation to which all the State banks are liable, nor can I conceive it "*proper*" that the substantive and most essential powers reserved by the States shall be thus attacked and annihilated as a means of executing the powers delegated to the General Government. It may be safely assumed that none of those sages who had an agency in

forming or adopting our Constitution ever imagined that any portion of the taxing power of the States not prohibited to them nor delegated to Congress was to be swept away and annihilated as a means of executing certain powers delegated to Congress.

If our power over means is so absolute that the Supreme Court will not call in question the constitutionality of an act of Congress the subject of which "is not prohibited, and is really calculated to effect any of the objects intrusted to the Government," although, as in the case before me, it takes away powers expressly granted to Congress and rights scrupulously reserved to the States, it becomes us to proceed in our legislation with the utmost caution. Though not directly, our own powers and the rights of the States may be indirectly legislated away in the use of means to execute substantive powers. We may not enact that Congress shall not have the power of exclusive legislation over the District of Columbia, but we may pledge the faith of the United States that as a means of executing other powers it shall not be exercised for twenty years or forever. We may not pass an act prohibiting the States to tax the banking business carried on within their limits, but we may, as a means of executing our powers over other objects, place that business in the hands of our agents and then declare it exempt from State taxation in their hands. Thus may our own powers and the rights of the States, which we can not directly curtail or invade, be frittered away and extinguished in the use of means employed by us to execute other powers. That a bank of the United States, competent to all the duties which may be required by the Government, might be so organized as not to infringe on our own delegated powers or the reserved rights of the States I do not entertain a doubt. Had the Executive been called upon to furnish the project of such an institution, the duty would have been cheerfully performed. In the absence of such a call it was obviously proper that he should confine himself to pointing out those prominent features in the act presented which in his opinion make it incompatible with the Constitution and sound policy. A general discussion will now take place, eliciting new light and settling important principles; and a new Congress, elected in the midst of such discussion, and furnishing an equal representation of the people according to the last census, will bear to the Capitol the verdict of public opinion, and, I doubt not, bring this important question to a satisfactory result.

Under such circumstances the bank comes forward and asks a renewal of its charter for a term of fifteen years upon conditions which not only operate as a gratuity to the stockholders of many millions of dollars, but will sanction any abuses and legalize any encroachments. Suspicions are entertained and charges are made of gross abuse and violation of its charter. An investigation unwillingly conceded and so restricted in time as necessarily to make it incomplete and unsatisfactory discloses enough to excite suspicion and alarm. In the practices of the principal bank partially unveiled, in the absence of important

witnesses, and in numerous charges confidently made and as yet wholly uninvestigated there was enough to induce a majority of the committee of investigation—a committee which was selected from the most able and honorable members of the House of Representatives—to recommend a suspension of further action upon the bill and a prosecution of the inquiry. As the charter had yet four years to run, and as a renewal now was not necessary to the successful prosecution of its business, it was to have been expected that the bank itself, conscious of its purity and proud of its character, would have withdrawn its application for the present, and demanded the severest scrutiny into all its transactions. In their declining to do so there seems to be an additional reason why the functionaries of the Government should proceed with less haste and more caution in the renewal of their monopoly.

The bank is professedly established as an agent of the executive branch of the Government, and its constitutionality is maintained on that ground. Neither upon the propriety of present action nor upon the provisions of this act was the Executive consulted. It has had no opportunity to say that it neither needs nor wants an agent clothed with such powers and favored by such exemptions. There is nothing in its legitimate functions which makes it necessary or proper. Whatever interest or influence, whether public or private, has given birth to this act, it can not be found either in the wishes or necessities of the executive department, by which present action is deemed premature, and the powers conferred upon its agent not only unnecessary, but dangerous to the Government and country.

It is to be regretted that the rich and powerful too often bend the acts of government to their selfish purposes. Distinctions in society will always exist under every just government. Equality of talents, of education, or of wealth can not be produced by human institutions. In the full enjoyment of the gifts of Heaven and the fruits of superior industry, economy, and virtue, every man is equally entitled to protection by law; but when the laws undertake to add to these natural and just advantages artificial distinctions, to grant titles, gratuities, and exclusive privileges, to make the rich richer and the potent more powerful, the humble members of society—the farmers, mechanics, and laborers—who have neither the time nor the means of securing like favors to themselves, have a right to complain of the injustice of their Government. There are no necessary evils in government. Its evils exist only in its abuses. If it would confine itself to equal protection, and, as Heaven does its rains, shower its favors alike on the high and the low, the rich and the poor, it would be an unqualified blessing. In the act before me there seems to be a wide and unnecessary departure from these just principles.

Nor is our Government to be maintained or our Union preserved by invasions of the rights and powers of the several States. In thus attempting to make our General Government strong we make it weak.

Its true strength consists in leaving individuals and States as much as possible to themselves—in making itself felt, not in its power, but in its beneficence; not in its control, but in its protection; not in binding the States more closely to the center, but leaving each to move unobstructed in its proper orbit.

Experience should teach us wisdom. Most of the difficulties our Government now encounters and most of the dangers which impend over our Union have sprung from an abandonment of the legitimate objects of Government by our national legislation, and the adoption of such principles as are embodied in this act. Many of our rich men have not been content with equal protection and equal benefits, but have besought us to make them richer by act of Congress. By attempting to gratify their desires we have in the results of our legislation arrayed section against section, interest against interest, and man against man, in a fearful commotion which threatens to shake the foundations of our Union. It is time to pause in our career to review our principles, and if possible revive that devoted patriotism and spirit of compromise which distinguished the sages of the Revolution and the fathers of our Union. If we can not at once, in justice to interests vested under improvident legislation, make our Government what it ought to be, we can at least take a stand against all new grants of monopolies and exclusive privileges, against any prostitution of our Government to the advancement of the few at the expense of the many, and in favor of compromise and gradual reform in our code of laws and system of political economy.

I have now done my duty to my country. If sustained by my fellow citizens, I shall be grateful and happy; if not, I shall find in the motives which impel me ample grounds for contentment and peace. In the difficulties which surround us and the dangers which threaten our institutions there is cause for neither dismay nor alarm. For relief and deliverance let us firmly rely on that kind Providence which I am sure watches with peculiar care over the destinies of our Republic, and on the intelligence and wisdom of our countrymen. Through *His* abundant goodness and *their* patriotic devotion our liberty and Union will be preserved.

ANDREW JACKSON.

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peace. In the difficulties which surround us and the dangers which ^{threaten} ~~surround~~ our institutions, there is cause for neither dismay nor alarm. For relief and deliverance, let us firmly rely on that kind Providence which, I am sure watches with peculiar care, over the destinies of our Republic, and on the intelligence and wisdom of our countrymen. Through His abundant goodness and their patriotic devotion, our liberty and union will be preserved. —

Andrew Jackson

July 10th 1832
Washington

Fourth Annual Message—Andrew Jackson

Twenty-Second Congress, 2d Session

DECEMBER 4, 1832.

[Source: James D. Richardson, *A Compilation of the Messages and Papers of the Presidents*, Vol. 2, pp. 1162–1163]

* * * * *

It is my duty to acquaint you with an arrangement made by the Bank of the United States with a portion of the holders of the 3 per cent stock, by which the Government will be deprived of the use of the public funds longer than was anticipated. By this arrangement, which will be particularly explained by the Secretary of the Treasury, a surrender of the certificates of this stock may be postponed until October, 1833, and thus the liability of the Government, after its ability to discharge the debt, may be continued by the failure of the bank to perform its duties.

Such measures as are within the reach of the Secretary of the Treasury have been taken to enable him to judge whether the public deposits in that institution may be regarded as entirely safe; but as his limited power may prove inadequate to this object, I recommend the subject to the attention of Congress, under the firm belief that it is worthy of their serious investigation. An inquiry into the transactions of the institution, embracing the branches as well as the principal bank, seems called for by the credit which is given throughout the country to many serious charges impeaching its character, and which if true may justly excite the apprehension that it is no longer a safe depository of the money of the people.

* * * * *

Removal of the Public Deposits—Andrew Jackson

Read to the Cabinet, September 18, 1833.

[Source: James D. Richardson, *A Compilation of the Messages and Papers of the Presidents*, Vol. 2, pp. 1224–1238]

Having carefully and anxiously considered all the facts and arguments which have been submitted to him relative to a removal of the public deposits from the Bank of the United States, the President deems it his duty to communicate in this manner to his Cabinet the final conclusions of his own mind and the reasons on which they are founded, in order to put them in durable form and to prevent misconceptions.

The President's convictions of the dangerous tendencies of the Bank of the United States, since signally illustrated by its own acts, were so overpowering when he entered on the duties of Chief Magistrate that he felt it his duty, notwithstanding the objections of the friends by whom he was surrounded, to avail himself of the first occasion to call the attention of Congress and the people to the question of its recharter. The opinions expressed in his annual message of December, 1829, were reiterated in those of December, 1830 and 1831, and in that of 1830 he threw out for consideration some suggestions in relation to a substitute. At the session of 1831–32 an act was passed by a ma-

jority of both Houses of Congress rechartering the present bank, upon which the President felt it his duty to put his constitutional veto. In his message returning that act he repeated and enlarged upon the principles and views briefly asserted in his annual message, declaring the bank to be, in his opinion, both inexpedient and unconstitutional, and announcing to his countrymen very unequivocally his firm determination never to sanction by his approval the continuance of that institution or the establishment of any other upon similar principles.

There are strong reasons for believing that the motive of the bank in asking for a recharter at that session of Congress was to make it a leading question in the election of a President of the United States the ensuing November, and all steps deemed necessary were taken to procure from the people a reversal of the President's decision.

Although the charter was approaching its termination, and the bank was aware that it was the intention of the Government to use the public deposit as fast as it has accrued in the payment of the public debt, yet did it extend its loans from January, 1831, to May, 1832, from \$42,402,304.24 to \$70,428,070.72, being an increase of \$28,025,766.48 in sixteen months. It is confidently believed that the leading object of this immense extension of its loans was to bring as large a portion of the people as possible under its power and influence, and it has been disclosed that some of the largest sums were granted on very unusual terms to the conductors of the public press. In some of these cases the motive was made manifest by the nominal or insufficient security taken for the loans, by the large amounts discounted, by the extraordinary time allowed for payment, and especially by the subsequent conduct of those receiving the accommodations.

Having taken these preliminary steps to obtain control over public opinion, the bank came into Congress and asked a new charter. The object avowed by many of the advocates of the bank was to *put the President to the test*, that the country might know his final determination relative to the bank prior to the ensuing election. Many documents and articles were printed and circulated at the expense of the bank to bring the people to a favorable decision upon its pretensions. Those whom the bank appears to have made its debtors for the special occasion were warned of the ruin which awaited them should the President be sustained, and attempts were made to alarm the whole people by painting the depression in the price of property and produce and the general loss, inconvenience, and distress which it was represented would immediately follow the reelection of the President in opposition to the bank.

Can it now be said that the question of a recharter of the bank was not decided at the election which ensued? Had the veto been equivocal, or had it not covered the whole ground; if it had merely taken exceptions to the details of the bill or to the time of its passage; if it had not met the whole ground of constitutionality and expediency, then there might have been some plausibility for the allegation that the question was not decided by the people. It was to compel the President to take his stand that the question was brought forward at that particular time. He met the challenge, willingly took the position into which his adversaries sought to force him, and frankly declared his unalterable opposition to the bank as being both unconstitutional and inexpedient. On that ground the case was argued to the people; and now that the

people have sustained the President, notwithstanding the array of influence and power which was brought to bear upon him, it is too late, he confidently thinks, to say that the question has not been decided. Whatever may be the opinions of others, the President considers his reelection as a decision of the people against the bank. In the concluding paragraph of his veto message he said :

I have now done my duty to my country. If sustained by my fellow-citizens, I shall be grateful and happy; if not, I shall find in the motives which impel me ample grounds for contentment and peace.

He was sustained by a just people, and he desires to evince his gratitude by carrying into effect their decision so far as it depends upon him.

Of all the substitutes for the present bank which have been suggested, none seems to have united any considerable portion of the public in its favor. Most of them are liable to the same constitutional objections for which the present bank has been condemned, and perhaps to all there are strong objections on the score of expediency. In ridding the country of an irresponsible power which has attempted to control the Government, care must be taken not to unite the same power with the executive branch. To give a President the control over the currency and the power over individuals now possessed by the Bank of the United States, even with the material difference that he is responsible to the people, would be as objectionable and as dangerous as to leave it as it is. Neither one nor the other is necessary, and therefore ought not to be resorted to.

On the whole, the President considers it as conclusively settled that the charter of the Bank of the United States will not be renewed, and he has no reasonable ground to believe that any substitute will be established. Being bound to regulate his course by the laws as they exist, and not to anticipate the interference of the legislative power for the purpose of framing new systems, it is proper for him seasonably to consider the means by which the services rendered by the Bank of the United States are to be performed after its charter shall expire.

The existing laws declare that—

The deposits of the money of the United States in places in which the said bank and branches thereof may be established shall be made in said bank or branches thereof unless the Secretary of the Treasury shall at any time otherwise order and direct, in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and, if not, immediately after the commencement of the next session, the reasons of such order or direction.

The power of the Secretary of the Treasury over the deposits is *unqualified*. The provision that he shall report his reasons to Congress is no limitation. Had it not been inserted he would have been responsible to Congress had he made a removal for any other than good reasons, and his responsibility now ceases upon the rendition of sufficient ones to Congress. The only object of the provision is to make

his reasons accessible to Congress and enable that body the more readily to judge of their soundness and purity, and thereupon to make such further provision by law as the legislative power may think proper in relation to the deposit of the public money. Those reasons may be very diversified. It was asserted by the Secretary of the Treasury, without contradiction, as early as 1817, that he had power "to control the proceedings" of the Bank of the United States at any moment "by changing the deposits to the State banks" should it pursue an illiberal course toward those institutions; that "the Secretary of the Treasury will always be disposed to support the credit of the State banks, and will invariably direct transfers from the deposits of the public money in aid of their legitimate exertions to maintain their credit;" and he asserted a right to employ the State banks when the Bank of the United States should refuse to receive on deposit the notes of such State banks as the public interest required should be received in payment of the public dues. In several instances he did transfer the public deposits to State banks in the immediate vicinity of branches, for reasons connected only with the safety of those banks, the public convenience, and the interests of the Treasury.

If it was lawful for Mr. Crawford, the Secretary of the Treasury at that time, to act on these principles, it will be difficult to discover any sound reason against the application of similar principles in still stronger cases. And it is a matter of surprise that a power which in the infancy of the bank was freely asserted as one of the ordinary and familiar duties of the Secretary of the Treasury should now be gravely questioned, and attempts made to excite and alarm the public mind as if some new and unheard-of power was about to be usurped by the executive branch of the Government.

It is but a little more than two and a half years to the termination of the charter of the present bank. It is considered as the decision of the country that it shall then cease to exist, and no man, the President believes, has reasonable ground for expectation that any other Bank of the United States will be created by Congress.

To the Treasury Department is intrusted the safe-keeping and faithful application of the public moneys. A plan of collection different from the present must therefore be introduced and put in complete operation before the dissolution of the present bank. When shall it be commenced? Shall no step be taken in this essential concern until the charter expires and the Treasury finds itself without an agent, its accounts in confusion, with no depository for its funds, and the whole business of the Government deranged, or shall it be delayed until six months, or a year, or two years before the expiration of the charter? It is obvious that any new system which may be substituted in the place of the Bank of the United States could not be suddenly carried into effect on the termination of its existence without serious inconvenience to the Government and the people. Its vast amount of notes are then to be redeemed and withdrawn from circulation and its immense debt collected. These operations must be gradual, otherwise much suffering and distress will be brought upon the community.

It ought to be not a work of months only, but of years, and the President thinks it can not, with due attention to the interests of the people, be longer postponed. It is safer to begin it too soon than to delay it too long.

It is for the wisdom of Congress to decide upon the best substitute to be adopted in the place of the Bank of the United States, and the President would have felt himself relieved from a heavy and painful responsibility if in the charter to the bank Congress had reserved to itself the power of directing at its pleasure the public money to be elsewhere deposited, and had not devolved that power exclusively on one of the Executive Departments. It is useless now to inquire why this high and important power was surrendered by those who are peculiarly and appropriately the guardians of the public money. Perhaps it was an oversight. But as the President presumes that the charter to the bank is to be considered as a contract on the part of the Government, it is not now in the power of Congress to disregard its stipulations; and by the terms of that contract the public money is to be deposited in the bank during the continuance of its charter unless the Secretary of the Treasury shall otherwise direct. Unless, therefore, the Secretary of the Treasury first acts, Congress have no power over the subject, for they can not add a new clause to the charter or strike one out of it without the consent of the bank, and consequently the public money must remain in that institution to the last hour of its existence unless the Secretary of the Treasury shall remove it at an earlier day. The responsibility is thus thrown upon the executive branch of the Government of deciding how long before the expiration of the charter the public interest will require the deposits to be placed elsewhere; and although according to the frame and principle of our Government this decision would seem more properly to belong to the legislative power, yet as the law has imposed it upon the executive department the duty ought to be faithfully and firmly met, and the decision made and executed upon the best lights that can be obtained and the best judgment that can be formed. It would ill become the executive branch of the Government to shrink from any duty which the law imposes on it, to fix upon others the responsibility which justly belongs to itself. And while the President anxiously wishes to abstain from the exercise of doubtful powers and to avoid all interference with the rights and duties of others, he must yet with unshaken constancy discharge his own obligations, and can not allow himself to turn aside in order to avoid any responsibility which the high trust with which he has been honored requires him to encounter; and it being the duty of one of the Executive Departments to decide in the first instance, subject to the future action of the legislative power, whether the public deposits shall remain in the Bank of the United States until the end of its existence or be withdrawn some time before, the President has felt himself bound to examine the question carefully and deliberately in order to make up his judgment on the subject, and in his opinion the near approach of the termination of the charter and the public considerations heretofore mentioned are of themselves amply sufficient to justify the removal of the deposits, without reference to the conduct of the bank or their safety in its keeping.

But in the conduct of the bank may be found other reasons, very imperative in their character, and which require prompt action. Developments have been made from time to time of its faithlessness as a public agent, its misapplication of public funds, its interference in elections, its efforts by the machinery of committees to deprive the Government directors of a full knowledge of its concerns, and, above all, its flagrant misconduct as recently and unexpectedly disclosed in placing all the funds of the bank, including the money of the Government, at the disposition of the president of the bank as means of operating upon public opinion and procuring a new charter, without requiring him to render a voucher for their disbursement. A brief recapitulation of the facts which justify these charges, and which have come to the knowledge of the public and the President, will, he thinks, remove every reasonable doubt as to the course which it is now the duty of the President to pursue.

We have seen that in sixteen months ending in May, 1832, the bank had extended its loans more than \$28,000,000, although it knew the Government intended to appropriate most of its large deposit during that year in payment of the public debt. It was in May, 1832, that its loans arrived at the maximum, and in the preceding March so sensible was the bank that it would not be able to pay over the public deposit when it would be required by the Government that it commenced a secret negotiation, without the approbation or knowledge of the Government, with the agents for about \$2,700,000 of the 3 per cent stocks held in Holland, with a view of inducing them not to come forward for payment for one or more years after notice should be given by the Treasury Department. This arrangement would have enabled the bank to keep and use during that time the public money set apart for the payment of these stocks.

After this negotiation had commenced, the Secretary of the Treasury informed the bank that it was his intention to pay off one-half of the 3 percents on the 1st of the succeeding July, which amounted to about \$6,500,000. The president of the bank, although the committee of investigation was then looking into its affairs at Philadelphia, came immediately to Washington, and upon representing that the bank was desirous of accommodating the importing merchants at New York (which it failed to do) and undertaking to pay the interest itself, procured the consent of the Secretary, after consultation with the President, to postpone the payment until the succeeding 1st of October.

Conscious that at the end of that quarter the bank would not be able to pay over the deposits, and that further indulgence was not to be expected of the Government, an agent was dispatched to England secretly to negotiate with the holders of the public debt in Europe and induce them by the offer of an equal or higher interest than that paid by the Government to hold back their claims for one year, during which the bank expected thus to retain the use of \$5,000,000 of the public money, which the Government should set apart for the payment of that debt. The agent made an arrangement on terms, in part, which were in direct violation of the charter of the bank, and when some incidents connected with this secret negotiation acciden-

tally came to the knowledge of the public and the Government, then, and not before, so much of it as was palpably in violation of the charter was disavowed. A modification of the rest was attempted with the view of getting the certificates without payment of the money, and thus absolving the Government from its liability to the holders. In this scheme the bank was partially successful, but to this day the certificates of a portion of these stocks have not been paid and the bank retains the use of the money.

This effort to thwart the Government in the payment of the public debt that it might retain the public money to be used for their private interests, palliated by pretenses notoriously unfounded and insincere, would have justified the instant withdrawal of the public deposits. The negotiation itself rendered doubtful the ability of the bank to meet the demands of the Treasury, and the misrepresentations by which it was attempted to be justified proved that no reliance could be placed upon its allegations.

If the question of a removal of the deposits presented itself to the Executive in the same attitude that it appeared before the House of Representatives at their last session, their resolution in relation to the safety of the deposits would be entitled to more weight, although the decision of the question of removal has been confided by law to another department of the Government. But the question now occurs attended by other circumstances and new disclosures of the most serious import. It is true that in the message of the President which produced this inquiry and resolution on the part of the House of Representatives it was his object to obtain the aid of that body in making a thorough examination into the conduct and condition of the bank and its branches in order to enable the executive department to decide whether the public money was longer safe in its hands. The limited power of the Secretary of the Treasury over the subject disabled him from making the investigation as fully and satisfactorily as it could be done by a committee of the House of Representatives, and hence the President desired the assistance of Congress to obtain for the Treasury Department a full knowledge of all the facts which were necessary to guide his judgment. But it was not his purpose, as the language of his message will show, to ask the representatives of the people to assume a responsibility which did not belong to them and relieve the executive branch of the Government from the duty which the law had imposed upon it. It is due to the President that his object in that proceeding should be distinctly understood, and that he should acquit himself of all suspicion of seeking to escape from the performance of his own duties or of desiring to interpose another body between himself and the people in order to avoid a measure which he is called upon to meet. But although as an act of justice to himself he disclaims any design of soliciting the opinion of the House of Representatives in relation to his own duties in order to shelter himself from responsibility under the sanction of their counsel, yet he is at all times ready to listen to the suggestions of the representatives of the people, whether given voluntarily or upon solicitation, and to consider them with the profound respect to which all will admit that they are justly entitled. Whatever may be the consequences, however, to himself, he must finally form his own judgment where the Constitution and the law make it his duty to decide, and must act accordingly; and he is

bound to suppose that such a course on his part will never be regarded by that elevated body as a mark of disrespect to itself, but that they will, on the contrary, esteem it the strongest evidence he can give of his fixed resolution conscientiously to discharge his duty to them and the country.

A new state of things has, however, arisen since the close of the last session of Congress, and evidence has since been laid before the President which he is persuaded would have led the House of Representatives to a different conclusion if it had come to their knowledge. The fact that the bank controls, and in some cases substantially *owns*, and by its money *supports* some of the leading presses of the country is now more clearly established. Editors to whom it loaned extravagant sums in 1831 and 1832, on unusual time and nominal security, have since turned out to be insolvent, and to others apparently in no better condition accommodations still more extravagant, on terms more unusual, and some without any security, have also been heedlessly granted.

The allegation which has so often circulated through these channels that the Treasury was bankrupt and the bank was sustaining it, when for many years there has not been less, on an average, than six millions of public money in that institution, might be passed over as a harmless misrepresentation; but when it is attempted by substantial acts to impair the credit of the Government and tarnish the honor of the country, such charges require more serious attention. With six millions of public money in its vaults, after having had the use of from five to twelve millions for nine years without interest, it became the purchaser of a bill drawn by our Government on that of France for about \$900,000, being the first installment of the French indemnity. The purchase money was left in the use of the bank, being simply added to the Treasury deposit. The bank sold the bill in England, and the holder sent it to France for collection, and arrangements not having been made by the French Government for its payment, it was taken up by the agents of the bank in Paris with the funds of the bank in their hands. Under these circumstances it has through its organs openly assailed the credit of the Government, and has actually made and persists in a demand of 15 per cent, or \$158,842.77, as damages, when no damage, or none beyond some trifling expense, has in fact been sustained, and when the bank had in its own possession on deposit several millions of the public money which it was then using for its own profit. Is a fiscal agent of the Government which thus seeks to enrich itself at the expense of the public worthy of further trust?

There are other important facts not in the contemplation of the House of Representatives or not known to the members at the time they voted for the resolution.

Although the charter and the rules of the bank both declare that "not less than seven directors" shall be necessary to the transaction of business, yet the most important business, even that of granting discounts to any extent, is intrusted to a committee of five members, who do not report to the board.

To cut off all means of communication with the Government in relation to its most important acts at the commencement of the present year, not one of the Government directors was placed on any one com-

mittee; and although since, by an unusual remodeling of those bodies, some of those directors have been placed on some of the committees, they are yet entirely excluded from the committee of exchange, through which the greatest and most objectionable loans have been made.

When the Government directors made an effort to bring back the business of the bank to the board in obedience to the charter and the existing regulations, the board not only overruled their attempt, but altered the rule so as to make it conform to the practice, in direct violation of one of the most important provisions of the charter which gave them existence.

It has long been known that the president of the bank, by his single will, originates and executes many of the most important measures connected with the management and credit of the bank, and that the committee as well as the board of directors are left in entire ignorance of many acts done and correspondence carried on in their names, and apparently under their authority. The fact has been recently disclosed that an unlimited discretion has been and is now vested in the president of the bank to expend its funds in payment for preparing and circulating articles and purchasing pamphlets and newspapers, calculated by their contents to operate on elections and secure a renewal of its charter. It appears from the official report of the public directors that on the 30th November, 1830, the president submitted to the board an article published in the American Quarterly Review containing favorable notices of the bank, and suggested the expediency of giving it a wider circulation at the expense of the bank; whereupon the board passed the following resolution, viz:

Resolved, That the president be authorized to take such measures in regard to the circulation of the contents of the said article, either in whole or in part, as he may deem most for the interest of the bank.

By an entry in the minutes of the bank dated March 11, 1831, it appears that the president had not only caused a large edition of that article to be issued, but had also, before the resolution of 30th November was adopted, procured to be printed and widely circulated numerous copies of the reports of General Smith and Mr. McDuffie in favor of the bank; and on that day he suggested the expediency of extending his power to the printing of other articles which might subserve the purposes of the institution, whereupon the following resolution was adopted, viz:

Resolved, That the president is hereby authorized to cause to be prepared and circulated such documents and papers as may communicate to the people information in regard to the nature and operations of the bank.

The expenditures purporting to have been made under authority of these resolutions during the years 1831 and 1832 were about \$80,000. For a portion of these expenditures vouchers were rendered, from which it appears that they were incurred in the purchase of some hundred thousand copies of newspapers, reports and speeches made in Congress, reviews of the veto message and reviews of speeches against the bank, etc. For another large portion no vouchers whatever were rendered, but the various sums were paid on orders of the president of the bank, making reference to the resolution of the 11th of March, 1831.

On ascertaining these facts and perceiving that expenditures of a similar character were still continued, the Government directors a few weeks ago offered a resolution in the board calling for a specific account of these expenditures, showing the objects to which they had been applied and the persons to whom the money had been paid. This reasonable proposition was voted down.

They also offered a resolution rescinding the resolutions of November, 1830, and March, 1831. This also was rejected.

Not content with thus refusing to recall the obnoxious power or even to require such an account of the expenditure as would show whether the money of the bank had in fact been applied to the objects contemplated by these resolutions, as obnoxious as they were, the board renewed the power already conferred, and even enjoined renewed attention to its exercise by adopting the following in lieu of the propositions submitted by the Government directors, viz :

Resolved, That the board have confidence in the wisdom and integrity of the president and in the propriety of the resolutions of 30th November, 1830, and 11th March, 1831, and entertain a full conviction of the necessity of a renewed attention to the object of those resolutions, and that the president be authorized and requested to continue his exertions for the promotion of said object.

Taken in connection with the nature of the expenditures heretofore made, as recently disclosed, which the board not only tolerate, but approve, this resolution puts the funds of the bank at the disposition of the president for the purpose of employing the whole press of the country in the service of the bank, to hire writers and newspapers, and to pay out such sums as he pleases to what person and for what services he pleases without the responsibility of rendering any specific account. The bank is thus converted into a vast electioneering engine, with means to embroil the country in deadly feuds, and, under cover of expenditures in themselves improper, extend its corruption through all the ramifications of society.

Some of the items for which accounts have been rendered show the construction which has been given to the resolutions and the way in which the power it confers has been exerted. The money has not been expended merely in the publication and distribution of speeches, reports of committees, or articles written for the purpose of showing the constitutionality or usefulness of the bank, but publications have been prepared and extensively circulated containing the grossest invectives against the officers of the Government, and the money which belongs to the stockholders and to the public has been freely applied in efforts to degrade in public estimation those who were supposed to be instrumental in resisting the wishes of this grasping and dangerous institution. As the president of the bank has not been required to settle his accounts, no one but himself knows how much more than the sum already mentioned may have been squandered, and for which a credit may hereafter be claimed in his account under this most extraordinary resolution. With these facts before us can we be surprised at the torrent of abuse incessantly poured out against all who are supposed to stand in the way of the cupidity or ambition of the Bank of the United States? Can we be surprised at sudden and unexpected changes of

opinion in favor of an institution which has millions to lavish and avows its determination not to spare its means when they are necessary to accomplish its purposes? The refusal to render an account of the manner in which a part of the money expended has been applied gives just cause for the suspicion that it has been used for purposes which it is not deemed prudent to expose to the eyes of an intelligent and virtuous people. Those who act justly do not shun the light, nor do they refuse explanations when the propriety of their conduct is brought into question.

With these facts before him in an official report from the Government directors, the President would feel that he was not only responsible for all the abuses and corruptions the bank has committed or may commit, but almost an accomplice in a conspiracy against that Government which he has sworn honestly to administer, if he did not take every step within his constitutional and legal power likely to be efficient in putting an end to these enormities. If it be possible within the scope of human affairs to find a reason for removing the Government deposits and leaving the bank to its own resource for the means of effecting its criminal designs, we have it here. Was it expected when the moneys of the United States were directed to be placed in that bank that they would be put under the control of one man empowered to spend millions without rendering a voucher or specifying the object? Can they be considered safe with the evidence before us that tens of thousands have been spent for highly improper, if not corrupt, purposes, and that the same motive may lead to the expenditure of hundreds of thousands, and even millions, more? And can we justify ourselves to the people by longer lending to it the money and power of the Government to be employed for such purposes?

It has been alleged by some as an objection to the removal of the deposits that the bank has the power, and in that event will have the disposition, to destroy the State banks employed by the Government, and bring distress upon the country. It has been the fortune of the President to encounter dangers which were represented as equally alarming, and he has seen them vanish before resolution and energy. Pictures equally appalling were paraded before him when this bank came to demand a new charter. But what was the result? Has the country been ruined, or even distressed? Was it ever more prosperous than since that act? The President verily believes the bank has not the power to produce the calamities its friends threaten. The funds of the Government will not be annihilated by being transferred. They will immediately be issued for the benefit of trade, and if the Bank of the United States curtails its loans the State banks, strengthened by the public deposits, will extend theirs. What comes in through one bank will go out through others, and the equilibrium will be preserved. Should the bank, for the mere purpose of producing distress, press its debtors more heavily than some of them can bear, the consequences will recoil upon itself, and in the attempts to embarrass the country it will only bring loss and ruin upon the holders of its own stock. But if the President believed the bank possessed all the power which has been attributed to it, his determination will only be rendered the more inflexible. If, indeed, this corporation now holds in its hands the happiness and prosperity of the American people, it is high time to take the alarm. If the despotism be already upon us and

our only safety is in the mercy of the despot, recent developments in relation to his designs and the means he employs show how necessary it is to shake it off. The struggle can never come with less distress to the people or under more favorable auspices than at the present moment.

All doubt as to the willingness of the State banks to undertake the service of the Government to the same extent and on the same terms as it is now performed by the Bank of the United States is put to rest by the report of the agent recently employed to collect information, and from that willingness their own safety in the operation may be confidently inferred. Knowing their own resources better than they can be known by others, it is not to be supposed that they would be willing to place themselves in a situation which they can not occupy without danger of annihilation or embarrassment. The only consideration applies to the safety of the public funds if deposited in those institutions, and when it is seen that the directors of many of them are not only willing to pledge the character and capital of the corporations in giving success to this measure, but also their own property and reputation, we can not doubt that they at least believe the public deposits would be safe in their management. The President thinks that these facts and circumstances afford as strong a guaranty as can be had in human affairs for the safety of the public funds and the practicability of a new system of collection and disbursement through the agency of the State banks.

From all these considerations the President thinks that the State banks ought immediately to be employed in the collection and disbursement of the public revenue, and the funds now in the Bank of the United States drawn out with all convenient dispatch. The safety of the public moneys if deposited in the State banks must be secured beyond all reasonable doubts; but the extent and nature of the security, in addition to their capital, if any be deemed necessary, is a subject of detail to which the Treasury Department will undoubtedly give its anxious attention. The banks to be employed must remit the moneys of the Government without charge, as the Bank of the United States now does; must render all the services which that bank now performs; must keep the Government advised of their situation by periodical returns; in fine, in any arrangement with the State banks the Government must not in any respect be placed on a worse footing than it now is. The President is happy to perceive by the report of the agent that the banks which he has consulted have, in general, consented to perform the service on these terms, and that those in New York have further agreed to make payments in London without other charge than the mere cost of the bills of exchange.

It should also be enjoined upon any banks which may be employed that it will be expected of them to facilitate domestic exchanges for the benefit of internal commerce; to grant all reasonable facilities to the payers of the revenue; to exercise the utmost liberality toward the other State banks, and do nothing uselessly to embarrass the Bank of the United States.

As one of the most serious objections to the Bank of the United States is the power which it concentrates, care must be taken in finding other agents for the service of the Treasury not to raise up another power equally formidable. Although it would probably be impossible to produce such a result by any organization of the State banks which

could be devised, yet it is desirable to avoid even the appearance. To this end it would be expedient to assume no more power over them and interfere no more in their affairs than might be absolutely necessary to the security of the public deposit and the faithful performance of their duties as agents of the Treasury. Any interference by them in the political contests of the country with a view to influence elections ought, in the opinion of the President, to be followed by an immediate discharge from the public service.

It is the desire of the President that the control of the banks and the currency shall, as far as possible, be entirely separated from the political power of the country as well as wrested from an institution which has already attempted to subject the Government to its will. In his opinion the action of the General Government on this subject ought not to extend beyond the grant in the Constitution, which only authorizes Congress "to coin money and regulate the value thereof;" all else belongs to the States and the people, and must be regulated by public opinion and the interests of trade.

In conclusion, the President must be permitted to remark that he looks upon the pending question as of higher consideration than the mere transfer of a sum of money from one bank to another. Its decision may affect the character of our Government for ages to come. Should the bank be suffered longer to use the public moneys in the accomplishment of its purposes, with the proofs of its faithlessness and corruption before our eyes, the patriotic among our citizens will despair of success in struggling against its power, and we shall be responsible for entailing it upon our country forever. Viewing it as a question of transcendent importance, both in the principles and consequences it involves, the President could not, in justice to the responsibility which he owes to the country, refrain from pressing upon the Secretary of the Treasury his view of the considerations which impel to immediate action. Upon him has been devolved by the Constitution and the suffrages of the American people the duty of superintending the operation of the Executive Departments of the Government and seeing that the laws are faithfully executed. In the performance of this high trust it is his undoubted right to express to those whom the laws and his own choice have made his associates in the administration of the Government his opinion of their duties under circumstances as they arise. It is this right which he now exercises. Far be it from him to expect or require that any member of the Cabinet should at his request, order, or dictation do any act which he believes unlawful or in his conscience condemns. From them and from his fellow-citizens in general he desires only that aid and support which their reason approves and their conscience sanctions.

In the remarks he has made on this all-important question he trusts the Secretary of the Treasury will see only the frank and respectful declarations of the opinions which the President has formed on a measure of great national interest deeply affecting the character and usefulness of his Administration, and not a spirit of dictation, which the President would be as careful to avoid as ready to resist. Happy will he be if the facts now disclosed produce uniformity of opinion and unity of action among the members of the Administration.

The President again repeats that he begs his Cabinet to consider the proposed measure as his own, in the support of which he shall require no one of them to make a sacrifice of opinion or principle. Its responsibility has been assumed after the most mature deliberation and reflection as necessary to preserve the morals of the people, the freedom of the press, and the purity of the elective franchise, without which all will unite in saying that the blood and treasure expended by our forefathers in the establishment of our happy system of government will have been vain and fruitless. Under these convictions he feels that a measure so important to the American people can not be commenced too soon, and he therefore names the 1st day of October next as a period proper for the change of the deposits, or sooner, provided the necessary arrangements with the State banks can be made.

ANDREW JACKSON.

Report of Secretary of Treasury (R. B. Taney), on Removal of Public Deposits

Twenty-Third Congress, 1st Session

DECEMBER 4, 1833.

[Source : House Doc. 2, 23d Congress, 1st Session, pp. 1-21]

TREASURY DEPARTMENT,
December 3, 1833.

To the Hon. ANDREW STEVENSON,
Speaker of the House of Representatives :

SIR: In pursuance of the power reserved to the Secretary of the Treasury by the act of Congress entitled "An act to incorporate the subscribers to the Bank of the United States," I have directed that the deposites of the money of the United States shall not be made in the said bank or branches thereof, but in certain State banks which have been designated for that purpose; and I now proceed to lay before Congress the reasons which induced me to give this order and direction.

The sixteenth section of the law above mentioned is in the following words: "And be it further enacted, that the deposites of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case, the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reasons of such order or direction."

It has been settled by repeated adjudications, that a charter granted by a State to a corporation like that of the Bank of the United States is a contract between the sovereignty which grants it, and the stockholders. The same principle must apply to a charter granted by the United States; and consequently the act incorporating the bank is to be regarded as a contract between the United States of the one part, and the stockholders of the other; and by the plain terms of the con-

tract, as contained in the section above quoted, the stockholders have agreed that the power reserved to the Secretary over the deposits shall not be restricted to any particular contingencies, but be absolute and unconditional, as far as their interests are involved in the removal. The order, therefore, of the Secretary of the Treasury directing the public money to be deposited elsewhere, can in no event be regarded as a violation of the contract with the stockholders, nor impair any right secured to them by the charter. The Treasury Department being entrusted with the administration of the finances of the country, it was always the duty of the Secretary, in the absence of any legislative provision on the subject, to take care that the public money was deposited in safe keeping, in the hands of faithful agents, and in convenient places, ready to be applied according to the wants of the Government. The law incorporating the bank has reserved to him, in its full extent, the power he before possessed. It does not confer on him a new power, but reserves to him his former authority without any new limitation. The obligation to assign the reasons for his direction to deposit the money of the United States elsewhere, cannot be considered as a restriction of the power, because the right of the Secretary to designate the place of deposit was always necessarily subject to the control of Congress. And as the Secretary of the Treasury presides over one of the Executive Departments of the Government, and his power over this subject forms a part of the executive duties of his office, the manner in which it is exercised must be subject to the supervision of the officer to whom the constitution has confided the whole executive power, and has required to take care that the laws be faithfully executed.

The faith of the United States is, however, pledged, according to the terms of the section above quoted, that the public money shall be deposited in this bank, "unless the Secretary of the Treasury shall otherwise order and direct." And as this agreement has been entered into by Congress in behalf of the United States, the place of deposit could not be changed by a legislative act, without disregarding a pledge which the Legislature has given; and the money of the United States must, therefore, continue to be deposited in the bank until the last hour of its existence, unless it shall be otherwise ordered by the authority mentioned in the charter. The power over the place of deposit for the public money would seem properly to belong to the Legislative Department of the Government. And it is difficult to imagine why the authority to withdraw it from this Bank was confided exclusively to the Executive. But the terms of the charter appear to be too plain to admit of question. And although Congress should be satisfied that the public money was not safe in the care of the bank, or should be convinced that the interests of the people of the United States imperiously demanded the removal, yet the passage of a law directing it to be done would be a breach of the agreement into which they have entered.

Assuming this to be the true construction of the charter to the bank, it must be the duty of the Secretary of the Treasury to withdraw the deposits of the public money from that institution, whenever the change would, in any degree, promote the public interest. It is not necessary that the deposits should be unsafe, in order to justify the removal. The authority to remove is not limited to such a contin-

gency. The bank may be perfectly solvent, and prepared to meet promptly all demands upon it; it may have been faithful in the performance of its duties, and yet the public interest may require the deposits to be withdrawn. And as that cannot be done without the action of this department, the Secretary of the Treasury would betray the trust confided to him, if he did not cause the deposits to be made elsewhere, whenever the change would advance the public interests or convenience. The safety of the deposits, the ability of the bank to meet its engagements, its fidelity in the performance of its obligations, are only a part of the considerations by which his judgment must be guided. The general interest and convenience of the people must regulate his conduct.

This principle was distinctly asserted by Mr. Crawford, when he was the Secretary of the Treasury, soon after the bank obtained its charter. In a postscript to his letter to the President of the Mechanics' Bank, of New York, dated February 13, 1817, he says, "The Secretary of the Treasury will always be disposed to support the credit of the State banks, and will, invariably, direct transfers from the deposits of the public money, in aid of their legitimate exertions to maintain their credit. But as the proposition of the Bank of the United States excludes the idea of pressure on its part, no measure of that nature appears to be necessary at this time." Other passages in the correspondence of Mr. Crawford, with the banks, about the period above mentioned, might be referred to, equally indicating the same opinion; and, at that day, no doubt seems to have been entertained of the power or of the duty of the Secretary, in relation to this subject. It does not appear to have been then even suggested that the right of removal depended on the solvency of the bank, or the safety of the public money committed to its custody; on the contrary, in the passage above quoted, the superior safety of the State banks is by no means regarded as necessary to give him the right to make the transfer to them; for he declares that he will give the deposits to the State banks, on account of their weakness, and to protect them from the Bank of the United States, if, by means of its superior strength, it sought to oppress them. Nor can any distinction be taken between the transfer of a part, and the transfer of the whole sum remaining on deposit. The language of the charter recognises no such distinction; and the principle asserted by Mr. Crawford would have led him to the removal of the whole amount of the public money to the State banks, if a pressure on the part of the Bank of the United States had rendered such a measure necessary, in order to support the State banks "in their legitimate exertions to maintain their credit."

The language of the law, therefore, and the usage and practice of the government under it, establish the following principles:

1st. That the power of removal was intended to be reserved exclusively to the Secretary of the Treasury, and that, according to the stipulations in the charter, Congress could not direct it to be done.

2d. That the power reserved to the Secretary of the Treasury does not depend for its exercise merely on the safety of the public money in the hands of the bank, nor upon the fidelity with which it has conducted itself; but he has the right to remove the deposits, and it is his duty to remove them whenever the public interest or convenience will be promoted by the change.

Taking these two principles as unquestionable, I proceed to state the reasons which induced me to believe that it was necessary for the interest and convenience of the people that the Bank of the United States should cease to be the depository of the public money.

The charter of the bank will expire, according to the existing law on the subject, on the 3d of March, 1836; and for two years after the termination of the charter, it is authorized to use the corporate name for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, but not for any other purpose. It is the duty of the Executive Departments of the Government to exercise the powers conferred on them, and to regulate the discretion confided to them, according to the existing laws; and they cannot be allowed to speculate on the chances of future changes, by the legislative authority. Perhaps there may be cases in which the discretion vested in an Executive Department might, with propriety, be in some degree influenced by the expectation of future legislation; but they must be cases in which the principles of justice, or the public interests, manifestly call for an alteration of the law; or where some expression of the public opinion has strongly indicated that a change will probably be made. But where nothing of this kind exists, an Executive officer of the Government is not authorized to regulate a discretion which the law has entrusted to him, upon the assumption that the law will be changed.

In deciding upon the course which it was my duty to pursue in relation to the deposits, I did not feel myself justified in anticipating the renewal of the charter on either of the above mentioned grounds. It is very evident that the bank has no claim to renewal founded on the justice of Congress. For, independently of the many serious and insurmountable objections which its own conduct has furnished, it cannot be supposed that the grant to this corporation, of exclusive privileges, at the expense of the rest of the community for twenty years, can give it a right to demand the still further enjoyment of its profitable monopoly. Neither could I act upon the assumption that the public interest required the recharter of the bank; because I am firmly persuaded that the law which created this corporation in many of its provisions is not warranted by the constitution; and that the existence of such a powerful moneyed monopoly is dangerous to the liberties of the people, and to the purity of our political institutions.

The manifestations of public opinion, instead of being favorable to a renewal, have been decidedly to the contrary. And I have always regarded the result of the last election of President of the United States as the declaration of a majority of the people that the charter ought not to be renewed. It is not necessary to state here what is now a matter of history. The question of the renewal of the charter was introduced into the election by the corporation itself. Its voluntary application to Congress for the renewal of its charter four years before it expired, and upon the eve of the election of President, was understood on all sides as bringing forward that question for incidental decision at the then approaching election. It was accordingly argued on both sides before the tribunal of the people, and their verdict pronounced against the bank by the election of the candidate who was known to have been always inflexibly opposed to it.

Under these circumstances, I could not have been justified, upon either of the grounds above mentioned, in anticipating any change in the existing laws in relation to the bank; and as the act of Congress which created the corporation, limits its duration to the 3d of March, 1836, it became my duty, as Secretary of the Treasury, in executing the trust confided to me under the law, to look to that period of time as the termination of its corporate existence. I had no sufficient grounds for presuming that the law would be altered in this respect by future legislation, and a new charter be granted to the bank. It was, therefore, incumbent upon me, in discharging my official duties, to act upon the assumption that this corporation would not continue in being after the time above specified. And in this state of things, without any reference to the manner in which the bank had conducted itself, it became necessary to decide whether the deposits ought to remain in the bank until the end of its corporate life, or be removed at some earlier period. In forming my opinion on this subject, I could only inquire which of these measures would most conduce to the public good.

It is obvious that the interests of the country would not be promoted by permitting the deposits of the public money to continue in the bank until its charter expired. Judging from the past, it is highly probable that they will always amount to several millions of dollars. It would evidently produce serious inconvenience, if such a large sum were left in possession of the bank until the last moment of its existence, and then be suddenly withdrawn, when its immense circulation is returning upon it to be redeemed, and its private depositors removing their funds into other institutions. The ability of the bank, under such circumstances, to be prompt in its payments to the Government, may well be doubted, even if the ultimate safety of the deposits could be relied upon. Besides, the principal circulating medium now in the hands of the people, and the one most commonly used in the exchange between distant places, consists of the notes of the Bank of the United States, and its numerous branches. The sudden withdrawal of its present amount of circulation, or its sudden depreciation before any other sound and convenient currency was substituted for it, would certainly produce extensive evils, and be sensibly felt among all classes of society.

It is well understood that the superior credit heretofore enjoyed by the notes of the Bank of the United States, was not founded on any particular confidence in its management or solidity. It was occasioned altogether by the agreement on behalf of the public, in the act of incorporation, to receive them in all payments to the United States; and it was this pledge on the part of the Government which gave general currency to the notes payable at remote branches. The same engagement in favor of any other moneyed institution would give its notes equal credit, and make them equally convenient for the purposes of commerce. But this obligation on the part of the United States will cease on the 3d of March, 1836, when the charter expires; and as soon as this happens, all the outstanding notes of the bank will lose the peculiar value they now possess; and the notes payable at distant places become as much depreciated as the notes of local banks. And if, in the mean time, no other currency is substituted in its place by common

consent, it is easy to foresee the extent of the embarrassment which would be caused by the sudden derangement of the circulating medium. It would be too late at that time to provide a substitute which would ward off the evil. The notes of the Bank of the United States in circulation on the 2d of September last, which was the date of the latest return before me, when the order for removal was given, amounted to \$18,413,287.07, scattered in every part of the United States. And if a safe and sound currency were immediately provided, on the termination of the charter, to take the place of these notes, it would still require time to bring it into general use, and, in the interim, the people would be subjected to all the inconveniences and losses which necessarily arise from an unsound state of the currency. The evil would be so great, and the distress so general, that it might even compel Congress against its wishes to recharter the bank. And perhaps more effectual means could hardly be devised for ensuring the renewal of the charter. It is evident that a state of things so much to be deprecated can only be avoided by timely preparation; and the continuance of the deposits can only be justified by the determination to renew the charter. The State banks can, I have no doubt, furnish a general circulating medium, quite as uniform in value as that which has been afforded by the Bank of the United States. Probably more so. For it is well known that in some of the cities the branches of the bank have been in the habit, whenever they thought proper, of refusing to honor the notes of their own bank, payable at other branches, when they were not offered in discharge of a debt due to the United States. But a currency founded on the notes of State banks could not be suddenly substituted for that heretofore furnished by the Bank of the United States, and take the place of it, at the same moment, in every part of the Union. It is essential that the change should be gradual, and sufficient time should be allowed to suffer it to make its way by the ordinary operations of commerce, without requiring a hasty and violent effort.

In this view of the subject, it would be highly injudicious to suffer the deposits to remain in the Bank of the United States, until the close of its corporate existence. And as they cannot be withdrawn without the action of the Secretary of the Treasury, it must unavoidably become his duty, at some period of time, to exercise the power of removal. Laying aside, therefore, for the present, all the considerations which the misconduct of the bank has furnished, the question presented to this department was, how long could the removal be delayed consistently with the public interests? It is a question of *time* only. The duty must be performed at some period, and could not be altogether omitted, without justly incurring a heavy responsibility to the community for all the consequences that might follow. And it is, I think, apparent that the measure was delayed as long as was compatible with the interest of the people of the United States.

The monthly statement of the bank, of the 2d September last, before referred to, shows that the notes of the bank and its branches, then in circulation, amounted to \$18,413,287.07, and that its discounts amounted to the sum of \$62,653,359.59. The immense circulation above stated, pervading every part of the United States, and most commonly used in the business of commerce between distant places, must all be withdrawn from circulation when the charter expires.

If any of the notes then remain in the hands of individuals, remote from the branches at which they are payable, their immediate depreciation will subject the holders to certain loss. Those payable in the principal commercial cities would, perhaps, retain nearly their nominal value; but this would not be the case with the notes of the interior branches, remote from the great marts of trade. And the statements of the bank will show that a great part of its circulation is composed of notes of this description. The bank would seem to have taken pains to introduce into common use such a description of paper as it could depreciate, or raise to its par value, as best suited its own views; and it is of the first importance to the interests of the public that these notes should all be taken out of circulation, before they depreciate in the hands of the individuals who hold them; and they ought to be withdrawn gradually, and their places supplied, as they retire, by the currency which will become the substitute for them. How long will it require, for the ordinary operations of commerce, and the reduction of discounts by the bank, to withdraw the amount of circulation before mentioned, without giving a shock to the currency, or producing a distressing pressure on the community? I am convinced that the time which remained for the charter to run, after the 1st of October, (the day on which the first order for removal took effect,) was not more than was proper to accomplish the object with safety to the community. And if it had depended upon my judgment at an earlier period, I should have preferred and should have taken a longer time. Enough, however, is yet left, provided no measures are adopted by the bank for the purpose of inflicting unnecessary suffering upon the country. Apart therefore from any considerations arising out of the conduct of the bank, and looking merely to the near approach of the day when it would cease to exist, the withdrawal of the deposits appeared to be required by the public interest, at the time when the first order for removal was given by this department.

This opinion is confirmed by the ground taken in favor of the renewal of the charter, at December session, 1831. It was then urged that the short period which yet remained of its corporate existence, and the necessity of preparing to wind up its concerns, if the charter was not to be renewed, made it proper that the question should at once be decided. Very little more than half of that time yet remains. And although I do not concur in the opinions then expressed, and believe that the application was ill-timed and premature, yet the arguments then relied on, by many whose judgment is entitled to respect, afford strong grounds for concluding that the measure now adopted is not objectionable on the score of time; and that if the deposits were not to continue in the bank until the termination of its charter, their withdrawal could not with propriety be longer delayed.

There is, however, another view of the subject, which, in my opinion, made it impossible further to postpone the removal. About the 1st of December, 1832, it had been ascertained that the present Chief Magistrate was re-elected, and that his decision against the bank had thus been sanctioned by the people. At that time the discounts of the bank amounted to \$61,571,625.66. Although the issue which the bank took so much pains to frame had now been tried, and the decision pronounced against it, yet no steps were taken to prepare for its ap-

proaching end. On the contrary, it proceeded to enlarge its discounts, and, on the 2d of August, 1833, they amounted to \$64,160,349.14, being an increase of more than two and a half millions in the eight months immediately following the decision against them. And so far from preparing to arrange its affairs with a view to wind up its business, it seemed, from this course of conduct, to be the design of the bank to put itself in such an attitude, that, at the close of its charter, the country would be compelled to submit to its renewal, or to bear all the consequences of a currency suddenly deranged, and also a severe pressure for the immense outstanding claims which would then be due to the corporation. While the bank was thus proceeding to enlarge its discounts, an agent was appointed by the Secretary of the Treasury to inquire upon what terms the State banks would undertake to perform the services to the Government which have heretofore been rendered by the Bank of the United States; and also to ascertain their condition in four of the principal commercial cities, for the purpose of enabling the department to judge whether they would be safe and convenient depositories for the public money. It was deemed necessary that suitable fiscal agents should be prepared in due season, and it was proper that time should be allowed them to make arrangements with one another throughout the country, in order that they might perform their duties in concert, and in a manner that would be convenient and acceptable to the public. It was essential that a change so important in its character, and so extensive in its operation upon the financial concerns of the country, should not be introduced without timely preparation. There was nothing in this proceeding, nor in the condition of the bank, which should at that time have produced a sudden and entire change of its policy. For, in addition to the ordinary receipts from bonds given on account of previous importations, the season was at hand when the cash duties on woollens might well be expected to be very productive, and from these two sources the receipts from the customs were in fact unusually large, and the amount of the public deposits in the bank proportionably heavy. The capacity of the bank, therefore, at this time, to afford facilities to commerce, was not only equal, but greatly superior to what it had been for some time before; and the nature of the inquiry made of the State banks, confined as it was to the four principal commercial cities, showed that the immediate withdrawal of the entire deposits from the bank, so as to distress it, was not contemplated. And if any apprehensions to the contrary were felt by the bank, an inquiry at this department would no doubt have been promptly and satisfactorily answered. And certainly it was the duty of the bank, before it adopted a course oppressive to the whole country, to be sure of the ground on which it acted. It can never be justified for inflicting a public injury, by alleging mistaken opinions of its own, when the means of obtaining information, absolutely certain, were so obviously within its reach. The change was always designed to be gradual, and the conduct of the bank itself has since compelled me to remove a portion of the deposits earlier than was originally intended. There was nothing, therefore, in the inquiry before mentioned, nor in the views of the Executive Department, nor in the condition of the bank, which justified a sudden and oppressive change in its policy.

The situation of the mercantile claims also rendered the usual aids of the bank more than ever necessary to sustain them in their business. Their bonds for previous importations were, as before stated, constantly becoming due, and heavy cash duties were almost daily to be paid. The demands of the public upon those engaged in commerce were consequently unusually large, and they had a just claim to the most liberal indulgence from the fiscal agent of the Government, which had for so many years been reaping harvests of profits from the deposits of the public money. But the bank about this time changed its course.

By the monthly statement of the bank, dated 2d August, 1833, it appears that its loans and domestic bills of exchange, purchased and on hand, amounted to-----	\$64, 160, 349. 14
By the monthly statement of the 2d of September, 1833, they appear to have been-----	62, 653, 359. 59
By that of the 2d of October 1833, they were-----	60, 094, 202. 93
Reduction in two months-----	\$4, 066, 146. 21
By the same papers it appears that the public deposits including those for the redemption of the public debt, the Treasurer's, and those of the public officers, were in August-----	\$7, 599, 931. 47
September-----	9, 182, 173. 18
October-----	9, 868, 435. 58
Increase of the public deposits in two months-----	\$2, 268, 504. 11
Total amount collected from the community-----	\$6, 334, 650. 32

Thus upwards of six millions of dollars were withdrawn from the business of the country by the Bank of the United States in the course of two months. This, of itself, must have produced a pressure on the money market, affecting all commercial transactions. But the curtailment in the bank accommodations of the community was much larger. The policy adopted by the Bank of the United States, compelled the State banks to take the same course in self-defence; and the Bank of the United States appears to have resorted to the expedient of drawing from the State banks the balances due, in specie, and to have hoarded up the article in its own vaults.

In August, 1833, that bank had in specie-----	\$10, 028, 677. 38
September-----	10, 207, 649. 20
October-----	10, 663, 441. 51

Showing an increase of specie in two months, of-- \$639, 764. 13

This sum, it is believed, was chiefly drawn from the State banks. To fortify themselves, those banks were compelled to call on their debtors, and curtail their accommodations; and so large a proportion of these calls is always paid in their own notes, that, to obtain \$100,000 in specie, they are probably obliged to call for four or five

times that amount. To replace the specie taken from them by the Bank of the United States, and to provide for their own safety, the State banks, therefore, must have curtailed from two to three millions of dollars. On the whole, it is a fair estimate, that the collections from the community during those two months, without any corresponding return, did not fall much short of nine millions of dollars. As might have been expected, complaints of a pressure upon the money market were heard from every quarter. The balances due from the State banks had, during the same time, increased from \$368,969.98 to 2,288,573.19; and, from the uncertain policy of the bank, it was apprehended they might suddenly be called for in specie. The State banks, so far from being able to relieve the community, found themselves under the necessity of providing for their own safety.

A very large proportion of the collections of the bank in August and September, were in Philadelphia, New York, and Boston.

In August and September, the curtailment in Philadelphia was-----	\$195, 548. 69	
Increase of public deposites-----	646, 846. 80	
Actual collections by the bank-----		842, 395. 49
Increase of public deposites in New York-----	1, 396, 597. 24	
Deduct increase of loans-----	331, 295. 38	
Actual collections by the bank-----		1, 065, 301. 86
Curtailments in Boston-----	717, 264. 45	
Increase of public deposites-----	48, 069. 88	
Actual collections by the bank-----		765, 334. 33
Total collections in the three cities-----		<u>\$2, 673, 031. 68</u>

It will be perceived that it was solely through the increase of the public deposites that the bank raised balances against the State banks in New York, and was placed in a situation to take from them, at its pleasure, large sums in specie. And when it is considered that those curtailments and collections of the Bank of the United States necessarily compelled the State banks to curtail also, we shall be at no loss to perceive the cause of the pressure which existed in the commercial cities about the end of the month of September. It was impossible that the commercial community could have sustained itself much longer under such a policy. In the two succeeding months, the collections of the bank would probably have exceeded five millions more, and the State banks would have been obliged to curtail in an equal sum. The reduction of bank accommodations to the amount of nineteen millions of dollars in four months, must have almost put an end to trade; and before the 1st of October this pressure in the principal commercial cities had become so intense, that it could not have been endured much longer without the most serious embarrassments. It was then daily increasing; and from the best information I have been able to obtain, I am persuaded that if the public moneys received for revenue had continued to be deposited in the Bank of the United

States for two months longer, and it had adhered to the oppressive system of policy which it pursued during the two preceding months, a widespread scene of bankruptcy and ruin must have followed. There was no alternative, therefore, for the Treasury Department, but to act at once, or abandon the object altogether. Duties of the highest character would not permit the latter course, and I did not hesitate promptly to resort to the former.

I have stated the condition of the mercantile classes at the time of the removal, to explain why it was impossible to postpone it even for a short period. Under other circumstances, I should have been disposed to direct the removal to take effect at a distant day, so as to give Congress an opportunity of prescribing, in the mean time, the places of deposite, and of regulating the securities proper to be taken. It is true that the power given to the Secretary of the Treasury to remove the deposits from the Bank of the United States necessarily carries with it the right to select the places where they shall afterwards be made. The power of removal cannot be exercised without placing them elsewhere; and the right to select is, therefore, contained in the right to remove. It is also true that, in my judgment, as has already been stated, the public interest would have been advanced if the change had taken place at an earlier period. Yet as a few months would, in ordinary times, have made no very serious difference, and the removal had already been delayed until the meeting of Congress was approaching, I should have preferred executing the measure in a manner that would have enabled the Legislature to act on the subject in advance of the actual removal, if it had deemed it proper to do so. But the conduct of the bank left me no choice, except between the immediate removal and its final relinquishment. For, if the measure had then been suspended, to be resumed at a future time, it was in the power of the bank to produce the same evil whenever it was again attempted. Putting aside, therefore, from the view of the subject which I am now presenting, all the inducements which grew out of the misconduct of the bank, and regarding only its approaching end, and the intensity of the pressure it was then producing, no further delay was admissible.

The facts and reasons above stated appear to have established the following propositions:

1st. It was the duty of this department not to act upon the assumption that the legislative power would hereafter change the law in relation to the Bank of the United States; and it was bound to regulate its conduct upon the principle that the existence of this corporation would terminate on the 3d of March, 1836.

2d. The public interest required that the deposits of public money should not continue to be made in the Bank of the United States, until the close of its existence, but should be transferred to some other place, at some period prior to that time.

3d. The power of removal being reserved exclusively to the Secretary of the Treasury, by the terms of the charter, his action was necessary in order to effect it, and the deposits could not, according to the agreement made by Congress with the stockholders, have been removed by the legislative branch of the Government, until the charter was at an end.

4th. The near approach of the time when the charter would expire, as well as the condition of the mercantile community, produced by the conduct of the bank, rendered the removal indispensable at the time it was begun, and it could not have been postponed to a later day, without injury to the country.

Acting on these principles, I should have felt myself bound to follow the course I have pursued in relation to the deposits, without any reference to the misconduct of the bank. But there are other reasons for the removal growing out of the manner in which the affairs of the bank have been managed, and its money applied, which would have made it my duty to withdraw the deposits at any period of the charter.

It will, I presume, be admitted on all hands, that the bank was incorporated in order to create a useful and convenient public agent to assist the Government in its fiscal operations. The act of incorporation was not designed merely as an act of favor to the stockholders, nor were exclusive privileges given to them for the purpose of enabling them to obtain political power, or to amass wealth at the expense of the people of the United States. The motive for establishing this vast monopoly was the hope that it would conduce to the public good. It was created to be the agent of the public; to be employed for the benefit of the people; and the peculiar privileges and means of private emolument, given to it by the act of incorporation, were intended as rewards for the services it was expected to perform. It was never supposed that its own separate interests would be voluntarily brought into collision with those of the public. And still less was it anticipated that it would seek, by its money, to obtain political power, and control the action of the Government, either by the favors it can shower, or the fear of its resentment. Its duty was simply that of an agent, bound to render certain services to its principal, in consideration of the advantages granted to it. And, like every other public agent or officer, its own separate interests were subordinate to its duty to the public. It was bound to consult the general good rather than its private emolument, if they should happen to come in conflict with one another. If, therefore, it sought to obtain political power, or to increase its gains by means which would probably bring distress on the community, it violated its duty, and perverted, to the public injury, the powers which were given to be used for the public good. And, in such an event, it was the duty of the public servants, to whom the trust was reserved, to dismiss it, so far as might lawfully be done, from the agency it had thus abused.

Regarding the bank, therefore, as the agent of the United States, and bound by the duties, and liable to the obligations which ordinarily belong to the relation of principal and agent, except where the charter has otherwise directed, I proceed to state the circumstances which show that it had justly forfeited the confidence of the Government, and that it ought not to have been further trusted as the depository of the public money.

The United States, by the charter, reserved the right of appointing five directors of the bank. It was intended by this means not only to provide guardians for the interests of the public in the general administration of its affairs, but also to have faithful officers, whose situation would enable them to become intimately acquainted with all

the transactions of the institution, and whose duty it would be to apprise the proper authorities of any misconduct on the part of the corporation likely to affect the public interest. The fourth fundamental article of the constitution of the corporation declares that not less than seven directors shall constitute a board for the transaction of business. At these meetings of the Board, the directors on the part of the United States had of course a right to be present; and, consequently, if the business of the corporation had been transacted in the manner which the law requires, there was abundant security that nothing could be done, injuriously affecting the interests of the people, without being immediately communicated to the public servants, who were authorized to apply the remedy. And if the corporation has so arranged its concerns as to conceal from the public directors some of its most important operations, and has thereby destroyed the safeguards which were designed to secure the interests of the United States, it would seem to be very clear that it has forfeited its claim to confidence, and is no longer worthy of trust. In the ordinary concerns of life, among individuals, no prudent man would continue to place his funds in the hands of an agent, after he discovered that he was studiously concealing from him the manner in which they were employed. The public money ought not to be guarded with less vigilance than that of an individual, and measures of concealment on the part of this corporation are not only contrary to the duties of its agency, but are also in direct violation of the law to which it owes its corporate existence. And the same misconduct which, in the case of private individuals, would induce a prudent man to dismiss an agent from his employment, would require a similar course towards the fiscal agent of the Government, by the officer to whom the law has entrusted the supervision of its conduct, and given the power of removal.

Tried by these principles, it will be found that the conduct of the bank made it the duty of the Secretary of the Treasury to withdraw from its care the public funds.

1st. Instead of a board constituted of at least seven directors according to the charter, at which those appointed by the United States have a right to be present, many of the most important money transactions of the bank have been, and still are, placed under the control of a committee, denominated the Exchange Committee, of which no one of the public directors has been allowed to be a member since the commencement of the present year. This committee is not even elected by the Board, and the public directors have no voice in their appointment. They are chosen by the President of the bank, and the business of the institution, which ought to be decided on by the Board of Directors, is in many instances transacted by this committee; and no one has a right to be present at their proceedings but the President, and those whom he shall please to name as members of this committee. Thus loans are made, unknown at the time to a majority of the Board, and paper discounted which might probably be rejected at a regular meeting of the directors. The most important operations of the bank are sometimes resolved on and executed by this committee; and its measures are, it appears, designedly, and by regular system, so arranged, as to conceal from the officers of the Government transactions in which the public interests are deeply involved. And

this fact alone furnishes evidence too strong to be resisted, that the concealment of certain important operations of the corporation from the officers of the Government, is one of the objects which is intended to be accomplished by means of this committee. The plain words of the charter are violated, in order to deprive the people of the United States of one of the principal securities which the law had provided to guard their interests, and to render more safe the public money entrusted to the care of the bank. Would any individual of ordinary discretion continue his money in the hands of an agent, who violated his instructions for the purpose of hiding from him the manner in which he was conducting the business confided to his charge? Would he continue his property in his hands, when he had not only ascertained that concealment had been practised towards him, but when the agent avowed his determination to continue in the same course, and to withhold from him as far as he could all knowledge of the manner in which he was employing his funds? If an individual would not be expected to continue his confidence under such circumstances, upon what principle could a different line of conduct be required from the officers of the United States, charged with the care of the public interests? The public money is surely entitled to the same care and protection as that of an individual; and if the latter would be bound in justice to himself to withdraw his money from the hands of an agent thus regardless of his duty, the same principle requires that the money of the United States should, under the like circumstances, be withdrawn from the hands of their fiscal agent. And as the power of withdrawal was confided to the Secretary of the Treasury, it was his duty to remove it on this ground alone, if no other cause of complaint had existed against the bank. The conduct of the bank in relation to the three per cent. stock of the United States, is a memorable instance of the power exercised in secret by the Exchange Committee, and the abuses to which it is incident. The circumstances attending that transaction have been so fully laid before Congress and the public, that it is useless to repeat them here. It was a case in which this committee not only managed in secret a moneyed transaction of vast amount, intimately connected with the interests of the people of this country, but one where the measures of the Government were thwarted by the bank, and the nation compelled to continue for a time liable for a debt which it was ready and desired to extinguish. Nor is this the only measure of the kind which has come officially to my knowledge. I have the honor to present herewith a report, made by three of the public directors to the President of the United States, on the 22d of April, 1833, (marked A,) in which, in compliance with a request that they would communicate to him such information as was within their personal knowledge, relative to the unusual proceedings of the Board of directors, they disclose the exceptionable manner in which the power conferred by law on the board has been surrendered to the Exchange Committee; that this has been done evidently with the design of preventing a proper and contemplated examination into the accounts of persons whose paper was offered for discount; that a minority of the Board, apparently sufficient to have prevented the loan if the security was bad, were deprived of their votes upon the question; and that the long established by-laws of the institution were set aside for the purpose of carrying those designs into effect with less difficulty or embarrassment.

If proceedings like this are sanctioned by the constituted authorities of the United States, the appointment of directors on their part is an idle ceremony, and affords no safeguard to the public treasure in the custody of the bank. And even legislative enactments in relation to this corporation are of but little value, if it may at its pleasure disregard one of the fundamental articles of its constitution, and transfer to a secret committee the business which by law ought to be transacted by the Board. It is scarcely necessary, in presenting this document to the consideration of Congress, to notice an objection which has been sometimes put forward against the publication of any proceedings which relate to the accounts of private individuals. The circumstances detailed are the regular and official transactions of the Board of Directors, nor do they involve the private debtor and creditor account of persons dealing with the bank, which is alone included, in the distinction taken by the charter, in regard to private accounts. If the argument thus brought forward were a sound one, there could be no such thing as an examination of any value into the conduct of the bank, because the business of the bank being with individuals, its misconduct could never be shown without bringing before the public the individual transaction in which the conduct of the bank was impeached. And if it could make good the position that such proceedings never are to be exposed to the public, because individuals are concerned in them, it would effectually shut out all useful examination, and be enabled to apply its money to the most improper purposes, without detection or exposure. When its conduct is impeached, on the ground that it has used its great money power to obtain political influence, the investigation of the charge is, in its very nature, an inquiry into its transactions with individuals. And although the accounts brought forward on such occasions may be the accounts of individuals, yet they are also the accounts of the bank, and show its conduct. And being the fiscal agent of the Government, with such immense power to be exercised for good or for evil, the public safety requires that all of its proceedings should be open to the strictest and most rigorous scrutiny. Its charter may be forfeited by its misconduct, and would be justly forfeited, if it sought to obtain a political influence in the affairs of the Nation. And yet such attempt on the part of the bank can never be proved, except by the examination and disclosure of its dealings with individuals.

2d. It is not merely by its concealments that the bank has proved itself regardless of the duties of its agency. Its own interests will be found to be its ruling principle, and the just claims of the public to be treated with but little regard, when they have come into collision with the interests of the corporation. This was but too plainly the case in the affair of the three per cents. above mentioned. A recent instance proves that its rule of action is not changed in this respect. And the failure of the French Government to pay the bill drawn for the first instalment due by the treaty, has been made the occasion of endeavoring to obtain from the public the sum of \$158,842.77, to which no principle of justice appears to entitle it. The money for which the bill was sold, remained in the bank. The expenses it incurred were of small amount, and these the Government are willing to pay. But the corporation, not content with the profits it was deriving from the millions of public money then in its vaults, and which it was daily using in its discounts, endeavors to convert the public

disappointment into a gainful transaction for itself; and demands the large sum above mentioned, without pretending that it sustained any loss or inconvenience, commensurate with the amount it seeks to obtain from the Government. The fiscal agent of the public attempts to avail itself of the unexpected disappointment of the principal, for the purpose of enhancing its own profits at the expense of the community.

3d. There is sufficient evidence to prove that the bank has used its means with a view to obtain political power, and thereby secure the renewal of its charter.

The documents which have been heretofore laid before Congress, and are now on its files, will show that on the 31st of December, 1830, the aggregate debt due to the bank was \$42,402,304.24, and that, on the 31st of December, 1831, it was \$63,026,452.93, being an extension of its loans, in a single year, of twenty millions of dollars, and an increase of nearly fifty per cent. on its previous accommodations.

And, as if to leave no room to doubt as to the motive of this extraordinary conduct, it continued to add rapidly to its loans, and on the 1st of May, 1832, while its petition for the renewal of its charter was yet pending before Congress, they amounted to \$70,428,070.72, being an increase of \$7,401,617.79 in the four preceding months, and making altogether an addition of \$28,025,766.48 in the short space of sixteen months, and being an extension of more than 66 per cent. on its previous loans. Such an increase at such a period of its charter is without example in the history of banking institutions. On the 31st of December, 1830, when its loans amounted, as above stated, to only \$42,402,304.24, the corporation had been in existence fourteen years. The sudden and great increase was made when the charter was drawing to a close, and it had but little more than four years to run. It cannot be supposed that these immense loans were made from a confident expectation that the charter would be renewed. On the contrary, it is now an historical fact, that the bank itself deemed the chances of renewal so doubtful, that, in the session of Congress beginning in December, 1831, it petitioned for a recharter, and the reason generally assigned for pressing for a decision at that time was the great extent of its business, and the necessity of preparing to bring it to a close if the charter was not to be renewed. Thus, with but little more than four years to run, with doubtful chances of renewal, and aware of the necessity of beginning to arrange its vast transactions, it increases its loans in sixteen months more than twenty-eight millions of dollars. Was this imprudence only? It cannot be believed that those who manage its concerns could have committed such an oversight. Can any proper reason be assigned for this departure from the course which the interest of a moneyed corporation, as well as those of the country, obviously require? I am not aware that any sufficient justification has been offered. And this extraordinary increase of its loans, made in so short a space of time, at such a period of its charter, and upon the eve of a severely contested election of President, in which the bank took an open and direct interest, demonstrates that it was using its money for the purpose of obtaining a hold upon the people of this country, in order to operate upon their fears, and to induce them, by the apprehension of ruin, to vote against the candidate whom it desired to defeat. In other

words, this great moneyed corporation determined to enter the political arena, and to influence the measures of the Government, by causing its weight to be felt in the election of its officers.

But if the circumstances above stated were not of themselves sufficient to prove that the bank had sought by its money to obtain political power, and to exercise, by that means, a controlling influence on the measures of the Government, recent developments have furnished such proof as to leave no room for doubt. I have the honor to transmit herewith an official statement, (marked B,) signed by four of the public directors of the bank, showing at the same time the unlawful manner in which its business is conducted, and the unwarrantable purposes to which its money has been, and still is applied. It will be seen by the proceedings therein stated that the whole capital of the bank is, in effect, placed at the disposition of the President of that institution. He is authorized to expend what he pleases in causing "to be prepared and circulated such documents and papers as may communicate to the people information in regard to the nature, and operations of the bank," And he may therefore, under the very indefinite terms of the resolutions, employ as many persons as he pleases, at such salaries as he thinks proper, either to prepare daily paragraphs for newspapers in favor of the bank, or to write pamphlets and essays to influence the public judgment. And he may even provide for the publications by salaries to printers, or by purchasing presses and types, and placing them in the hands of agents employed and paid by the bank. There is no limitation short of the capital of the bank, as to the sum of money he may thus expend in different parts of the United States. From the description of articles which appear to have been paid for under this resolution, it seems that the President of the institution has supposed that publications containing attacks on officers of the Government who are supposed to stand in the way of the renewal of the charter, is one of the modes of "communicating to the people information in regard to the nature and operations of the bank." This construction was, it appears, approved by the Board, as they continued the authority in his hands unchanged, after the manner in which a portion of the money had been applied was laid before them. And we are left to conclude that this institution is now openly in the field as a political partisan, and that one of its means of warfare is the destruction of the political standing of those who are opposed to the renewal of the charter. The sum actually charged to the expenses under this resolution, is sufficiently startling. How much more may have been already squandered, we are yet to learn. And the work of preparing and circulating such publications is still, it is presumed, going on, under the last resolution of the Board. It is moreover impossible to ascertain the specific purposes to which the money may in fact have been applied, since vouchers are not required to show the particular services for which it was given. With these positive proofs of the efforts of the bank to obtain power, and to influence the measures of the Government, I have not hesitated as to the path of duty. If, when this evidence was before me, I had failed to withdraw the deposits of public money from the bank, it would have been lending the countenance and support of this department to measures which are but too well calculated to destroy the purity of our institutions, and endanger thereby the liberties of the people. It can-

not be supposed that these expenditures are justifiable on the ground that the bank has a right to defend itself, and that the money in question was therefore properly expended. Some of the items accounted for sufficiently show in what manner it was endeavoring to defend its interests. It had entered the field of political warfare, and, as a political partisan, was endeavoring to defeat the elections of those who were opposed to its views. It was striving, by means of its money, to control the course of the Government, by driving from power those who are obnoxious to its resentment. Can it be permitted to a great moneyed corporation to enter on such a controversy, and then justify its conduct on the ground that it is defending its own interests? The right of such an institution to interfere in the political concerns of the country, for any cause whatever, can never be recognized; and a defence like this on the part of the bank could not be tolerated even if the individual stockholders alone were thus using their own money to promote their own interests. But it is not only the money of individuals which is thus applied. The one-fifth of the capital of the bank, amounting to seven millions of dollars, belongs to the United States, and the one-fifth of the money which has been expended, and is yet to be expended under this resolution, is the property of the public, and does not belong to private individuals. Yet the Board of Directors assert the right, not only to authorize the expenditure of the money of individual stockholders, in order to promote their individual interests, but have also, by the resolution in question, taken upon themselves to give the like authority over money which belongs to the United States. Is an institution which deals thus with the money of the people, a proper depository for the public funds? When such a right is openly claimed, and acted upon, by the Board of Directors, can the money of the United States be deemed safe in its hands. The same principle that would sanction the application of one portion of the public money to such purposes, would justify the like use of all that may come to its possession. The Board of Directors have no lawful authority to employ the money of the United States for such objects. So far as the nation is concerned in the character of the bank, the people, through their own representatives in Congress, can take care of their own rights, and vindicate the character of the bank, if they think it unjustly assailed. And they do not need the aid of persons employed and paid by the bank, to learn whether its charter be constitutional or not, nor whether the public interest requires it to be renewed. Nor have they authorized the President and directors of that institution to expend the public money to enlighten them on this subject.

The resolution in question is moreover in direct violation of the act of Congress by which this corporation was established. And it is difficult to imagine how the unlimited and irresponsible power over the money of the bank, which the directors have given to the President, can be reconciled to the clause in its charter which requires seven directors to form a Board for the transaction of business. If the expenditure of money for the purposes contemplated by the resolution be a legitimate part of the business of the corporation, the Board could not lawfully transfer it to one of its officers, unless they can, by resolution, surrender into the hands of their President the entire

power of the corporation, and commit to the care of a single individual the corporate power which the law has declared should be exercised by the Board of Directors.

Chief Justice Marshall, in the case of the Bank of the United States *vs.* Dandridge, when speaking of the bonds required to be given by the cashiers of the bank, says: "It requires very little knowledge of the interior of banks, to know that the interests of the stockholders are committed to a very great extent to these, and other officers. It was, and ought to have been the intention of Congress to secure the Government, which took a deep interest in this institution, and to secure individuals, who embarked their fortunes in it on the faith of the Government, as far as possible from the malpractices of its officers." But the directors of the bank seemed to have acted on principles directly opposite to those stated by the Chief Justice, and, instead of endeavoring to secure "as far as possible" the public and individuals from the malpractices of its officers, they place the funds of the bank under the control of a single officer, from whom neither security nor specific vouchers have been required. It is true that, in the opinion which the Chief Justice gave in the case from which the above passage is quoted, he differed from the rest of the court. But the difference was on other principles, and not on the one above stated.

In forming my judgment on this as part of the case, I have not regarded the short time the charter has yet to run. But my conduct has been governed by considerations which arise altogether out of the course pursued by the bank, and which would have equally influenced the decision of this department in relation to the deposits, if the bank were now in the first years of its existence; and upon this view of the subject the following propositions appear to be fully maintained.

1st. That the bank, being the fiscal agent of the Government in the duties which the law requires it to perform, is liable to all the responsibilities which attach to the character of agent in ordinary cases of principal and agent among individuals; and it is therefore the duty of the officer of the Government, to whom the power has been entrusted, to withdraw from its possession the public funds whenever its conduct towards its principal has been such as would induce a prudent man in private life to dismiss his agent from his employment.

2d. That, by means of its exchange committee, it has so arranged its business as to deprive the public servants of those opportunities of observing its conduct which the law had provided for the safety of the public money confided to its care; and that there is sufficient evidence to show that the arrangement on the part of the bank was deliberately planned, and is still persisted in, for the purpose of concealment.

3d. That it has also, in the case of the three per cent. stock, and of the bill of exchange on France, endeavored unjustly to advance its own interests at the expense of the interests and just rights of the people of the United States.

If these propositions be established, it is very clear that a man of ordinary prudence in private life would withdraw his funds from an agent who had thus behaved himself in relation to his princi-

pal; and it follows that it was the duty of the Secretary of the Treasury to withdraw the funds of the United States from the bank.

4th. That there is sufficient evidence to show that the bank has been, and still is, seeking to obtain political power, and has used its money for the purpose of influencing the election of the public servants; and it was incumbent upon the Secretary of the Treasury, on that account, to withdraw from its possession the money of the United States, which it was thus using for improper purposes. Upon the whole, I have felt myself bound by the strongest obligation to remove the deposits. The obligation was imposed upon me by the near approach of the time when this corporation will cease to exist, as well as by the course of conduct which it has seen fit to pursue.

The propriety of removing the deposits being thus evident, and it being consequently my duty to select the places to which they were to be removed, it became necessary that arrangements should be immediately made with the new depositories of the public money, which would not only render it safe, but would at the same time secure to the Government, and to the community at large, the conveniences and facilities that were intended to be obtained by incorporating the Bank of the United States. Measures were accordingly taken for that purpose, and copies of the contracts which have been made with the selected banks, and of the letters of instructions to them from this department, are herewith submitted. The contracts with the banks in the interior are not precisely the same with those in the Atlantic cities. The difference between them arises from the nature of the business transacted by the banks in these different places. The State banks selected are all institutions of high character and undoubted strength, and are under the management and control of persons of unquestioned probity and intelligence. And in order to ensure the safety of the public money, each of them is required, and has agreed, to give security whenever the amount of the deposit shall exceed the half of the amount of the capital actually paid in; and this department has reserved to itself the right to demand security whenever it may think it advisable, although the amount on deposit may not be equal to the sum above stated. The banks selected have also severally engaged to transmit money to any point at which it may be required by the directions of this department for the public service, and to perform all the services to the Government which were heretofore rendered by the Bank of the United States. And, by agreements among themselves to honor each other's notes and drafts, they are providing a general currency at least as sound as that of the Bank of the United States, and will afford facilities to commerce and in the business of domestic exchange quite equal to any which the community heretofore enjoyed. There has not been yet sufficient time to perfect these arrangements, but enough has already been done to show that, even on the score of expediency, a Bank of the United States is not necessary, either for the fiscal operations of the Government, or the public convenience; and that every object which the charter to the present bank was designed to attain, may be as effectually accomplished by the State banks. And, if this can be done, nothing that is useful will be lost or endangered by the change, while much that is desirable will be gained by it. For no one of these corporations will possess that absolute, and

almost unlimited dominion over the property of the citizens of the United States which the present bank holds, and which enables it at any moment, at its own pleasure, to bring distress upon any portion of the community whenever it may deem it useful to its interest to make its power felt. The influence of each of the State banks is necessarily limited to its own immediate neighborhood, and they will be kept in check by the other local banks. They will not, therefore, be tempted by the consciousness of power to aspire to political influence, nor likely to interfere in the elections of the public servants. They will, moreover, be managed by persons who reside in the midst of the people who are to be immediately affected by their measures; and they cannot be insensible or indifferent to the opinions and peculiar interests of those by whom they are daily surrounded, and with whom they are constantly associated. These circumstances always furnish strong safeguards against an oppressive exercise of power, and forcibly recommend the employment of State banks in preference to a Bank of the United States, with its numerous and distant branches. A corporation of the latter description is continually acting under the conviction of its immense power over the money concerns of the whole country, and is dealing also with the fortunes and comforts of men who are distant from them, and to whom they are personally strangers. The directors of the bank are not compelled to hear, daily, the complaints, and witness the sufferings of those who may be ruined by their proceedings. From the nature of man, such an institution cannot always be expected to sympathize with the wants and feelings of those who are affected by its policy. And we ought not, perhaps, to be surprised if a corporation like the Bank of the United States, from the feeling of rivalry, or from cold calculations of interest or ambition, should deliberately plan and execute a course of measures highly injurious and oppressive in places where the directors who control its conduct have no local sympathies to restrain them.

It is a fixed principle of our political institutions to guard against the unnecessary accumulation of power over persons and property in any hands. And no hands are less worthy to be trusted with it than those of a moneyed corporation. In the selection, therefore, of the State banks as the fiscal agents of the Government, no disadvantages appear to have been incurred on the score of safety or convenience, or the general interests of the country, while much that is valuable will be gained by the change. I am however well aware of the vast power of the Bank of the United States, and of its ability to bring distress and suffering on the country. This is one of the evils of chartering a bank with such an amount of capital, with the right of shooting its branches into every part of the Union, so as to extend its influence to every neighborhood. The immense loan of more than twenty-eight millions of dollars suddenly poured out, chiefly in the Western States in 1831, and the first four months in 1832, sufficiently attests that the bank is sensible of the power which its money gives it, and has placed itself in an attitude to make the people of the United States feel the weight of its resentment, if they presume to disappoint the wishes of the corporation. By a severe curtailment it has already made it proper to withdraw a portion of the money it held on deposit, and transfer it to the custody of the new fiscal agents, in order to shield the community from the injustice of the Bank of the United States.

But I have not supposed that the course of the Government ought to be regulated by the fear of the power of the bank. If such a motive could be allowed to influence the legislation of Congress, or the action of the Executive Departments of the Government, there is an end to the sovereignty of the people; and the liberties of the country are at once surrendered at the feet of a moneyed corporation. They may now demand the possession of the public money, or the renewal of the charter; and if these objects are yielded to them from apprehensions of their power, or from the suffering which rapid curtailments on their part are inflicting on the community, what may they not next require? Will submission render such a corporation more forbearing in its course? What law may it not hereafter demand, that it will not, if it pleases, be able to enforce by the same means?

These considerations need not, however, be pressed further in this report. They are too obvious and striking to need enforcement by argument. And I rely with confidence on the representatives of this enlightened nation to sustain a measure which the best interests of the country called for, and which had become absolutely necessary to preserve untainted its free institutions, and to secure the liberties and happiness of the people.

I have the honor to be, sir, very respectfully,
Your obedient servant,

R. B. TANEY,
Secretary of the Treasury.

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Fifth Annual Message—Andrew Jackson

Twenty-Third Congress, 1st Session

DECEMBER 5, 1833.

[Source: James D. Richardson, *A Compilation of the Messages and Papers of the Presidents*, Vol. 2, pp. 1249-1251]

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Since the last adjournment of Congress the Secretary of the Treasury has directed the money of the United States to be deposited in certain State banks designated by him, and he will immediately lay before you his reasons for this direction. I concur with him entirely in the view he has taken of the subject, and some months before the removal I urged upon the Department the propriety of taking that step. The near approach of the day on which the charter will expire, as well as the conduct of the bank, appeared to me to call for this measure upon the high considerations of public interest and public duty. The extent of its misconduct, however, although known to be great, was not at that time fully developed by proof. It was not until late in the month of August that I received from the Government directors an official report establishing beyond question that this great and powerful institution had been actively engaged in attempting to influence the elections of the public officers by means of its money, and that, in violation of the express provisions of its charter, it had by a formal resolution placed its funds at the disposition of its president to be em-

played in sustaining the political power of the bank. A copy of this resolution is contained in the report of the Government directors before referred to, and however the object may be disguised by cautious language, no one can doubt that this money was in truth intended for electioneering purposes, and the particular uses to which it was proved to have been applied abundantly show that it was so understood. Not only was the evidence complete as to the past application of the money and power of the bank to electioneering purposes, but that the resolution of the board of directors authorized the same course to be pursued in future.

It being thus established by unquestionable proof that the Bank of the United States was converted into a permanent electioneering engine, it appeared to me that the path of duty which the executive department of the Government ought to pursue was not doubtful. As by the terms of the bank charter no officer but the Secretary of the Treasury could remove the deposits, it seemed to me that this authority ought to be at once exerted to deprive that great corporation of the support and countenance of the Government in such a use of its funds and such an exertion of its power. In this point of the case the question is distinctly presented whether the people of the United States are to govern through representatives chosen by their unbiased suffrages or whether the money and power of a great corporation are to be secretly exerted to influence their judgment and control their decisions. It must now be determined whether the bank is to have its candidates for all offices in the country, from the highest to the lowest, or whether candidates on both sides of political questions shall be brought forward as heretofore and supported by the usual means.

At this time the efforts of the bank to control public opinion, through the distresses of some and the fears of others, are equally apparent, and, if possible, more objectionable. By a curtailment of its accommodations more rapid than any emergency requires, and even while it retains specie to an almost unprecedented amount in its vaults, it is attempting to produce great embarrassment in one portion of the community, while through presses known to have been sustained by its money it attempts by unfounded alarms to create a panic in all.

These are the means by which it seems to expect that it can force a restoration of the deposits, and as a necessary consequence extort from Congress a renewal of its charter. I am happy to know that through the good sense of our people the effort to get up a panic has hitherto failed, and that through the increased accommodations which the State banks have been enabled to afford, no public distress has followed the exertions of the bank, and it can not be doubted that the exercise of its power and the expenditure of its money, as well as its efforts to spread groundless alarm, will be met and rebuked as they deserve. In my own sphere of duty I should feel myself called on by the facts disclosed to order a *scire facias* against the bank, with a view to put an end to the chartered rights it has so palpably violated, were it not that the charter itself will expire as soon as a decision would probably be obtained from the court of last resort.

I called the attention of Congress to this subject in my last annual message, and informed them that such measures as were within the reach of the Secretary of the Treasury had been taken to enable him to

judge whether the public deposits in the Bank of the United States were entirely safe; but that as his single powers might be inadequate to the object, I recommended the subject to Congress as worthy of their serious investigation, declaring it as my opinion that an inquiry into the transactions of that institution, embracing the branches as well as the principal bank, was called for by the credit which was given throughout the country to many serious charges impeaching their character, and which, if true, might justly excite the apprehension that they were no longer a safe depository for the public money. The extent to which the examination thus recommended was gone into is spread upon your journals, and is too well known to require to be stated. Such as was made resulted in a report from a majority of the Committee of Ways and Means touching certain specified points only, concluding with a resolution that the Government deposits might safely be continued in the Bank of the United States. This resolution was adopted at the close of the session by the vote of a majority of the House of Representatives.

Although I may not always be able to concur in the views of the public interest or the duties of its agents which may be taken by the other departments of the Government or either of its branches, I am, notwithstanding, wholly incapable of receiving otherwise than with the most sincere respect all opinions or suggestions proceeding from such a source, and in respect to none am I more inclined to do so than to the House of Representatives. But it will be seen from the brief views at this time taken of the subject by myself, as well as the more ample ones presented by the Secretary of the Treasury, that the change in the deposits which has been ordered has been deemed to be called for by considerations which are not affected by the proceedings referred to, and which, if correctly viewed by that Department, rendered its act a matter of imperious duty.

Coming as you do, for the most part, immediately from the people and the States by election, and possessing the fullest opportunity to know their sentiments, the present Congress will be sincerely solicitous to carry into full and fair effect the will of their constituents in regard to this institution. It will be for those in whose behalf we all act to decide whether the executive department of the Government, in the steps which it has taken on this subject, has been found in the line of its duty.

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Sixth Annual Message—Andrew Jackson

Twenty-third Congress, 2d Session

DECEMBER 1, 1834.

[Source: James D. Richardson, A Compilation of the Messages and Papers of the Presidents, Vol. 2, pp. 1327-1331]

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Circumstances make it my duty to call the attention of Congress to the Bank of the United States. Created for the convenience of the Government, that institution has become the scourge of the people. Its interference to postpone the payment of a portion of the national debt

that it might retain the public money appropriated for that purpose to strengthen it in a political contest, the extraordinary extension and contraction of its accommodations to the community, its corrupt and partisan loans, its exclusion of the public directors from a knowledge of its most important proceedings, the unlimited authority conferred on the president to expend its funds in hiring writers and procuring the execution of printing, and the use made of that authority, the retention of the pension money and books after the selection of new agents, the groundless claim to heavy damages in consequence of the protest of the bill drawn on the French Government, have through various channels been laid before Congress. Immediately after the close of the last session the bank, through its president, announced its ability and readiness to abandon the system of unparalleled curtailment and the interruption of domestic exchanges which it had practiced upon from the 1st of August, 1833, to the 30th of June, 1834, and to extend its accommodations to the community. The grounds assumed in this announcement amounted to an acknowledgment that the curtailment, in the extent to which it had been carried, was not necessary to the safety of the bank, and had been persisted in merely to induce Congress to grant the prayer of the bank in its memorial relative to the removal of the deposits and to give it a new charter. They were substantially a confession that all the real distresses which individuals and the country had endured for the preceding six or eight months had been needlessly produced by it, with the view of affecting through the sufferings of the people of the legislative action of Congress. It is a subject of congratulation that Congress and the country had the virtue and firmness to bear the infliction, that the energies of our people soon found relief from this wanton tyranny in vast importations of the precious metals from almost every part of the world, and that at the close of this tremendous effort to control our Government the bank found itself powerless and no longer able to loan out its surplus means. The community had learned to manage its affairs without its assistance, and trade had already found new auxiliaries, so that on the 1st of October last the extraordinary spectacle was presented of a national bank more than one-half of whose capital was either lying unproductive in its vaults or in the hands of foreign bankers.

To the needless distresses brought on the country during the last session of Congress has since been added the open seizure of the dividends on the public stock to the amount of \$170,041, under pretense of paying damages, cost, and interest upon the protested French bill. This sum constituted a portion of the estimated revenues for the year 1834, upon which the appropriations made by Congress were based. It would as soon have been expected that our collectors would seize on the customs or the receivers of our land offices on the moneys arising from the sale of public lands under pretenses of claims against the United States as that the bank would have retained the dividends. Indeed, if the principle be established that anyone who chooses to set up a claim against the United States may without authority of law seize on the public property or money wherever he can find it to pay such claim, there will remain no assurance that our revenue will reach the Treasury or that it will be applied after the appropriation to the purposes designated in the law. The paymasters of our Army and the pursers of our Navy

may under like pretenses apply to their own use moneys appropriated to set in motion the public force, and in time of war leave the country without defense. This measure resorted to by the bank is disorganizing and revolutionary, and if generally resorted to by private citizens in like cases would fill the land with anarchy and violence.

It is a constitutional provision "that no money shall be drawn from the Treasury but in consequence of appropriations made by law." The palpable object of this provision is to prevent the expenditure of the public money for any purpose whatsoever which shall not have been first approved by the representatives of the people and the States in Congress assembled. It vests the power of declaring for what purposes the public money shall be expended in the legislative department of the Government, to the exclusion of the executive and judicial, and it is not within the constitutional authority of either of those departments to pay it away without law or to sanction its payment. According to this plain constitutional provision, the claim of the bank can never be paid without an appropriation by act of Congress. But the bank has never asked for an appropriation. It attempts to defeat the provision of the Constitution and obtain payment without an act of Congress. Instead of awaiting an appropriation passed by both Houses and approved by the President, it makes an appropriation for itself and invites an appeal to the judiciary to sanction it. That the money had not technically been paid into the Treasury does not affect the principle intended to be established by the Constitution. The Executive and the judiciary have as little right to appropriate and expend the public money without authority of law before it is placed to the credit of the Treasury as to take it from the Treasury. In the annual report of the Secretary of the Treasury, and in his correspondence with the president of the bank, and the opinions of the Attorney-General accompanying it, you will find a further examination of the claims of the bank and the course it has pursued.

It seems due to the safety of the public funds remaining in that bank and to the honor of the American people that measures be taken to separate the Government entirely from an institution so mischievous to the public prosperity and so regardless of the Constitution and laws. By transferring the public deposits, by appointing other pension agents as far as it had the power, by ordering the discontinuance of the receipt of bank checks in the payment of the public dues after the 1st day of January, the Executive has exerted all its lawful authority to sever the connection between the Government and this faithless corporation.

The high-handed career of this institution imposes upon the constitutional functionaries of this Government duties of the gravest and most imperative character—duties which they can not avoid and from which I trust there will be no inclination on the part of any of them to shrink. My own sense of them is most clear, as is also my readiness to discharge those which may rightfully fall on me. To continue any business relations with the Bank of the United States that may be avoided without a violation of the national faith after that institution has set at open defiance the conceded right of the Government to examine its affairs, after it has done all in its power to deride the public authority in other respects and to bring it into disrepute at

home and abroad, after it has attempted to defeat the clearly expressed will of the people by turning against them the immense power intrusted to its hands and by involving a country otherwise peaceful, flourishing, and happy, in dissension, embarrassment, and distress, would make the nation itself a party to the degradation so sedulously prepared for its public agents and do much to destroy the confidence of mankind in popular governments and to bring into contempt their authority and efficiency. In guarding against an evil of such magnitude considerations of temporary convenience should be thrown out of the question, and we should be influenced by such motives only as look to the honor and preservation of the republican system. Deeply and solemnly impressed with the justice of these views, I feel it to be my duty to recommend to you that a law be passed authorizing the sale of the public stock; that the provision of the charter requiring the receipt of notes of the bank in payment of public dues shall, in accordance with the power reserved to Congress in the fourteenth section of the charter, be suspended until the bank pays to the Treasury the dividends withheld, and that all laws connecting the Government or its officers with the bank, directly or indirectly, be repealed, and that the institution be left hereafter to its own resources and means.

Events have satisfied my mind, and I think the minds of the American people, that the mischiefs and dangers which flow from a national bank far overbalance all its advantages. The bold effort the present bank has made to control the Government, the distresses it has wantonly produced, the violence of which it has been the occasion in one of our cities famed for its observance of law and order, are but premonitions of the fate which awaits the American people should they be deluded into a perpetuation of this institution or the establishment of another like it. It is fervently hoped that thus admonished those who have heretofore favored the establishment of a substitute for the present bank will be induced to abandon it, as it is evidently better to incur any inconvenience that may be reasonably expected than to concentrate the whole moneyed power of the Republic in any form whatsoever or under any restrictions.

Happily it is already illustrated that the agency of such an institution is not necessary to the fiscal operations of the Government. The State banks are found fully adequate to the performance of all services which were required of the Bank of the United States, quite as promptly and with the same cheapness. They have maintained themselves and discharged all these duties while the Bank of the United States was still powerful and in the field as an open enemy, and it is not possible to conceive that they will find greater difficulties in their operations when that enemy shall cease to exist.

The attention of Congress is earnestly invited to the regulation of the deposits in the State banks by law. Although the power now exercised by the executive department in this behalf is only such as was uniformly exerted through every Administration from the origin of the Government up to the establishment of the present bank, yet it is one which is susceptible of regulation by law, and therefore ought so to be regulated. The power of Congress to direct in what places the Treasurer shall keep the moneys in the Treasury and to impose restrictions upon the Executive authority in relation to their custody and

removal is unlimited, and its exercise will rather be courted than discouraged by those public officers and agents on whom rests the responsibility for their safety. It is desirable that as little power as possible should be left to the President or the Secretary of the Treasury over those institutions, which, being thus freed from Executive influence, and without a common head to direct their operations, would have neither the temptation nor the ability to interfere in the political conflicts of the country. Not deriving their charters from the national authorities, they would never have those inducements to meddle in general elections which have led the Bank of the United States to agitate and convulse the country for upward of two years.

The progress of our gold coinage is creditable to the officers of the Mint, and promises in a short period to furnish the country with a sound and portable currency, which will much diminish the inconvenience to travelers of the want of a general paper currency should the State banks be incapable of furnishing it. Those institutions have already shown themselves competent to purchase and furnish domestic exchange for the convenience of trade at reasonable rates, and not a doubt is entertained that in a short period all the wants of the country in bank accommodations and exchange will be supplied as promptly and as cheaply as they have heretofore been by the Bank of the United States. If the several States shall be induced gradually to reform their banking systems and prohibit the issue of all small notes, we shall in a few years have a currency as sound and as little liable to fluctuations as any other commercial country.

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Annual Report, Secretary of Treasury (Levi Woodbury)

Twenty-Third Congress, 2d Session

DECEMBER 4, 1834.

[Source: House Doc. 3, 23d Congress, 2d Session, pp. 6-8, 16-18]

TREASURY DEPARTMENT,
December 2, 1834.

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The revenue from bank dividends has been estimated at somewhat less than heretofore, in consequence of the sales of our bank stock, under the act of July 10, 1832, for the investment of the accruing income of the Navy Pension and Hospital funds having already amounted to \$656,600, and on which the Treasury can now receive no dividends applicable to general purposes. It might, perhaps, be advisable to deduct a still further sum to meet any contingency like that of the present year, in which the United States Bank, without the consent of this department, or the sanction of Congress, and without any forewarning of its intention, seized on about \$170,041 of the estimated revenue from this source, and has since withheld it from the public Treasury.

Copies of the opinions of the Attorney General, and the whole correspondence on this subject between the Department and the Bank, which took place previously to the request for these opinions, are an-

nexed for the consideration and action of Congress, [B.] It may be proper to add, that, within a few days past, a new communication in relation to this transaction has been received from the Bank, and, when a reply is finished, both will be submitted, if desired. No foundation appears to have existed, in *law* or *equity*, for the great claim of damages made by the Bank on account of the protest of what has been called, in common parlance, the bill of exchange drawn on the French Government by this department. It is believed that the bill, when protested, ought by our agents abroad, had they acted with due regard towards their principal, to have been taken up for the credit of that principal, which was the United States, rather than for the credit of the Bank; or, at the furthest, if similar and conflicting relations existed between them and the Bank, they should have pursued the equitable course of taking it up for the credit of both the United States and the Bank, or the more liberal one of giving the preference to the Government, which was the drawer; and, in either of these events, no room for difficulty by this extraordinary claim would probably have been left. But as these agents preferred a different course, thereby justly impairing the further confidence of the Government in their discretion, it would seem that the Bank, in the next place, having long been the general fiscal agent of the Government, and the primary one in importance, should have returned the bill, and made no charge against its principal, the United States, except for the actual advances, and the actual costs and expenses it had incurred in the transaction. The actual advances by the Bank, when the bill was originally received, had only been a matter of form, and were nothing.

The money, in fact, never belonged to this department, except in trust for the merchants, or their widows and orphans, who had suffered by French spoliations: and a sum exceeding the whole amount of it having been left in the Bank and its branches, and no part of the money having ever been brought into the Treasury by warrant, it was, immediately on notice of the protest, restored in form, and a willingness was expressed to make remuneration to the Bank for all reasonable costs and expenses.

But the temptation of an opportunity to obtain more from its principal, by a novel species of litigation, through a virtual judicial prosecution for damages against the Government of the Union, seems to have been too strong for resistance; and the Bank concluded to depart from the above equitable rule, and, by some technical regulation of strict law between individuals, to attempt to procure a large sum, of mere constructive damages; and by the extraordinary mode of seizing on the dividends, which had been declared by the Bank itself to belong to the United States, and of withholding them, to abide the ordinary contingencies of a law-suit. It seems to have preferred this unprecedented course rather than to pursue the usual mode of a petition addressed to the justice of Congress, though Congress is well known to be the customary and only tribunal for adjusting controverted claims against the Government, when no suit is pending by the United States, and the only tribunal, which, under the constitution, is empowered to appropriate money to discharge any claim whatever. After applying to this department, and being, so long as a year ago last June, informed of its inability to admit, or authority to discharge

the damages demanded, it is remarkable that the Bank should have continued to pay over the accruing dividends, and not till after the last session closed, and when any deficiency in the current revenue could not be provided for, should, without any prior application to Congress, have resorted to this unusual proceeding, and sought to have its claim against the United States adjudicated by the Judiciary, when the United States are not amenable to any citizen or corporation, high or low, before the Judiciary, for the decision of any claim, unless they have, of their own accord, been pleased to resort to that tribunal, by a previous action against a debtor; and in which event only is a set-off, under certain limitations, authorized to be pleaded as either equitable or legal. But here the United States had instituted no such action against the Bank, and had no intention or foundation to institute one: and yet the Bank, not in the case provided in the charter where dividends might be withheld, but by an unfaithful act as an agent, and as a public corporation, towards its principal and the community, proceeded to seize their dividends in a case entirely different and most questionable, in equity as well as law, and refused to fulfil the duty imposed by its charter, and by civil and moral obligations, of paying over those dividends promptly to the Treasury. In the adoption of this reprehensible course, an attempt is made to force the Government either to lose their dividends entirely, or to pay a controverted claim for damages, which, so far as any of its departments or officers have examined it, was found, and pronounced to be, groundless; or consent to let the United States be arraigned as a debtor, and compelled to submit the claim to decision before a branch of their own Government, to which such claims are not ordinarily submitted, and to whose decision it could not be referred, in this instance, but by the previous commission, on the part of the Bank, of a deliberate violation of its obligations.

The further attempt appears to be made, in this way, to take from Congress and the Executive the constitutional power, on their high official responsibilities and deep sense of duty, to make or withhold appropriations to discharge all controverted demands against the United States, and to enable the Judiciary, instead of them, indirectly and unconstitutionally to make these appropriations, in all cases of citizens or corporations who possess doubtful claims, and are unscrupulous enough to commit, in order to prevent their adjudication by Congress, a deliberate attack on the property of the United States, or a deliberate sequestration of their acknowledged dues.

For further and more detailed views on this extraordinary case, a reference is made to the whole correspondence and opinions annexed, without the discussion of any course which the power and the wisdom of Congress are able to select for evincing its opinions on this outrage, whether by withdrawing indulgencies from the Bank as to the receipt of its notes for public dues, or by adopting some other measure on the subject, which the nature of the transaction, the rights of the United States, and the constitutional authority of Congress, may be thought to justify and demand. Believing that a similar seizure was not likely to be repeated by the Bank in 1835, under the other pretence of satisfying claims for damages, in consequence of

the removal of the deposits, as set up in its second letter, this department has estimated the probable revenue the ensuing year from this source, at the usual rate of dividends lately made on all our stock in the Bank, remaining after the sales which have taken place for the investment of the Navy Pension and Hospital funds. But should Congress, on a full examination of the subject, think otherwise, it may be provident to supply some other equivalent for this portion of the estimated receipts.

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This subject of interest from the deposit banks, at some rate, and under some circumstances, was adverted to in a report by a committee in one House of Congress the last session, and would at this time be more fully examined, in connexion with that report, and the subsequent intimation of the United States Bank of its claim for damages on account of the late removal of the deposits, connected, it is apprehended, with the idea of a profit or interest derived from them, were it supposed that either point could, in the present condition of things, be considered of any practical importance. But the balance of money at present on hand, as before remarked, is merely the usual and convenient amount for current fiscal operations, and most of it is liable, at any moment, to be withdrawn to meet existing appropriations.

While the intimation of the Bank, resting, as it probably must, on an impression that the *bonus* was paid instead of interest on the public deposits, is not believed to be supported by the language or spirit of the charter, which required the bonus "for the exclusive privileges and benefits conferred by this act on the Bank," and which *exclusive* favors, whether termed *privileges* or *benefits*, consisted principally in the sole right of banking for twenty years, and for which alone Mr. Madison, in his veto of 1815, and Mr. Dallas, in his letter of December 24, 1815, thought that a bonus should be paid to the Government; the latter further observed, that, "independent of the bonus here proposed to be exacted, there are undoubtedly many public advantages to be drawn from the establishment of a National Bank, but they are generally of an incidental kind, and, as in the case of *deposits* and distribution of the revenue, may be regarded in the light of equivalents, not for the monopoly of the charter, but for the reciprocal advantages of a fiscal connexion with the Government."

If the reasons should ever be presented to this department, in support of the late intimation of a demand for damages for the removal of the deposits, in a case where the bonus was claimed and paid on the above grounds, and where the right to remove the deposits was expressly reserved in the charter to the officer removing them, it will then, probably, be in season to enter more fully into this collateral question. Or should the balance in the possession of the State banks at any time become much larger than the current demands existing against the Treasury, it will, if Congress do not earlier think proper to act on it prospectively, nor to authorize any temporary investment of it, be then considered necessary and proper for this department to examine in what cases, and under what circumstances, on what surpluses, and at what rate, interest could equitably be demanded, in addition to the useful duties performed by the selected banks in behalf of the Treasury.

On these points, however, it is hoped that this department will not be understood as recommending that taxes should ever be imposed with a view to permit a large surplus any more than a deficiency to occur; but that, when the former unexpectedly and unintentionally happens, an income should be realized from it, by interest or an investment, until, at the end of every few years, a thorough revision of the tariff would, in the pursuit of this policy, be made, and so graduated, as during the next succeeding term to be likely to correct any great irregularities, whether excesses or deficiencies, that had happened during the preceding term, and to lead to the sale and use of any interest or investments which, in the mean time, had accumulated.

Those other questions naturally connected with the present deposit banks, and, indeed, with our whole existing system of finance, so far as regards the keeping and disbursing the public money, might here be appropriately considered. Yet, without any desire to avoid, but rather from a wish to submit, that full and frank discussion of them which their acknowledged importance, and the exciting interest in them, demand from the fiscal department of the Government, they will be postponed to a separate supplemental report, which will be confined exclusively to their consideration, and will soon be presented to Congress.

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Seventh Annual Message—Andrew Jackson

Twenty-Fourth Congress, 1st Session

DECEMBER 7, 1835.

[Source: James D. Richardson, *A Compilation of the Messages and Papers of the Presidents*, Vol. 2, pp. 1382-1387]

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It is also incumbent on Congress in guarding the pecuniary interests of the country to discontinue by such a law as was passed in 1812 the receipt of the bills of the Bank of the United States in payment of the public revenue, and to provide for the designation of an agent whose duty it shall be to take charge of the books and stock of the United States in that institution, and to close all connection with it after the 3d of March, 1836, when its charter expires. In making provision in regard to the disposition of this stock it will be essential to define clearly and strictly the duties and powers of the officer charged with that branch of the public service.

It will be seen from the correspondence which the Secretary of the Treasury will lay before you that notwithstanding the large amount of the stock which the United States hold in that institution no information has yet been communicated which will enable the Government to anticipate when it can receive any dividends or derive any benefit from it.

Connected with the condition of the finances and the flourishing state of the country in all its branches of industry, it is pleasing to witness the advantages which have been already derived from the recent laws regulating the value of the gold coinage. These advantages

will be more apparent in the course of the next year, when the branch mints authorized to be established in North Carolina, Georgia, and Louisiana shall have gone into operation. Aided, as it is hoped they will be, by further reforms in the banking systems of the States and by judicious regulations on the part of Congress in relation to the custody of the public moneys, it may be confidently anticipated that the use of gold and silver as a circulating medium will become general in the ordinary transactions connected with the labor of the country. The great desideratum in modern times is an efficient check upon the power of banks, preventing that excessive issue of paper whence arise those fluctuations in the standard of value which render uncertain the rewards of labor. It was supposed by those who established the Bank of the United States that from the credit given to it by the custody of the public moneys and other privileges and the precautions taken to guard against the evils which the country had suffered in the bankruptcy of many of the State institutions of that period we should derive from that institution all the security and benefits of a sound currency and every good end that was attainable under that provision of the Constitution which authorizes Congress alone to coin money and regulate the value thereof. But it is scarcely necessary now to say that these anticipations have not been realized.

After the extensive embarrassment and distress recently produced by the Bank of the United States, from which the country is now recovering, aggravated as they were by pretensions to power which defied the public authority, and which if acquiesced in by the people would have changed the whole character of our Government, every candid and intelligent individual must admit that for the attainment of the great advantages of a sound currency we must look to a course of legislation radically different from that which created such an institution.

In considering the means of obtaining so important an end we must set aside all calculations of temporary convenience, and be influenced by those only which are in harmony with the true character and the permanent interests of the Republic. We must recur to first principles and see what it is that has prevented the legislation of Congress and the States on the subject of currency from satisfying the public expectation and realizing results corresponding to those which have attended the action of our system when truly consistent with the great principle of equality upon which it rests, and with that spirit of forbearance and mutual concession and generous patriotism which was originally, and must ever continue to be, the vital element of our Union.

On this subject I am sure that I can not be mistaken in ascribing our want of success to the undue countenance which has been afforded to the spirit of monopoly. All the serious dangers which our system has yet encountered may be traced to the resort to implied powers and the use of corporations clothed with privileges, the effect of which is to advance the interests of the few at the expense of the many. We have felt but one class of these dangers exhibited in the contest waged by the Bank of the United States against the Government for the last four years. Happily they have been obviated for the present by the indignant resistance of the people, but we should recollect that the principle whence they sprung is an ever-active one, which will not

fail to renew its efforts in the same and in other forms so long as there is a hope of success, founded either on the inattention of the people or the treachery of their representatives to the subtle progress of its influence. The bank is, in fact, but one of the fruits of a system at war with the genius of all our institutions—a system founded upon a political creed the fundamental principle of which is a distrust of the popular will as a safe regulator of political power, and whose great ultimate object and inevitable result, should it prevail, is the consolidation of all power in our system in one central government. Lavish public disbursements and corporations with exclusive privileges would be its substitutes for the original and as yet sound checks and balances of the Constitution—the means by whose silent and secret operation a control would be exercised by the few over the political conduct of the many by first acquiring that control over the labor and earnings of the great body of the people. Wherever this spirit has effected an alliance with political power, tyranny and despotism have been the fruit. If it is ever used for the ends of government, it has to be incessantly watched, or it corrupts the sources of the public virtue and agitates the country with questions unfavorable to the harmonious and steady pursuit of its true interests.

We are now to see whether, in the present favorable condition of the country, we can not take an effectual stand against this spirit of monopoly, and practically prove in respect to the currency as well as other important interests that there is no necessity for so extensive a resort to it as that which has been heretofore practiced. The experience of another year has confirmed the utter fallacy of the idea that the Bank of the United States was necessary as a fiscal agent of the Government. Without its aid as such, indeed, in despite of all the embarrassment it was in its power to create, the revenue has been paid with punctuality by our citizens, the business of exchange, both foreign and domestic, has been conducted with convenience, and the circulating medium has been greatly improved. By the use of the State banks, which do not derive their charters from the General Government and are not controlled by its authority, it is ascertained that the moneys of the United States can be collected and disbursed without loss or inconvenience, and that all the wants of the community in relation to exchange and currency are supplied as well as they have ever been before. If under circumstances the most unfavorable to the steadiness of the money market it has been found that the considerations on which the Bank of the United States rested its claims to the public favor were imaginary and groundless, it can not be doubted that the experience of the future will be more decisive against them.

It has been seen that without the agency of a great moneyed monopoly the revenue can be collected and conveniently and safely applied to all the purposes of the public expenditure. It is also ascertained that instead of being necessarily made to promote the evils of an unchecked paper system, the management of the revenue can be made auxiliary to the reform which the legislatures of several of the States have already commenced in regard to the suppression of small bills, and which has only to be fostered by proper regulations on the part of Congress to secure a practical return to the extent required for the security of the currency to the constitutional medium.

Severed from the Government as political engines, and not susceptible of dangerous extension and combination, the State banks will not be tempted, nor will they have the power, which we have seen exercised, to divert the public funds from the legitimate purposes of the Government. The collection and custody of the revenue, being, on the contrary, a source of credit to them, will increase the security which the States provide for a faithful execution of their trusts by multiplying the scrutinies to which their operations and accounts will be subjected. Thus disposed, as well from interest as the obligations of their charters, it can not be doubted that such conditions as Congress may see fit to adopt respecting the deposits in these institutions, with a view to the gradual disuse, of the small bills will be cheerfully complied with, and that we shall soon gain in place of the Bank of the United States a practical reform in the whole paper system of the country. If by this policy we can ultimately witness the suppression of all bank bills below \$20, it is apparent that gold and silver will take their place and become the principal circulating medium in the common business of the farmers and mechanics of the country. The attainment of such a result will form an era in the history of our country which will be dwelt upon with delight by every true friend of its liberty and independence. It will lighten the great tax which our paper system has so long collected from the earnings of labor, and do more to revive and perpetuate those habits of economy and simplicity which are so congenial to the character of republicans than all the legislation which has yet been attempted.

To this subject I feel that I can not too earnestly invite the special attention of Congress, without the exercise of whose authority the opportunity to accomplish so much public good must pass unimproved. Deeply impressed with its vital importance, the Executive has taken all the steps within his constitutional power to guard the public revenue and defeat the expectation which the Bank of the United States indulged of renewing and perpetuating its monopoly on the ground of its necessity as a fiscal agent and as affording a sounder currency than could be obtained without such an institution. In the performance of this duty much responsibility was incurred which would have been gladly avoided if the stake which the public had in the question could have been otherwise preserved. Although clothed with the legal authority and supported by precedent, I was aware that there was in the act of the removal of the deposits a liability to excite that sensitiveness to Executive power which it is the characteristic and the duty of freemen to indulge; but I relied on this feeling also, directed by patriotism and intelligence, to vindicate the conduct which in the end would appear to have been called for by the best interests of my country. The apprehensions natural to this feeling that there may have been a desire, through the instrumentality of that measure, to extend the Executive influence, or that it may have been prompted by motives not sufficiently free from ambition, were not overlooked. Under the operation of our institutions the public servant who is called on to take a step of high responsibility should feel in the freedom which gives rise to such apprehensions his highest security. When unfounded the attention which they arouse and the discussions they excite deprive those who indulge them of the power to do harm; when just they but hasten the certainty with which the great body of our citizens never fail to repel

an attempt to procure their sanction to any exercise of power inconsistent with the jealous maintenance of their rights. Under such convictions, and entertaining no doubt that my constitutional obligations demanded the steps which were taken in reference to the removal of the deposits, it was impossible for me to be deterred from the path of duty by a fear that my motives could be misjudged or that political prejudices could defeat the just consideration of the merits of my conduct. The result has shewn how safe is this reliance upon the patriotic temper and enlightened discernment of the people. That measure has now been before them and has stood the test of all the severe analysis which is general importance, the interests it affected, and the apprehensions it excited were calculated to produce, and it now remains for Congress to consider what legislation has become necessary in consequence.

I need only add to what I have on former occasions said on this subject generally that in the regulations which Congress may prescribe respecting the custody of the public moneys it is desirable that as little discretion as may be deemed consistent with their safe-keeping should be given to the executive agents. No one can be more deeply impressed than I am with the soundness of the doctrine which restrains and limits, by specific provisions, executive discretion, as far as it can be done consistently with the preservation of its constitutional character. In respect to the control over the public money this doctrine is peculiarly applicable, and is in harmony with the great principle which I felt I was sustaining in the controversy with the Bank of the United States, which has resulted in severing to some extent a dangerous connection between a moneyed and political power. The duty of the Legislature to define, by clear and positive enactments, the nature and extent of the action which it belongs to the Executive to superintend springs out of a policy analogous to that which enjoins upon all the branches of the Federal Government an abstinence from the exercise of powers not clearly granted.

In such a Government, possessing only limited and specific powers, the spirit of its general administration can not be wise or just when it opposes the reference of all doubtful points to the great source of authority, the States and the people, whose number and diversified relations, securing them against the influences and excitements which may mislead their agents, make them the safest depository of power. In its application to the Executive, with reference to the legislative branch of the Government, the same rule of action should make the President ever anxious to avoid the exercise of any discretionary authority which can be regulated by Congress. The biases which may operate upon him will not be so likely to extend to the representatives of the people in that body.

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Annual Report, Secretary of Treasury (Levi Woodbury)

Twenty-Fourth Congress, 1st Session

DECEMBER 8, 1835.

[Source: House Doc. 3, 24th Congress, 1st Session, pp. 20-25]

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VI. DEPOSITE BANKS AND THE CURRENCY

This Department takes pleasure in stating that the public money continues to be collected and deposited, under the present system of selected banks, with great ease and economy in all cases, and with greater in some than at any former period. The transfers of it to every quarter of the country where it is needed for disbursement, have never been effected with more promptitude, and have been made entirely free of expense to the Treasury. The payments to creditors, officers, and pensioners, have been punctual and convenient; and the whole fiscal operations through the State banks have, as yet, proved highly satisfactory. Incidental to this, the facilities that have been furnished to the commercial community in domestic exchanges, were probably never greater, or at so moderate rates. In the course of this year, additional depositories have been selected in four States, where no new ones before existed, and all the branches of the United States Bank, for some months, have been discontinued for ordinary fiscal purposes. They are, however, still used, as claimed by the Bank, under acts of Congress, for the payment of the outstanding portions of the funded debt, and of invalid and other pensions, prior to 1832, except where the Department has been notified that the branches were withdrawn, as in New Hampshire, Connecticut, Kentucky, Ohio, Missouri, Western Pennsylvania, Maryland, South Carolina, and the interior of New York. The whole number of selected banks, without including branches, is now thirty-four, being, notwithstanding the addition of four new ones, less by six, than last year.

This diminution has been effected by the discontinuance of various old, and to the Treasury, unimportant institutions, employed before 1833, in connection with the United States Bank, and by adding no new ones, except where the public interests seemed to render it imperative or expedient. A great, though not the chief, cause of some loss, which formerly happened in the deposits in State banks, is believed to have been the multiplication of them to something over one hundred in number. The system is now arranged so as probably to require hereafter few changes, excepting two or three instances, concerning which a correspondence is now pending, unless, as is not anticipated, such onerous conditions should be exacted by Congress, of the present safe and efficient depositories, as to derange the system, induce some of them to withdraw, and compel the Department to in-

trust the public funds to other agents, less cautious, skilful, and trust-worthy. Great care has been exercised in preparing, from the last returns made to this Department, and from data since obtained by an extensive correspondence, tabular statements, which show, in the most essential particulars, as near the first of January, 1835, and as fully as could be obtained, the names and condition of each of the State banks in the Union, of each of the selected banks, of the United States Bank, and of all combined. They exhibit, further, the capital and situation of all the banks in each of the large cities in the United States, as well as of all in each State, arranged together for convenience of reference, and the changes which have since happened in the condition of the deposite and United States banks. So far as regards the capital, discounts, &c. of all the State banks, only the general exhibit of the aggregate results in each State, is now communicated, but, in a few days, all the voluminous details on those points will be submitted to the House of Representatives, in compliance with its resolution of the 10th of July 1832.

It will be seen that the situation of the selected banks, as a whole, bears an enviable comparison with the rest.

In all cases deemed proper, they have given collateral security, and are all believed to be entirely safe, to the extent they have been confided in. Their discounts have been, in general, somewhat increased, but though tempted by the enterprising spirit of the times, not usually increased in a degree disproportioned to all their immediate available means. They have also, in some cases, been able to aid, and have liberally aided, other banking institutions in their neighborhood, by as large and long balances and other indulgences as would generally appear to have been sanctioned by correct principles. The names of each, with the amount of money in each belonging to the Treasury, and subject to draft, not only at the commencement of the present year, but at the very last returns received, can be seen in three of the columns of the statement. The distribution of these sums is generally that which has been given to them by circumstances connected with their collection and disbursement. No occasion has arisen, in which the Department felt justified in making transfers of the public money, except from points where it had accumulated, in the natural course of collection, much beyond the present and early anticipated wants of the Government in that neighborhood, or in sums not proportioned to the responsibility of the public depositories there, and to points where it either would be better secured, or probably would soon be needed for disbursement, or could, from the course of trade and exchange, be more readily applied to any new objects which Congress would be likely soon to sanction. These transfers, when rendered necessary, have been performed in such directions, and so gradually, that it is believed they have tended to obviate rather than create any pressure in the money market, and to aid materially the course of business in exchanges and the other commercial operations of the country.

The Department is aware, that, in the present overflowing condition of the Treasury, the regulation of these operations, with the selection and superintendence of the deposite banks, is a task of no

small difficulty and delicacy; and when governed by a strict and uniform adherence to sound principles, as has been attempted, must necessarily lead to many disappointed applications. But in the absence of that specific legislation on the subject, which has been, and still is, earnestly requested, the Department has not hesitated (it is hoped faithfully) to discharge, and frankly to explain, the duties, and the high and painful responsibility which so much discretionary power has imposed.

For various reasons of public importance, it was deemed desirable, and measures have been adopted, and recommendations urged, that the specie in the vaults of a number of the selected Banks, should be still more increased in comparison with their issues and deposits, and that a still larger portion of the whole currency of the country, especially for small purposes, should be metallic. In improvement of the currency during the past year, many of the selected banks have not only continued to obtain and pay, when wanted, to the public creditors, American gold, but have entered into salutary arrangements for the redemption, in our large cities, of most of their bills, which may be received in payment of the public dues. It is hoped, that in the progress of time, these beneficial arrangements may be further extended to most, if not all, of the bills in circulation, of the large institutions, and the introduction of hard money, for the ordinary uses of life, be facilitated, by all the banks ceasing to circulate bills of small denominations. It is gratifying to find, that since the adjournment of Congress, in addition to the States of Pennsylvania, Maryland, Virginia, Georgia, Tennessee, Louisiana, North Carolina, Indiana, and Kentucky, which, before that time, are believed not to have allowed the circulation of bills under five dollars, others, viz: Maine, Connecticut, New York, New Jersey, and Alabama, have united in similar legislative measures except Connecticut, has, as yet, extended the prohibition to only one and two dollar bills. In Mississippi and Illinois, it is understood that bills under five dollars have not recently been issued, and Missouri has no bank issuing bills of any denomination. So that more than two-thirds of the States have already usages or laws in existence, on this subject, of a highly salutary tendency. The great benefits which have already resulted to the general condition of the currency where such measures have been tested, besides numerous others to the security of the banks themselves, and to the less moneyed classes of society, detailed in the supplement to the last annual report from this Department, would seem to be a sufficient inducement for similar legislation on this important subject in all the States. In some of them, where no laws have yet been passed to suppress the circulation of small notes, their deposite banks have voluntarily entered into arrangements not to issue certain descriptions of them, and most of the deposite banks have, in a correspondence with the Department, evinced a willingness to cooperate in the suppression of small notes, whenever the regulation can be made general. The Treasury, so far as seemed practicable and judicious with its present powers, has endeavored to promote so desirable an end, not only by instituting the inquiries in that correspondence, but by instructions to its collecting officers not to receive in payment any bills

under five dollars after the 30th of September, 1835. It proposes to go further on this point the ensuing year, so as to prevent the receipt for public dues of all bank notes under ten dollars, unless Congress in the mean time shall adopt some new provisions on this subject, similar, it is hoped, to what previously have been, and still are, urged by this Department, not only as to the deposit banks, and the kind of bills received for the revenue, but as to the suppression entirely in the District of Columbia of the circulation of any bank notes under ten dollars in amount. The means for a sound currency in this country are at present ample. Within the last two years, or from October 1st, 1833, to Nov. 1st, 1835, in addition to the former stock of specie, there has been imported into the United States, beyond the exports from it, with a due allowance for what does not appear on the custom-house books, more than twenty-seven millions; and the produce of our own mines within that period, is estimated to have been over three millions. Hence the whole amount of specie now in the country, probably exceeds the sum of sixty-four millions, and the means of the community to obtain more from abroad, to meet any contemplated changes in the character of our currency, were never greater. The actual amount of specie returned, and estimated as belonging to all the banks in the United States, about the 1st of January, 1835, was near forty-four millions. As a portion of that may have been bullion, a sum quite equalling, if not exceeding the remainder of twenty millions, probably consists of the amount of specie in active circulation, which has been somewhat increased throughout the country during the last two years, so that, if the remaining small bills in circulation under five dollars in the whole Union, which are chiefly in seven States, and which probably do not exceed six or seven millions, were withdrawn, it would not require, to supply their places, one-third of the addition which has been made in the last two years to the national stock of the precious metals. The specie on hand, in banks, will in this way, as it ought, soon bear a larger proportion to their notes in circulation, and the security and real usefulness of all banking institutions to the community be thus greatly augmented. The specie in active circulation, thus increased by excluding small notes, will constitute, while retained in the country, a great and safe reliance for the banks to depend on, (beside what belongs to them in their vaults,) whenever an unfavorable course of exchange abroad, or a panic at home, should cause an unusual demand for specie to be shipped abroad, to meet a balance of trade against us, or to be used in circulation at home, by those whose confidence, from real or imaginary causes, may for a time become diminished in the security of banks. When the further suppression of small notes, extending to all under ten dollars in amount, shall be deemed advisable by Congress and the States, no doubt is entertained that sufficient specie can and will be readily found to supply their place, in connection with what now exists in the country. The proportion of specie to bank notes in circulation will not then be so great as it is in all the most commercial nations in Europe. How much further it may be deemed feasible to go, with a fair prospect of advantage to the community and our currency, can be better settled at that time than at the present.

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Act of June 23, 1836

[5 Statutes at Large 52, Twenty-Fourth Congress, Chapter 115, 1st Session, Approved June 23, 1836, by Andrew Jackson]

AN ACT TO REGULATE THE DEPOSITES OF THE PUBLIC MONEY.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the Secretary of the Treasury to select as soon as may be practicable and employ as the depositories of the money of the United States, such of the banks incorporated by the several States, by Congress for the District of Columbia, or by the Legislative Councils of the respective Territories for those Territories, as may be located at, adjacent or convenient to the points or places at which the revenues may be collected, or disbursed, and in those States, Territories or Districts in which there are no banks, or in which no bank can be employed as a deposite bank, and within which the public collections or disbursements require a depository, the said Secretary may make arrangements with a bank or banks, in some other State, Territory or District, to establish an agency, or agencies, in the States, Territories or Districts so destitute of banks, as banks of deposite; and to receive through such agencies such deposites of the public money, as may be directed to be made at the points designated, and to make such disbursements as the public service may require at those points; the duties and liabilities of every bank thus establishing any such agency to be the same in respect to its agency, as are the duties and liabilities of deposite banks generally under the provisions of this act: *Provided,* That at least one such bank shall be selected in each State and Territory, if any can be found in each State and Territory willing to be employed as depositories of the public money, upon the terms and conditions hereinafter prescribed, and continue to conform thereto; and that the Secretary of the Treasury shall not suffer to remain in any deposite bank, an amount of the public moneys more than equal to three-fourths of the amount of its capital stock actually paid in, for a longer time than may be necessary to enable him to make the transfers required by the twelfth section of this act; and that the banks so selected, shall be, in his opinion, safe depositories of the public money, and shall be willing to undertake to do and perform the several duties and services, and to conform to the several conditions prescribed by this act.

Secretary of
the Treasury
to select banks.

Proviso.

SEC. 2. *And be it further enacted,* That if, at any point or place at which the public revenue may be collected, there shall be no bank located, which, in the opinion of the Secretary of the Treasury, is in a safe condition, or where all the banks at such point or place shall fail or refuse to be employed as depositories of the public money of the United States, or to comply with the conditions

Where there is no bank which the Secretary approves, or where banks refuse, a selection may be made at some place adjacent.

prescribed by this act, or where such banks shall not have sufficient capital to become depositories of the whole amount of moneys collected at such point or place, he shall and may order and direct the public money collected at such point or place to be deposited in a bank or banks in the same State, or in some one or more of the adjacent States upon the terms and conditions herein-after prescribed: *Provided*, That nothing in this act contained shall be so construed as to prevent Congress at any time from passing any law for the removal of the public money from any of the said banks, or from changing the terms of deposit, or to prevent the said banks at any time from declining any longer to be the depositories of the public money upon paying over, or tendering to pay, the whole amount of public moneys on hand, according to the terms of its agreement with the said Secretary.

Proviso.

Banks to furnish certain statements; copy of charter, &c.

SEC. 3. *And be it further enacted*, That no bank shall hereafter be selected and employed by the Secretary of the Treasury as a depository of the public money, until such bank shall have first furnished to the said Secretary a statement of its condition and business, a list of its directors, the current price of its stock; and also a copy of its charter; and likewise, such other information as may be necessary to enable him to judge of the safety of its condition.

SEC. 4. *And be it further enacted*, That the said banks, before they shall be employed as the depositories of the public money, shall agree to receive the same, upon the following terms and conditions, to wit:

Terms to be agreed to by the banks.

First. Each bank shall furnish to the Secretary of the Treasury, from time to time, as often as he may require, not exceeding once a week, statements setting forth its condition and business, as prescribed in the foregoing section of this act, except that such statements need not, unless requested by said Secretary, contain a list of the directors, or a copy of the charter. And the said banks shall furnish to the Secretary of the Treasury, and to the Treasurer of the United States, a weekly statement of the condition of his account upon their books. And the Secretary of the Treasury shall have the right, by himself, or an agent appointed for that purpose, to inspect such general accounts in the books of the bank, as shall relate to the said statements: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

Proviso.

Secondly. To credit as specie, all sums deposited therein to the credit of the Treasurer of the United States, and to pay all checks, warrants, or drafts, drawn on such deposits, in specie if required by the holder thereof.

Thirdly. To give, whenever required by the Secretary of the Treasury, the necessary facilities for transferring

the public funds from place to place, within the United States, and the Territories thereof, and for distributing the same in payment of the public creditors, without charging commissions or claiming allowance on account of difference of exchange.

Fourthly. To render to the Government of the United States all the duties and services heretofore required by law to be performed by the late Bank of the United States and its several branches or offices.

SEC. 5. *And be it further enacted,* That no bank shall be selected or continued as a place of deposit of the public money which shall not redeem its notes and bills on demand in specie; nor shall any bank be selected or continued as aforesaid, which shall after the fourth of July, in the year one thousand eight hundred and thirty-six, issue or pay out any note or bill of a less denomination than five dollars; nor shall the notes or bills of any bank be received in payment of any debt due to the United States which shall, after the said fourth day of July, in the year one thousand eight hundred and thirty-six, issue any note or bill of a less denomination than five dollars.

Banks issuing notes less than five dollars not to be selected.

SEC. 6. *And be it further enacted,* That the Secretary of the Treasury shall be, and he is hereby authorized, and it shall be his duty, whenever in his judgment the same shall be necessary or proper, to require of any bank so selected and employed as aforesaid, collateral or additional securities for the safe keeping of the public moneys deposited therein, and the faithful performance of the duties required by this act.

Secretary may require security.

SEC. 7. *And be it further enacted,* That it shall be lawful for the Secretary of the Treasury, to enter into contracts in the name and for and on behalf of the United States, with the said banks so selected or employed, whereby the said banks shall stipulate to do and perform the several duties and services prescribed by this act.

Secretary authorized to enter into contracts.

SEC. 8. *And be it further enacted,* That no bank which shall be selected or employed as the place of deposit of the public money, shall be discontinued as such depository, or the public money withdrawn therefrom, except for the causes hereinafter mentioned, that is to say: if at any time, any one of said banks shall fail or refuse to perform any of said duties as prescribed by this act, and stipulated to be performed by its contract; or, if any of said banks shall at any time refuse to pay its own notes in specie if demanded; or shall fail to keep in its vaults such an amount of specie as shall be required by the Secretary of the Treasury, and shall be, in his opinion, necessary to render the said bank a safe depository of the public moneys, having due regard to the nature of the business transacted by the bank; in any and every such case it shall be the duty of the Secretary of the Treasury to discontinue any such bank as a depository,

No bank selected to be discontinued but for certain causes.

and withdraw from it the public moneys which it may hold on deposit at the time of such discontinuance. And in case of the discontinuance of any of said banks, it shall be the duty of the Secretary of the Treasury to report to Congress immediately if in session, and if not in session, then at the commencement of its next session, the facts and reasons which have induced such discontinuance. And in case of the discontinuance of any of said banks as a place of deposit of the public money for any of the causes herein before provided, it shall be lawful for the Secretary of the Treasury to deposit the money thus withdrawn in some other bank of deposit already selected, or to select some other bank as a place of deposit, upon the terms and conditions prescribed by this act. And in default of any bank to receive such deposit, the money thus withdrawn shall be kept by the Treasurer of the United States, according to the laws now in force; and shall be subject to be disbursed according to law.

Banks now employed to be continued until, &c.

SEC. 9. *And be it further enacted*, That until the Secretary of the Treasury shall have selected and employed the said banks as places of deposit of the public money, in conformity to the provisions of this act, the several State and District banks at present employed as depositories of the money of the United States, shall continue to be the depositories aforesaid upon the terms and conditions upon which they have been so employed.

Secretary to lay a statement before Congress.

SEC. 10. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to lay before Congress, at the commencement of each annual session, a statement of the number and names of the banks employed as depositories of the public money, and of their condition, and the amount of public money deposited in each, as shown by their returns at the Treasury; and if the selection of any bank as a depository of the public money be made by the Secretary of the Treasury, while Congress is in session, he shall immediately report the name and condition of such bank to Congress; and if any such selection shall be made during the recess of Congress, he shall report the same to Congress during the first week of its next session.

Bank to pay interest under certain circumstances.

SEC. 11. *And be it further enacted*, That whenever the amount of public deposits to the credit of the Treasurer of the United States, in any bank shall, for a whole quarter of a year, exceed the one-fourth part of the amount of the capital stock of such bank actually paid in, the banks shall allow and pay to the United States, for the use of the excess of the deposits over the one-fourth part of its capital, an interest at the rate of two per centum per annum, to be calculated for each quarter, upon the average excesses of the quarter; and it shall be the duty of the Secretary of the Treasury, at the close of each quarter, to cause the amounts on deposit

in each deposite bank for the quarter, to be examined and ascertained, and to see that all sums of interest accruing under the provisions of this section, are, by the banks respectively passed to the credit of the Treasurer of the United States in his accounts with the respective banks.

SEC. 12. *And be it further enacted*, That all warrants or orders for the purpose of transferring the public funds from the banks in which they now are, or may hereafter be deposited, to other banks, whether of deposite or not, for the purpose of accommodating the banks to which the transfer may be made, or to sustain their credit, or for any other purpose whatever, except it be to facilitate the public disbursements, and to comply with the provisions of this act, be, and the same are hereby, prohibited and declared to be illegal; and in cases where transfers shall be required for purposes of equalization under the provisions of this act, in consequence of too great an accumulation of deposites in any bank, such transfers shall be made to the nearest deposite banks which are considered safe and secure, and which can receive the moneys to be transferred under the limitations in this act imposed: *Provided*, That it may be lawful for the President of the United States to direct transfers of public money to be made from time to time to the mint and branch mints of the United States, for supplying metal for coining.

Transfers under certain cases declared illegal.

SEC. 13. *And be it further enacted*, That the money which shall be in the Treasury of the United States, on the first day of January, eighteen hundred and thirty-seven, reserving the sum of five millions of dollars, shall be deposited with such of the several States, in proportion to their respective representation in the Senate and House of Representatives of the United States, as shall, by law, authorize their Treasurers, or other competent authorities to receive the same on the terms hereinafter specified; and the Secretary of the Treasury shall deliver the same to such Treasurers, or other competent authorities, on receiving certificates of deposite therefor, signed by such competent authorities, in such form as may be prescribed by the Secretary aforesaid; which certificates shall express the usual and legal obligations, and pledge the faith of the State, for the safe keeping and repayment thereof, and shall pledge the faith of the States receiving the same, to pay the said moneys, and every part thereof, from time to time, whenever the same shall be required, by the Secretary of the Treasury, for the purpose of defraying any wants of the public treasury, beyond the amount of the five millions aforesaid: *Provided*, That if any State declines to receive its proportion of the surplus aforesaid, on the terms before named, the same shall be deposited with the other States, agreeing to accept the same on deposite in the proportion aforesaid: *And provided further*, That when said money, or any part thereof, shall be wanted by the said Secretary, to meet appropriations by

The surplus in the Treasury above 5,000,000 dollars to be deposited with the several States.

law, the same shall be called for, in rateable proportions, within one year, as nearly as conveniently may be, from the different States, with which the same is deposited, and shall not be called for, in sums exceeding ten thousand dollars, from any one State, in any one month, without previous notice of thirty days, for every additional sum of twenty thousand dollars, which may at any time be required.

Proportions in which the deposits shall be made.

SEC. 14. *And be it further enacted*, That the said deposits shall be made with the said States in the following proportions, and at the following times, to wit: one quarter part on the first day of January, eighteen hundred and thirty-seven, or as soon thereafter as may be; one quarter part on the first day of April, one quarter part on the first day of July, and one quarter part on the first day of October, all in the same year.

Secretary of the Treasury to appoint three additional clerks.

SEC. 15. *And be it further enacted*, That to enable the Secretary of the Treasury to carry into effect the provisions of this act, he be authorized to appoint three additional clerks for his Department, the one at a salary of one thousand six hundred dollars per annum, and the remaining two at a salary of one thousand dollars each per annum, and to pay the said clerks, quarter-yearly, out of any money in the Treasury not otherwise appropriated.

APPROVED, June 23, 1836.

Annual Report, Secretary of Treasury (Salmon P. Chase)

[Thirty-Seventh Congress, 2d Session, December 9, 1861, Pages 11-14]

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To enable the government to obtain the necessary means for prosecuting the war to a successful issue, without unnecessary cost, is a problem which must engage the most careful attention of the legislature.

The Secretary has given to this problem the best consideration in his power, and now begs leave to submit to Congress the result of his reflections.

The circulation of the banks of the United States, on the 1st day of January, 1861, was computed to be \$202,000,767. Of this circulation \$150,000,000, in round numbers, was in States now loyal, including West Virginia, and \$50,000,000 in the rebellious States. The whole of this circulation constitutes a loan without interest from the people to the banks, costing them nothing except the expense of issue and redemption and the interest on the specie kept on hand for the latter purpose; and it deserves consideration whether sound policy does not require that the advantages of this loan be transferred, in part at least, from the banks, representing only the interests of the stockholders, to the government, representing the aggregate interests of the whole people.

It has been well questioned by the most eminent statesmen whether a currency of bank notes, issued by local institutions under State laws, is not, in fact, prohibited by the national Constitution. Such emissions certainly fall within the spirit, if not within the letter, of the constitutional prohibition of the emission of bills of credit by the States, and of the making by them of anything except gold and silver coin a legal tender in payment of debts.

However this may be, it is too clear to be reasonably disputed that Congress, under its constitutional powers to lay taxes, to regulate commerce, and to regulate the value of coin, possesses ample authority to control the credit circulation which enters so largely into the transactions of commerce and affects in so many ways the value of coin.

In the judgment of the Secretary the time has arrived when Congress should exercise this authority. The value of the existing bank note circulation depends on the laws of thirty-four States and the character of some sixteen hundred private corporations. It is usually furnished in greatest proportions by institutions of least actual capital. Circulation, commonly, is in the inverse ratio of solvency. Well-founded institutions, of large and solid capital, have, in general, comparatively little circulation; while weak corporations almost invariably seek to sustain themselves by obtaining from the people the largest possible credit in this form. Under such a system, or rather lack of system, great fluctuations, and heavy losses in discounts and ex-

changes, are inevitable; and not unfrequently, through failures of the issuing institutions, considerable portions of the circulation become suddenly worthless in the hands of the people. The recent experience of several States in the valley of the Mississippi painfully illustrates the justice of these observations; and enforces by the most cogent practical arguments the duty of protecting commerce and industry against the recurrence of such disorders.

The Secretary thinks it possible to combine with this protection a provision for circulation, safe to the community and convenient for the Government.

Two plans for effecting this object are suggested. The first contemplates the gradual withdrawal from circulation of the notes of private corporations and for the issue, in their stead, of United States notes, payable in coin on demand, in amounts sufficient for the useful ends of a representative currency. The second contemplates the preparation and delivery, to institutions and associations, of notes prepared for circulation under national direction, and to be secured as to prompt convertibility into coin by the pledge of United States bonds and other needful regulations.

The first of these plans was partially adopted at the last session of Congress in the provision authorizing the Secretary to issue United States notes, payable in coin, to an amount not exceeding fifty millions of dollars. That provision may be so extended as to reach the average circulation of the country, while a moderate tax, gradually augmented, on bank notes, will relieve the national from the competition of local circulation. It has been already suggested that the substitution of a national for a state currency, upon this plan, would be equivalent to a loan to the government without interest, except on the fund to be kept in coin, and without expense, except the cost of preparation, issue, and redemption; while the people would gain the additional advantage of a uniform currency, and relief from a considerable burden in the form of interest on debt. These advantages are, doubtless, considerable; and if a scheme can be devised by which such a circulation will be certainly and strictly confined to the real needs of the people, and kept constantly equivalent to specie by prompt and certain redemption in coin, it will hardly fail of legislative sanction.

The plan, however, is not without serious inconveniences and hazards. The temptation, especially great in times of pressure and danger, to issue notes without adequate provision for redemption; the ever-present liability to be called on for redemption beyond means, however carefully provided and managed; the hazard of panics, precipitating demands for coin, concentrated on a few points and a single fund; the risk of a depreciated, depreciating, and finally worthless paper money; the immeasurable evils of dishonored public faith and national bankruptcy; all these are possible consequences of the adoption of a system of government circulation. It may be said, and perhaps truly, that they are less deplorable than those of an irredeemable bank circulation. Without entering into that comparison, the Secretary contents himself with observing that, in his judgment, these possible disasters so far outweigh the probable benefits of the plan that he feels himself constrained to forbear recommending its adoption.

The second plan suggested remains for examination. Its principal features are, (1st) a circulation of notes bearing a common impression and authenticated by a common authority; (2d) the redemption of these notes by the associations and institutions to which they may be delivered for issue; and (3d) the security of that redemption by the pledge of United States stocks, and an adequate provision of specie.

In this plan the people, in their ordinary business, would find the advantages of uniformity in currency; of uniformity in security; of effectual safeguard, if effectual safeguard is possible, against depreciation; and of protection from losses in discounts and exchanges; while in the operations of the government the people would find the further advantage of a large demand for government securities, of increased facilities for obtaining the loans required by the war, and of some alleviation of the burdens on industry through a diminution in the rate of interest, or a participation in the profit of circulation, without risking the perils of a great money monopoly.

A further and important advantage to the people may be reasonably expected in the increased security of the Union, springing from the common interest in its preservation, created by the distribution of its stocks to associations throughout the country, as the basis of their circulation.

The Secretary entertains the opinion that if a credit circulation in any form be desirable, it is most desirable in this. The notes thus issued and secured would, in his judgment, form the safest currency which this country has ever enjoyed; while their receivability for all government dues, except customs, would make them, wherever payable, of equal value, as a currency, in every part of the Union. The large amount of specie now in the United States, reaching a total of not less than two hundred and seventy-five millions of dollars, will easily support payments of duties in coin, while these payments and ordinary demands will aid in retaining this specie in the country as a solid basis both of circulation and loans.

The whole circulation of the country, except a limited amount of foreign coin, would, after the lapse of two or three years, bear the impress of the nation whether in coin or notes; while the amount of the latter, always easily ascertainable, and, of course, always generally known, would not be likely to be increased beyond the real wants of business.

He expresses an opinion in favor of this plan with the greater confidence, because it has the advantage of recommendation from experience. It is not an untried theory. In the State of New York and in one or more of the other States it has been subjected, in its most essential parts, to the test of experiment, and has been found practicable and useful. The probabilities of success will not be diminished but increased by its adoption under national sanction and for the whole country.

It only remains to add that the plan is recommended by one other consideration, which, in the judgment of the Secretary, is entitled to much influence. It avoids almost, if not altogether, the evils of a great and sudden change in the currency by offering inducements to solvent existing institutions to withdraw the circulation issued under State authority, and substitute that provided by the authority of the Union.

Thus, through the voluntary action of the existing institutions, aided by wise legislation, the great transition from a currency heterogeneous, unequal, and unsafe, to one uniform, equal, and safe, may be speedily and almost imperceptibly accomplished.

If the Secretary has omitted the discussion of the question of the constitutional power of Congress to put this plan into operation, it is because no argument is necessary to establish the proposition that the power to regulate commerce and the value of coin includes the power to regulate the currency of the country, or the collateral proposition that the power to effect the end includes the power to adopt the necessary and expedient means.

The Secretary entertains the hope that the plan now submitted, if adopted with the limitations and safeguards which the experience and wisdom of Senators and Representatives will, doubtless, suggest, may impart such value and stability to government securities that it will not be difficult to obtain the additional loans required for the service of the current and the succeeding year at fair and reasonable rates; especially if the public credit be supported by sufficient and certain provision for the payment of interest and ultimate redemption of the principal.

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Annual Report, Secretary of Treasury (Salmon P. Chase)

[Thirty-Seventh Congress, 3d Session, December 4, 1862, Pages 12-26]

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The Secretary does not concur in the opinion entertained by some, whose ability and experience command deserved respect, that the aggregate currency of the country, composed of United States notes and notes of corporations, is at this moment greatly in excess of legitimate demands for its employment. Much less does he concur in another opinion, not unfrequently expressed, but expressed in his judgment without due consideration, that any actual excess is due to the issues of United States notes already in circulation.

It is true that gold commands a premium in notes; in other words, that to purchase a given amount of gold a greater amount in notes is required. But it is also true that, on the suspension of specie payments and the substitution for coin of United States notes, convertible into six per cent specie bonds as the legal standard of value, gold became an article of merchandise, subject to the ordinary fluctuations of supply and demand, and to the extraordinary fluctuations of mere speculation. The ignorant fears of foreign investors in national and State bonds and other American securities, and the timid alarms of numerous nervous individuals in our own country, prompted large sacrifices upon evidences of public and corporate indebtedness in our markets, and large purchases of coin for remittance abroad or hoarding at home. Taking advantage of these and other circumstances tending to an advance of gold, speculators employed all the arts of the market to stimulate that tendency and carry it to the highest point. This point was reached on the 15th day of October. Gold sold in the market at a premium of $37\frac{5}{8}$ per cent.

That this remarkable rise is not due wholly, or even in greatest part, to the increase of the currency, is established beyond reasonable doubt by considerations now to be stated.

First: The whole quantity of circulation did not, at the time, greatly, if at all, exceed the legitimate demands of payments. On the 1st day of November, 1861, the circulation of United States notes, including credits to disbursing officers and to the Treasurer of the United States, was \$15,140,000. On the 1st day of November, 1862, it was, with like inclusions, \$210,104,000. Of corporate notes, on the 1st of November, 1861, the circulation in the loyal States was, according to the best estimates, \$130,000,000; on the 1st of November, 1862, it was \$167,000,000. The coin in circulation, including the coin in banks, was probably not less, on the 1st of November, 1861, than \$210,000,000. On the 1st of November, 1862, the coin had been practically demonetized and withdrawn from use as currency or as a basis for currency, and is therefore not estimated. The aggregate circulation of the loyal States, therefore, was, at the first date, \$355,140,000; and at the second, only \$377,104,000.

Secondly: The whole, or nearly the whole, increase in the volume of the currency which has taken place was, it is believed, legitimately demanded by the changed condition of the country in the year between the two dates. The activity in business which, at the close of that year, had taken the place of the general stagnation which marked its beginning, and the military and naval preparations and movements which had vastly augmented the number and amounts of payments to be made in money, have, it is believed, legitimately demanded nearly or quite the whole of it.

That such is the case may be reasonably inferred from the fact that the prices of many of the most important articles of consumption have declined or not materially advanced during the year. Wheat, quoted at \$1 38 to \$1 45 per bushel on the 1st of November, 1861, was quoted at \$1 45 to \$1 50 on the 1st of November, 1862. Prime mess pork, on the 1st of November, 1861, was quoted at \$15 to \$15 50 per barrel, and on the 1st of November, 1862, at \$12.50 to \$13. Corn sold on the 1st of November, 1861, at 62 to 63 cents per bushel, and on the 1st of November, 1862, at 71 to 73 cents. A comparison between the prices of hay, beef, and some other staples of domestic produce at the two dates, exhibits similar conditions of actual depression in price or moderate rise.

Thirdly: It is, perhaps, still more conclusive against the theory of great redundancy that, on the 15th day of October, when the aggregate actual circulation, national and corporate, was about \$360,000,000, the premium on gold was 37½%; whereas, on the 29th day of November, when the circulation had increased by more than twenty millions, the premium on gold was 29 to 30 per cent.

But if the fact of considerable redundancy in circulation be conceded, it by no means follows that it is the circulation of United States notes which is redundant.

It must be remembered that the law confines national payments and receipts to coin and notes of the United States. Officers of the treasury, officers of the army and navy, all officers of all departments, must observe and enforce this law. For all payments to be made in behalf

of the United States, in case of inability to obtain coin, United States notes *must* be issued. It is, indeed, the duty of the legislature to see that the purchasing power of these notes is kept as nearly as possible equal to the purchasing power which gold would have had if specie payments had been maintained; but the issue and use of the notes is unavoidable, and the government can resort to borrowing only when the issue has become sufficiently large to warrant a just expectation that loans of the notes can be had from those who hold or can obtain them at rates not less advantageous than those of coin loans before suspension. The difficulty which the takers of the recent loan of \$13,613,450 found in obtaining United States notes with which to meet their engagements to the treasury is very instructive on this head. It points, indeed, directly to the conclusion that loans of United States notes, in sufficient amounts to meet the disbursements of the government, could not now be obtained at rates which a due regard to the interests of the tax-payers would permit the Secretary to accept. Whatever may be said of the aggregate circulation, it cannot, then, be successfully maintained that the circulation of United States notes is excessive. When extended to the limits authorized by existing laws, it will be no larger than the wants of the people and the government imperatively demand.

If there be a considerable redundancy then; if there be a considerable real depreciation of the circulation—which is by no means admitted—what has caused the redundancy and the depreciation?

The cause of all that exists is easily found in the statements of the banking corporations. The circulation of corporate notes increased during the year ending on the 1st of November, 1862, from \$130,000,000 to \$167,000,000. During the same time the volume of deposits, which answer very many of the purposes of circulation, had swelled from \$264,000,000 to \$344,000,000. The greater portion of this increase took place within the last seven months.

The augmentation of deposits always accompanies increase of circulation. Together they stimulate loans, and are, in turn, stimulated by the desire of the interest derived from loans. As might have been anticipated, loans increased, though not equally, with the circulation and deposits. From \$607,000,000 on the 1st day of November, 1861, they had grown to \$677,000,000 on the 1st day of November, 1862.

Here is an obvious and sufficient explanation of whatever undue expansion may have taken place. The Secretary has already expressed the opinion that the circulation is not greatly redundant, and that no considerable depreciation of currency has actually occurred. He thinks it sufficiently proved, however, that whatever there may of either is fairly attributable not to the increase of United States notes, but to the increase of bank circulation and deposits.

It is to be observed that no law compelled and no public necessity required any enlargement of the volume of currency by the banks. On the contrary, there are, in some of the States, positive enactments by which the increase of circulation during suspension is prohibited; and the principle embodied in them is so obviously just that well-managed institutions, when obliged to suspend, almost invariably, without the constraint of any law, reduce their circulation instead of augmenting it. In obedience to this principle, a reduction of bank circulation actually took place after the suspension in December. It

was only when United States notes, having been made a legal tender, were diverted from their legitimate use as currency and made the basis of bank circulation, that the great increase of the latter began. It was purely voluntary; prompted doubtless, by the desire of extending accommodations to business as well as by the expectation of profit. No practical limit upon this increase has as yet been proposed by the parties interested in it.

The Secretary has already shown that the case was far otherwise with the circulation of United States notes. A condition had been created by the suspension which made loans of coin impossible. Loans of corporate notes, objectionable in themselves, were positively prohibited by a law not likely to be repealed. The extension of the United States note circulation, until sufficient in amount to enable the Secretary to obtain it from holders by way of loans, was equally inevitable. A practical limit on its increase is imposed by the judicious legislation of Congress, which makes the notes receivable for loans, and requires that the interest on bonds for loans shall be paid in coin.

Under these circumstances, the path of wisdom and duty seems very clear. It leads to the support of a United States note circulation, and to the reduction of the bank note circulation. A comparatively small reduction of the latter will allow ample room for the whole increase of the former, authorized by existing laws; and as the reduction proceeds the increase may be extended, never, however, passing the point which admits the negotiation of loans at reasonable rates. The Secretary has heretofore advised the imposing of a moderate tax on corporate circulation, and now renews the recommendation as the best means of reduction and gradual substitution. Such a tax involves no hardships. Notes circulating as money cost nothing beyond the expense of production and supervision, and yet form a highly accumulative species of property. The necessities of the war have caused the taxation of almost all forms of value. Can there be a sound reason for exempting that which costs the proprietor least and brings him most?

It may be properly added that this desirable substitution of a circulation, uniform in description and value, for a circulation varying widely in both, may, perhaps, be more easily and beneficially effected now than at any other time. The circulation of United States notes may greatly facilitate the payments to the banks through which their own notes must be withdrawn; and thus, not only protect the community from the inconveniences, but the banks from the losses which might otherwise attend reduction.

It may also be added that when the substitution shall have been accomplished, and, perhaps, if circumstances favor, at an earlier period, payments in specie of United States notes may be resumed with less cost and less injury to business than would attend a like resumption in payment of corporate notes. With comparatively trivial sacrifice, the government can, whenever its expenditures are reduced to its revenue, provide, by loan or otherwise, all the coin needed to commence and maintain the resumption.

While the Secretary thus repeats the preference he has heretofore expressed for a United States note circulation, even when issued directly by the government, and dependent on the action of the government for regulation and final redemption, over the note circulation of

the numerous and variously organized and variously responsible banks now existing in the country; and while he now sets forth more fully than heretofore, the grounds of that preference, he still adheres to the opinion expressed in his last report, that a circulation furnished by the government, but issued by banking associations organized under a general act of Congress, is to be preferred to either. Such a circulation, uniform in general characteristics, and amply secured as to prompt convertibility by national bonds deposited in the treasury, by the associations receiving it, would unite, in his judgment, more elements of soundness and utility than can be combined in any other.

A circulation composed exclusively of notes issued directly by the government, or of such notes and coin, is recommended mainly by two considerations;—the first, derived from the facility with which it may be provided in emergencies, and the second, from its cheapness.

The principal objections to such a circulation as a permanent system are, 1st, the facility of excessive expansion when expenditures exceed revenue; 2d, the danger of lavish and corrupt expenditures stimulated by facility of expansion; 3d, the danger of fraud in management and supervision; 4th, the impossibility of providing it in sufficient amounts for the wants of the people whenever expenditures are reduced to equality with revenue or below it.

These objections are all serious. The last requires some elucidation. It will be easily understood, however, if it be considered that a government issuing a credit circulation cannot supply, in any given period, an amount of currency greater than the excess of its disbursements over its receipts. To that amount, it may create a debt in small notes, and these notes may be used as currency. This is precisely the way in which the existing currency of United States notes is supplied. That portion of the expenditure not met by revenue or loans has been met by the issue of these notes. Debt in this form has been substituted for various debts in other forms. Whenever, therefore, the country shall be restored to a healthy normal condition, and receipts exceed expenditures, the supply of United States notes will be arrested, and must progressively diminish. Whatever demand may be made for their redemption in coin must hasten this diminution; and there can be no reissue; for reissue, under the conditions, necessarily implies disbursements, and the revenue, upon the supposition, supplies more than is needed for that purpose. There is, then, no mode in which a currency in United States notes can be permanently maintained, except by loans of them, when not required for disbursement, on deposits of coin, or pledge of securities, or in some other way. This would convert the treasury into a government bank, with all its hazards and mischiefs.

If these reasonings be sound, little room can remain for doubt that the evils certain to arise from such a scheme of currency, if adopted as a permanent system, greatly overbalance the temporary though not inconsiderable advantages offered by it.

It remains to be considered what results may be reasonably expected from an act authorizing the organization of banking associations, such as the Secretary proposed in his last report.

The central idea of the proposed measure is the establishment of one sound, uniform circulation, of equal value throughout the country, upon the foundation of national credit combined with private capital.

Such a currency, it is believed, can be secured through banking associations organized under national legislation.

It is proposed that these associations be entirely voluntary. Any persons, desirous of employing real capital in sufficient amounts, can, if the plan be adopted, unite together under proper articles, and, having contributed the requisite capital, can invest such part of it, not less than a fixed minimum, in United States bonds, and, having deposited these bonds with the proper officer of the United States, can receive United States notes in such denominations as may be desired, and employ them as money in discounts and exchanges. The stockholders of any existing banks can, in like manner, organize under the act, and transfer, by such degrees as may be found convenient, the capital of the old to the use of the new associations. The notes thus put into circulation will be payable, until resumption, in United States notes, and, after resumption, in specie, by the association which issues them, on demand; and if not so paid will be redeemable at the treasury of the United States from the proceeds of the bonds pledged in security. In the practical working of the plan, if sanctioned by Congress, redemption at one or more of the great commercial centres, will probably be provided for by all the associations which circulate the notes, and, in case any association shall fail in such redemption, the treasurer of the United States will probably, under discretionary authority, pay the notes, and cancel the public debt held as security.

It seems difficult to conceive of a note circulation which will combine higher local and general credit than this. After a few years no other circulation would be used, nor could the issues of the national circulation be easily increased beyond the legitimate demands of business. Every dollar of circulation would represent real capital, actually invested in national stocks, and the total amount issued could always be easily and quickly ascertained from the books of the treasury. These circumstances, if they might not wholly remove the temptation to excessive issues, would certainly reduce it to the lowest point, while the form of the notes, the uniformity of devices, the signatures of national officers, and the imprint of the national seal authenticating the declaration borne on each that it is secured by bonds which represent the faith and capital of the whole country, could not fail to make every note as good in any part of the world as the best known and best esteemed national securities.

The Secretary has already mentioned the support to public credit which may be expected from the proposed associations. The importance of this point may excuse some additional observations.

The organization proposed, if sanctioned by Congress, would require within a very few years, for deposit as security for circulation, bonds of the United States to an amount not less than \$250,000,000. It may well be expected, indeed, since the circulation, by uniformity in credit and value, and capacity of quick and cheap transportation, will be likely to be used more extensively than any hitherto issued, that the demand for bonds will overpass this limit. Should Congress see fit to restrict the privilege of deposit to the bonds known as five-twenties, authorized by the act of last session, the demand would promptly absorb all of that description already issued and make large room for more. A steady market for the bonds would thus be established and the negotiation of them greatly facilitated.

But it is not in immediate results that the value of this support would be only or chiefly seen. There are always holders who desire to sell securities of whatever kind. If buyers are few or uncertain, the market value must decline. But the plan proposed would create a constant demand, equaling and often exceeding the supply. Thus a steady uniformity in price would be maintained, and generally at a rate somewhat above those of bonds of equal credit but not available to banking associations. It is not easy to appreciate the full benefits of such conditions to a government obliged to borrow.

Another advantage to be derived from such associations would be found in the convenient agencies which they would furnish for the deposit of public moneys.

The Secretary does not propose to interfere with the independent treasury. It may be advantageously retained, with the assistant treasurers already established in the most important cities, where the customs may be collected as now, in coin or treasury notes issued directly by the government, but not furnished to banking associations.

But whatever the advantages of such arrangements in the commercial cities in relation to customs, it seems clear that the secured national circulation furnished to the banking associations should be received everywhere for all other dues than customs, and that these associations will constitute the best and safest depositaries of the revenues derived from such receipts. The convenience and utility to the government of their employment in this capacity, and often, also, as agents for payments and as distributors of stamps, need no demonstration. The necessity for some other depositaries than surveyors of ports, receivers, postmasters, and other officers, of whose responsibility and fitness, in many cases, nothing satisfactory can be known, is acknowledged by the provision for selection by the Secretary contained in the internal revenue act; and it seems very clear that the public interest will be secured far more certainly by the organization and employment of associations organized as proposed than by any official selection.

Another and very important advantage of the proposed plan has already been adverted to. It will reconcile, as far as practicable, the interests of existing institutions with those of the whole people.

All changes, however important, should be introduced with caution, and proceeded in with careful regard to every affected interest. Rash innovation is not less dangerous than stupefied inaction. The time has come when a circulation of United States notes, in some form, must be employed. The people demand uniformity in currency, and claim, at least, part of the benefit of debt without interest, made into money, hitherto enjoyed exclusively by the banks. These demands are just and must be respected. But there need be no sudden change; there need be no hurtful interference with existing interests. As yet the United States note circulation hardly fills the vacuum caused by the temporary withdrawal of coin; it does not, perhaps, fully meet the demand for increased circulation created by the increased number, variety, and activity of payments in money. There is opportunity, therefore, for the wise and beneficial regulation of its substitution for other circulation. The mode of substitution, also, may be judiciously adapted to actual circumstances. The plan suggested consults both purposes. It contemplates gradual withdrawal of bank

note circulation, and proposes a United States note circulation, furnished to banking associations, in the advantages of which they may participate in full proportion to the care and responsibility assumed and the services performed by them. The promptitude and zeal with which many of the existing institutions came to the financial support of the government in the dark days which followed the outbreak of the rebellion is not forgotten. They ventured largely, and boldly, and patriotically on the side of the Union and the constitutional supremacy of the nation over States and citizens. It does not at all detract from the merit of the act that the losses, which they feared but unhesitatingly risked, were transmuted into unexpected gains. It is a solid recommendation of the suggested plan that it offers the opportunity to these and kindred institutions to reorganize, continue their business under the proposed act, and with little loss and much advantage, participate in maintaining the new and uniform national currency.

The proposed plan is recommended, finally, by the firm anchorage it will supply to the union of the States. Every banking association whose bonds are deposited in the treasury of the Union; every individual who holds a dollar of the circulation secured by such deposit; every merchant, every manufacturer, every farmer, every mechanic, interested in transactions dependent for success on the credit of that circulation, will feel as an injury every attempt to rend the national unity, with the permanence and stability of which all their interests are so closely and vitally connected. Had the system been possible, and had it actually existed two years ago, can it be doubted that the national interests and sentiments enlisted by it for the Union would have so strengthened the motives for adhesion derived from other sources that the wild treason of secession would have been impossible?

The Secretary does not yield to the phantasy that taxation is a blessing and debt a benefit; but it is the duty of public men to extract good from evil whenever it is possible. The burdens of taxation may be lightened and even made productive of incidental benefits by wise, and aggravated and made intolerable by unwise, legislation. In like manner debt, by no means desirable in itself, may, when circumstances compel nations to incur its obligations, be made by discreet use less burdensome, and even instrumental in the promotion of public and private security and welfare.

The rebellion has brought a great debt upon us. It is proposed to use a part of it in such a way that the sense of its burden may be lost in the experience of incidental advantages. The issue of United States notes is such a use; but if exclusive, is hazardous and temporary. The security by national bonds of similar notes furnished to banking associations is such a use, and is comparatively safe and permanent; and with this use may be connected, for the present, and occasionally, as circumstances may require, hereafter, the use of the ordinary United States notes in limited amounts.

No very early day will probably witness the reduction of the public debt to the amount required as a basis for secured circulation. Should no future wars arrest reduction and again demand expenditures beyond revenue, that day will however at length come. When it shall arrive the debt may be retained on low interest at that amount, or some

other security for circulation may be devised, or, possibly, the vast supplies of our rich mines may render all circulation unadvisable except gold and the absolute representatives and equivalents, dollar for dollar, of gold in the treasury or on safe deposit elsewhere. But these considerations may be for another generation.

The Secretary forbears extended argument on the constitutionality of the suggested system. It is proposed as an auxiliary to the power to borrow money; as an agency of the power to collect and disburse taxes; and as an exercise of the power to regulate commerce, and of the power to regulate the value of coin. Of the two first sources of power nothing need be said. The argument relating to them was long since exhausted and is well known. Of the other two there is not room nor does it seem needful to say much. If Congress can prescribe the structure, equipment, and management of vessels to navigate rivers flowing between or through different States as a regulation of commerce, Congress may assuredly determine what currency shall be employed in the interchange of their commodities, which is the very essence of commerce. Statesmen who have agreed in little else have concurred in the opinion that the power to regulate coin is, in substance and effect, a power to regulate currency, and that the framers of the Constitution so intended. It may well enough be admitted that while Congress confines its regulation to weight, fineness, shape, and device, banks and individuals may issue notes for currency in competition with coin. But it is difficult to conceive by what process of logic the unquestioned power to regulate coin can be separated from the power to maintain or restore its circulation, by excluding from currency all private or corporate substitutes which affect its value, whenever Congress shall see fit to exercise that power for that purpose.

The recommendations, now submitted, of the limited issue of United States notes as a wise expedient for the present time, and as an occasional expedient in future times, and of the organization of banking associations to supply circulation secured by national bonds and convertible always into United States notes, and after resumption of specie payments, into coin, are prompted by no favor to excessive issues of any description of credit money.

On the contrary, it is the Secretary's firm belief that by no other path can the resumption of specie payments be so surely reached and so certainly maintained. United States notes receivable for bonds bearing a secure specie interest are next best to notes convertible into coin. The circulation of banking associations organized under a general act of Congress, secured by such bonds, can be most surely and safely maintained at the point of certain convertibility into coin. If, temporarily, these associations redeem their issues with United States notes, resumption of specie payments will not thereby be delayed or endangered, but hastened and secured; for, just as soon as victory shall restore peace, the ample revenue, already secured by wise legislation, will enable the government, through advantageous purchases of specie, to replace at once large amounts, and, at no distant day, the whole, of this circulation by coin, without detriment to any interest, but, on the contrary, with great and manifest benefit to all interests.

The Secretary recommends, therefore, no mere paper money scheme, but, on the contrary, a series of measures looking to a safe and gradual return to gold and silver as the only permanent basis, standard, and measure of values recognized by the Constitution—between which and an irredeemable paper currency, as he believes, the choice is now to be made.

No country possesses the true elements of a higher credit—no country, in ordinary times, can maintain a higher standard of currency and payment than the United States.

The government is less costly than that of most other great powers. The expenditures of the current fiscal year, excluding those of the War and Navy Departments, can hardly equal those of the last year, which amounted to \$24,511,476 66. Estimating those of these departments at double the expenditures of the last year before the rebellion, they would for the current year, had the war ended before last midsummer as was anticipated at the date of the last report, amount to the sum of \$55,845,834 48. The interest on the public debt is for the current year estimated at \$25,041,532 07, and will not probably go over that sum. The whole expenditures of the government for the current year, on the supposition of peace, would, therefore, not exceed \$105,371,843 21. This aggregate must be increased hereafter by the addition of interest on the loans of the current and future years and by pensions, the precise amount of which cannot be foreseen. Estimate the former at fifty, and the latter at ten millions a year, and the total annual expenditures in peace will reach, omitting fractions, to \$165,000,000. The expenditures of Great Britain during the year ending March 31, 1862, were \$364,436,682; those of France for 1862, according to French official estimates, will reach \$421,823,900, and the annual expenses of Russia, according to the best accessible information, do not fall short of \$230,000,000.

To meet our annual expenditures, and to assure beyond contingency the punctual discharge of the interest of the public debt, and the creation of a sinking fund for its reduction, Congress has provided a revenue from customs even now reaching nearly seventy millions a year, and a revenue from internal duties which will not probably fall short of one hundred and fifty millions a year.

Without reckoning any other resources than those already provided, the revenue, therefore, will annually exceed the expenditures by fifty-five millions, which sum may be used for the reduction of the public debt. If, then, the war shall be continued, contrary to hope and expectation, to midsummer of 1864, and the public debt shall reach the utmost limit now anticipated of seventeen hundred and fifty millions of dollars, the excess of revenue will reduce that debt during the first year of peace, more than three per cent.

But the American republic possesses immense resources which have not yet been called into contribution. The gold-bearing region of the United States stretches through near eighteen degrees of latitude, from British Columbia on the north to Mexico on the south, and through more than twenty degrees of longitude, from the eastern declivities of the Rocky mountains to the Pacific ocean. It includes two States, California and Oregon; four entire Territories, Utah, Nevada, New Mexico, and Washington; and parts of three other Territories, Colorado, Nebraska, and Dakota. It forms an area of more

than a million of square miles, the whole of which, with comparatively insignificant exceptions, is the property of the nation. It is rich not only in gold, but in silver, copper, iron, lead, and many other valuable minerals. Its product of gold and silver during the current year will not probably fall very much, if at all, short of \$100,000,000; and it must long continue gradually, yet rapidly, to increase. If this product be subjected to a reasonable seignorage, as suggested by some, or if, as suggested by others, the mineral lands be subdivided and sold in convenient parcels, with proper reservations in favor of the miners now in occupation of particular localities, a very considerable revenue may, doubtless, be obtained from this region without hardship to the actual settlers and occupiers.

And there are other mines than those of gold or silver, or copper or iron, in the wide territory which includes the public lands of the United States. Every acre of the fertile soil is a mine which only waits for the contact of labor to yield its treasures; and every acre is opened to that fruitful contact by the Homestead Act. When the opportunities thus offered to industry shall be understood by the working millions of Europe, it cannot be doubted that great numbers will seek American homes, in order to avail themselves of the great advantages tendered to their acceptance by American law. Every working man who comes betters the condition of the nation as well as his own. He adds in many ways, seen and unseen, to its wealth, its intelligence, and its power. It is difficult to estimate the contribution which immigration, properly encouraged by legislation and administration, will make to revenue; but, directly and indirectly, it cannot be reckoned as less than that which may be expected from the metallic products of the gold bearing region.

With such resources at the disposal of the republic, no one need be alarmed lest the United States may become unable to pay the interest on its debt, or to reduce the principal to whatever point the public interest may indicate. The republic is passing through the pangs of a new birth to a nobler and higher life. Twice already she has paid off a national debt contracted for the defence of her rights; the obligations of that which she now incurs for the preservation of her existence will be not less sacredly fulfilled.

But while resources are thus ample, it is not the less the dictate of prudence and of good faith to a generous people that the greatest pains should be taken to reduce the public burdens to the lowest point compatible with justice to honest public creditors. Prodigality may exhaust the amplest resources and impair the firmest credit. To retrench superfluity; to economize expenditures; to adjust accurately measures to objects; to infuse resolute vigor and a just sense of responsibility into every department of public activity are not less important to credit and revenue than to general success in administration.

It has been already stated that the amount to be provided, beyond resources available under existing laws, is, for the current year, \$276,912,517 66, and for the ensuing year, \$627,388,183 56.

To provide these amounts loans in some form must be negotiated.

The Secretary has already expressed the opinion, with great deference to the superior wisdom of Congress, that it will be unwise, unless conditions greatly change, to authorize the increase of United States notes beyond the limit now fixed by law. Should any vacuum be created by the withdrawal of bank note circulation, that vacuum should, doubtless, be filled by United States notes. Should Congress adopt the measures proposed by the Secretary, it is not improbable that an additional issue of fifty millions may be required for that purpose within the year, and an equal additional issue during the following year. And it may well be hoped that military successes, re-establishing the authority of the United States in large districts of the insurgent region, will call for further issues to supply the place of the worthless currency which the rebellion has forced upon the people. Should it be deemed expedient to invest the Secretary with any discretionary power, in view of these contingencies, it should be so limited as to allow no increase of aggregate circulation beyond the clear demands of real business.

A considerable additional sum may probably be obtained by removing the limit on temporary deposits. The amount of these deposits has steadily increased, notwithstanding large repayments to depositors. The treasury of the government has been made the savings bank of the people. Should the restriction be removed, there is reason to believe that twenty-five millions may be received beyond the maximum now fixed, during the year.

But the chief reliance, and the safest, must be upon loans. Without any issues of United States notes beyond the amount now authorized, it seems certain that loans for the whole amount required for the current year can be readily obtained at fair rates; and it may be confidently hoped that before its close the resources of the country will be so well understood, and the restoration of its territorial integrity so well assured, that capitalists will not hesitate to supply whatever may be needed for the subsequent year.

But in order to the advantageous negotiation of loans the action of Congress is necessary.

As an important element of facility in negotiation, the plan for banking associations has been already considered. Little direct aid is, however, to be expected from this plan during the present, nor very much, perhaps, during the next year. The operation of associations organized under it must, at first, be restricted mainly to investing United States notes in bonds; issuing a circulation based on these bonds; and transacting ordinary business. As the notes received for the bonds cannot be reissued without injurious inflation of the circulation, they must necessarily be withdrawn and cancelled. The aggregate circulation of government United States notes withdrawn will be replaced by the amount of national circulation furnished to the associations. The immediate advantage to the government will

be found in the market created for bonds, and the support thereby given to the national credit. The more general advantages which have been described must attend the gradual organization of banking associations, and will only be fully apparent when the national circulation furnished to them shall become the established and sole note circulation of the country.

Other legislation is therefore needed.

The act of last session authorized the Secretary to issue bonds of the United States, already often mentioned as five-twenties, to the amount of five hundred millions of dollars, and to dispose of them for coin or United States notes at the market value thereof. In the same act authority was given to issue \$150,000,000 in United States notes, which authority was afterwards enlarged to \$250,000,000; and it was provided that any holder of such notes to the amount of fifty dollars, or any multiple of fifty, might exchange them for five-twenty bonds, at par.

The effect of these provisions was to make negotiations of considerable amounts impossible; for considerable amounts are seldom taken, except with a view to resales at a profit, and resales at any profit are impossible under the law. Negotiations below market value are not allowed, and if not allowed the taker of the bonds can expect no advance, unless a market value considerably below par shall become established. The act makes advance above par impossible, by authorizing conversion of United States notes into bonds at that rate.

The Secretary respectfully recommends the repeal of both these provisions. The first imposes, it is believed, a restriction which Congress did not intend; and the second has been followed by the inconveniences which were feared, rather than by the benefits which were expected. Convertibility by exchange at will is of little or no advantage to the holder of the notes; for the clauses which secure their receivability for all loans make them practically convertible. Whenever the volume of notes reaches a point at which loans can be effected at rates fair to the country and desirable to takers, loans will, of course, be made, and ample opportunities for conversion offered.

Should Congress, however, be of opinion that these clauses should be retained, it will be necessary to provide for other loans, at rates more favorable to the takers than convertibility into five-twenties. This can be done either by authorizing bonds at longer time, or by increasing the rates of interest offered.

The Secretary cannot recommend either course except as an alternative to no provision at all.

As such an alternative he would prefer the issue of 7.30 three years bonds, convertible into five-twenty sixes at or before maturity, and of smaller notes bearing an interest of 3.65 per cent., as proposed in his first report.

A discretionary power may, perhaps, be advantageously conferred on the Secretary, to be exercised as exigencies may require or allow.

He does not covet the responsibilities belonging to such a power, but would not shrink from such exercise of it as, in his best judgment, the public good would require. He believes it, however, to be unnecessary. He believes that the time and rate of the five-twenty loan authorized were judiciously determined, and he believes that if the suggested changes are made in the law, the needed supplies can be obtained through these loans. No prudent legislator, at a time when the gold in the world is increasing by a hundred millions a year, and interest must necessarily and soon decline, will consent to impose on the labor and business of the people a fixed interest of six per cent on a great debt, for twenty years, unless the necessity is far more urgent than is now believed to exist. The country has already witnessed the results of such measures in the payment, in 1856, of more than four and a half millions of dollars for the privilege of paying a debt of less than forty-one millions, some twelve years, averaged time, before it became due.

The general views of the Secretary may therefore be thus briefly summed:

He recommends that whatever amounts may be needed beyond the sums supplied by revenue and through other indicated modes be obtained by loans, without increasing the issue of United States notes beyond the amount fixed by law, unless a clear public exigency shall demand it. He recommends, also, the organization of banking associations for the improvement of the public credit and for the supply to the people of a safe and uniform currency. And he recommends no change in the law providing for the negotiation of bonds except the necessary increase of amount and the repeal of the absolute restriction to market value and of the clauses authorizing convertibility at will.

If Congress shall concur in these views, the Secretary, though conscious of the great difficulties which vast, sudden, and protracted expenditures impose on him, ventures to hope that he may still be able to maintain the public credit and provide for the public wants.

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Special Message—Abraham Lincoln, on Financing the War

Thirty-Seventh Congress, 3d Session

JANUARY 17, 1863.

[Source: Senate Journal, 37th Cong., 3d Sess., pp. 121-122.]

To the Senate and House of Representatives:

I have signed the joint resolution to provide for the immediate payment of the army and navy of the United States, passed by the House of Representatives on the 14th, and by the Senate on the 15th instant.

The joint resolution is a simple authority, amounting, however, under existing circumstances, to a direction to the Secretary of the Treasury to make an additional issue of one hundred millions of dol-

lars in the United States notes, if so much money is needed for the payment of the army and navy.

My approval is given in order that every possible facility may be afforded for the prompt discharge of all arrears of pay due to our soldiers and our sailors.

While giving this approval, however, I think it my duty to express my sincere regret that it has been found necessary to authorize so large an additional issue of United States notes, when this circulation and that of the suspended banks together have become already so redundant as to increase prices beyond real values, thereby augmenting the cost of living to the injury of labor, and the cost of supplies to the injury of the whole country.

It seems very plain that continued issues of United States notes, without any check to the issues of suspended banks, and without adequate provision for the raising of money by loans, and for funding the issues so as to keep them within due limits, must soon produce disastrous consequences. And this matter appears to me so important that I feel bound to avail myself of this occasion to ask the special attention of Congress to it.

That Congress has power to regulate the currency of the country, can hardly admit of doubt; and that a judicious measure to prevent the deterioration of this currency, by a seasonable taxation of bank circulation or otherwise is needed, seems equally clear. Independently of this general consideration, it would be unjust to the people at large to exempt banks enjoying the special privilege of circulation from their just proportion of the public burdens.

In order to raise money by way of loans most easily and cheaply, it is clearly necessary to give every possible support to the public credit. To that end, a uniform currency, in which taxes, subscriptions to loans, and all other ordinary public dues, as well as all private dues, may be paid, is almost, if not quite, indispensable. Such a currency can be furnished by banking associations, organized under a general act of Congress, as suggested in my message at the beginning of the present session. The securing of this circulation, by the pledge of United States bonds, as therein suggested, would still further facilitate loans by increasing the present and causing a future demand for such bonds.

In view of the actual financial embarrassments of the government, and of the greater embarrassments sure to come, if the necessary means of relief be not afforded, I feel that I should not perform my duty by a simple announcement of my approval of the joint resolution, which proposes relief only by increasing circulation, without expressing my earnest desire that measures, such in substance as those I have just referred to, may receive the early sanction of Congress.

By such measures, in my opinion, will payment be most certainly secured, not only to the army and navy, but to all honest creditors of the government, and satisfactory provision made for future demands on the treasury.

JANUARY 17, 1863.

ABRAHAM LINCOLN.

Act of February 25, 1863 (The National Currency Act)

[12 Statutes at Large 665, Thirty-Seventh Congress, Chapter 58, 3d Session, Approved February 25, 1863, by Abraham Lincoln]

AN ACT TO PROVIDE A NATIONAL CURRENCY, SECURED BY A PLEDGE OF UNITED STATES STOCKS, AND TO PROVIDE FOR THE CIRCULATION AND REDEMPTION THEREOF.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established in the Treasury Department a separate bureau, which shall be charged with the execution of this and all other laws that may be passed by Congress respecting the issue and regulation of a national currency secured by United States bonds. The chief officer of the said bureau shall be denominated the comptroller of the currency, and shall be under the general direction of the Secretary of the Treasury. He shall be appointed by the President, on the nomination of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years unless sooner removed by the President, by and with the advice and consent of the Senate; he shall receive an annual salary of five thousand dollars; he shall have a competent deputy, appointed by the Secretary, whose salary shall be two thousand five hundred dollars, and who shall possess the power and perform the duties attached by law to the office of comptroller during a vacancy in such office, and during his absence or inability; he shall employ, from time to time, the necessary clerks to discharge such duties as he shall direct, which clerks shall be appointed and classified by the Secretary of the Treasury in the manner now provided by law. Within fifteen days from the time of notice of his appointment, the comptroller shall take and subscribe the oath of office prescribed by the Constitution and laws of the United States; and he shall give to the United States a bond in the penalty of one hundred thousand dollars, with not less than two responsible freeholders as sureties, to be approved by the Secretary of the Treasury, conditioned for the faithful discharge of the duties of his office. The deputy comptroller so appointed shall also take the oath of office prescribed by the Constitution and laws of the United States, and shall give a like bond in the penalty of fifty thousand dollars. The comptroller and deputy comptroller shall not, either directly or indirectly, be interested in any association issuing national currency under the provisions of this act.

SEC. 2. *And be it further enacted,* That the comptroller of the currency, with the approval of the Secretary of the Treasury, shall devise a seal, with suitable inscriptions, for his office, a description of which, with a certificate of approval by the Secretary of the Treasury, shall be

Bureau of
currency.

Comptroller of
currency; ap-
pointment;
term; salary.

Deputy comp-
troller; salary;
duties.

Clerks.

Oath and bond
of Comptroller
and deputy.

Seal of office.

Certificates, &c., under seal to be received in evidence.

filed in the office of the Secretary of State with an impression thereof, which shall thereupon become the seal of office of the comptroller of the currency, and the same may be renewed when necessary. Every certificate, assignment, and conveyance executed by the comptroller, in pursuance of any authority conferred on him by law, and sealed with his seal of office, shall be received in evidence in all places and courts whatsoever; and all copies of papers in the office of the comptroller, certified by him and authenticated by the said seal, shall in all cases be evidence equally and in like manner as the original. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

Impression may be on paper.

Rooms in Treasury building for bureau.

SEC. 3. *And be it further enacted*, That there shall be assigned to the comptroller of the currency by the Secretary of the Treasury suitable rooms in the treasury building for conducting the business of the currency bureau, in which shall be safe and secure fire-proof vaults, in which it shall be the duty of the comptroller to deposit and safely keep all the plates and other valuable things belonging to his department; and the comptroller shall from time to time furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the said business.

Fire-proof vaults.

"United States bonds" to mean what.

SEC. 4. *And be it further enacted*, That the term "United States bonds," as used in this act, shall be construed to mean all coupon and registered bonds now issued or that may hereafter be issued on the faith of the United States by the Secretary of the Treasury in pursuance of law.

Banking associations, how formed.

SEC. 5. *And be it further enacted*, That associations for carrying on the business of banking may be formed by any number of persons, not less in any case than five.

Certificate to specify what.

SEC. 6. *And be it further enacted*, That persons uniting to form such an association shall, under their hands and seals, make a certificate which shall specify—

First. The name assumed by such association.

Second. The place where its operations of discount and deposits are to be carried on; designating the State, Territory, or district, and also the particular city, town, or village.

Third. The amount of its capital stock, and the number of shares into which the same shall be divided; which capital stock shall not be less than fifty thousand dollars; and in cities whose population is over ten thousand persons, the capital stock shall not be less than one hundred thousand dollars.

Fourth. The names and places of residence of the shareholders, and the number of shares held by each of them.

Fifth. The time when such association shall commence.

Sixth. A declaration that said certificate is made to enable such persons to avail themselves of the advantages of this act.

The said certificate shall be acknowledged before a judge of some court of record or a notary public, and the acknowledgement thereof certified under the seal of such court or notary, and shall be transmitted, together with a copy of the articles of association which shall have been adopted, to the comptroller of the currency, who shall record and carefully preserve the same in his office. Copies of such certificate, duly certified by the comptroller, and authenticated by his seal of office, shall be legal and sufficient evidence in all courts and places within the United States, or the jurisdiction of the Government thereof, of the existence of such association, and of every other matter or thing which could be proved by the production of the original certificate.

Certificate to be acknowledged, certified, and preserved in office of comptroller.

Authenticated copies.

SEC. 7. *And be it further enacted*, That at least thirty per centum of the capital stock of such association shall be paid in at the time of the commencement of its banking business, and the remainder of the capital stock of such association shall be paid in instalments of at least 10 per centum each on the whole amount to which the association shall be limited, as frequently as one instalment at the end of each succeeding two months from the time of the commencement of its banking operations, until the whole of the capital stock shall be paid in.

Capital stock, how paid in.

SEC. 8. *And be it further enacted*, That if any shareholder, or his assignee, shall fail to pay any instalment on the stock when the same is required by the foregoing section to be paid, the directors of such association may sell the stock held by such delinquent shareholder, at public auction, having given three weeks' previous notice thereof in a newspaper published and of general circulation in the city where the association is located, if the same be located in a city, and if not so located, then in a newspaper printed, or of general circulation, in the county where the same is located, to any person who will pay the highest price therefor, and not less than the amount then due thereon, with the expenses of advertisement and sale; and the excess, if any, shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association, and the costs of advertisement and sale, the amount previously paid shall be forfeited to the association, and such stock may subsequently be sold as the directors may order.

Stock of delinquent shareholder may be sold. Mode of sale.

SEC. 9. *And be it further enacted*, That whenever a certificate shall have been transmitted to the comptroller of the currency, as provided in this act, and the association transmitting the same shall notify the comptroller that at least thirty per centum of its capital stock has been paid as aforesaid, and that such association has complied with all the provisions of this act required to be complied with before such association shall be authorized to commence the business of banking, and

Comptroller to examine and see if requisitions of this act are complied with.

that such association is desirous of commencing such business, the comptroller shall immediately proceed, in such manner as he shall by general rules prescribe, to examine the condition of such association; to ascertain especially the amount of money paid in on account of its capital stock; the name and place of residence of each of the directors of such association, and the amount of the capital stock of which each is the bona fide owner, and generally whether such association has complied with all the requirements of this act to entitle it to engage in the business of banking; and shall cause to be made, and attested by the oaths of a majority of the directors and by the president or cashier of such association, a statement of all the facts necessary to enable the comptroller to determine whether such association is lawfully entitled to commence the business of banking under this act.

If lawfully entitled to begin banking, comptroller to give certificate to that effect.

SEC. 10. *And be it further enacted*, That if, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it shall appear that such association is lawfully entitled to commence the business of banking, the comptroller shall give to such association a certificate under his hand and official seal, showing that such association has complied with all the provisions of this act required to be complied with before being entitled to commence the business of banking under it, and that such association is authorized to commence said business accordingly; and it shall be the duty of such association to cause said certificate to be published in some newspaper, published in the city or county where such association is located, for at least sixty days next after the issuing thereof: *Provided*, That if no newspaper is published in such city or county, such certificate shall be published as the comptroller of the currency shall direct.

Certificate to be published.

Association may have common seal, name, and continue not over twenty years. Powers of association.

SEC. 11. *And be it further enacted*, That every association formed pursuant to the provisions of this act may make and use a common seal, and shall have succession by the name designated in its articles of association and for the period limited therein, not, however, exceeding twenty years from the passage of this act; by such name may make contracts, sue and be sued, complain and defend in any court of law or equity as fully as natural persons, and may make by-laws, approved by the comptroller of the currency, not inconsistent with the laws of the United States or the provisions of this act, for the election of directors, the management of its property, the regulation of its affairs, and for the transfer of its stock; and shall have power to carry on the business of banking by obtaining and issuing circulating notes in ac-

cordance with the provisions of this act; by discounting bills, notes, and other evidences of debt; by receiving deposits; by buying and selling gold and silver bullion, foreign coins, and bills of exchange; by loaning money on real and personal security, in the manner specified in their articles of association, for the purposes authorized by this act, and by exercising such incidental powers as shall be necessary to carry on such business; to choose one of their number as president of such association, and to appoint a cashier and such other officers and agents as their business may require; and to remove such president, cashier, officers, and agents at pleasure, and appoint others in their place; and their usual business shall be transacted in banking offices located at the places specified respectively in its certificate of association, and not elsewhere.

Business, where to be transacted.

SEC. 12. *And be it further enacted*, That the shares of associations formed under this act shall be deemed personal property, and shall be transferable on the books of the association in such manner as may be prescribed in the by-laws or articles of association; and every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of the prior holder of such shares; and no change shall be made in the articles of association by which the rights, remedies, or security of the existing creditors of the association shall be impaired. For all debts, contracted by such association for circulation, deposits, or otherwise, each shareholder shall be liable to the amount, at their par value, of the shares held by him in addition to the amount invested in such shares.

Shares to be personal property.

How transferable.

Shareholder personally liable to twice the amount of his shares.

SEC. 13. *And be it further enacted*, That it shall be lawful for any association formed under this act, by its articles of association, to provide for an increase of its capital from time to time as may be deemed expedient, subject to the limitations of this act; but no such increase shall be valid until the increased capital shall be paid in, and notice thereof shall have been transmitted to the comptroller of the currency, and his certificate obtained, specifying the amount of such increase of capital stock, and that the same has been duly paid to such association.

Capital stock, how may be increased.

SEC. 14. *And be it further enacted*, That it shall be lawful for any such association to purchase, hold, and convey real estate as follows:

Real estate of such association.

First. Such as shall be necessary for its immediate accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for loans made by such association, or for moneys due thereto.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by such association.

Such association shall not purchase or hold real estate in any other case or for any other purpose than as specified in this section.

Associations, before commencing banking business, to transfer to treasurer

SEC. 15. *And be it further enacted*, That every association, after having complied with the provisions of this act preliminary to the commencement of banking business under its provisions, shall transfer and deliver to the treasurer of the United States any United States bonds bearing interest to an amount not less than one third of the capital stock paid in; which bonds shall be deposited with the treasurer of the United States, and by him safely kept in his office until the same shall be otherwise disposed of, in pursuance of the provisions of this act.

United States bonds, and shall be entitled to receive ninety per cent. of their current value in circulating currency notes.

SEC. 16. *And be it further enacted*, That upon the making of any such transfer and delivery, the association making the same shall be entitled to receive from the comptroller of the currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per centum of the current market value of the United States bonds so transferred and delivered, but not exceeding the par value thereof, if bearing interest at the rate of six per centum, or of equivalent United States bonds bearing a less rate of interest; and at no time shall the total amount of such notes, issued to any such association, exceed the amount at such time actually paid in of its capital stock.

Issue of circulating notes under this act, not to exceed \$300,000,000.

SEC. 17. *And be it further enacted*, That the entire amount of circulating notes to be issued under this act shall not exceed three hundred millions of dollars. One hundred and fifty millions of which sum shall be apportioned to associations in the States, in the District of Columbia, and in the Territories, according to representative population, and the remainder shall be apportioned by the Secretary of the Treasury among associations formed in the several States, in the District of Columbia, and in the Territories, having due regard to the existing banking capital, resources, and business, of such States, district, and Territories.

How to be apportioned

Circulating notes, how to be prepared.

SEC. 18. *And be it further enacted*, That, in order to furnish suitable notes for circulation, the comptroller of the currency is hereby authorized and required, under the direction of the Secretary of the Treasury, to cause plates to be engraved in the best manner to guard against counterfeiting and fraudulent alterations, and to have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, and one thousand dollars, as may be required to supply, under this act, the

associations entitled to receive the same; which notes shall express upon their face that they are secured by United States bonds, deposited with the treasurer of the United States, and issued under the provisions of this act, which statement shall be attested by the written or engraved signatures of the treasurer and register, and by the imprint of the seal of the treasury; and shall also express upon their face the promise of the association receiving the same, to pay on demand, attested by the signatures of the president, or vice-president, and cashier; and the said notes shall bear such devices and such other statements, and shall be in such form, as the Secretary of the Treasury shall, by regulation, direct.

Notes to express what.

SEC. 19. *And be it further enacted*, That the plates and special dies to be procured by the comptroller of the currency for the printing of such circulating notes shall remain under his control and direction, and the expenses necessarily incurred in executing the provisions of this act respecting the procuring of such notes, shall be audited and paid as contingent expenses of the Treasury Department; and for the purpose of reimbursing the same, and all other expenses incurred under this act, and in lieu of all taxes upon the circulation authorized by this act, or upon the bonds deposited for the security of the same, such association organized under this act shall semi-annually, on the first days of January and July, after its organization, pay to the comptroller of the currency, in lawful money of the United States, one per centum on the amount of circulating notes received by such association, and in default thereof, the treasurer of the United States is hereby authorized to reserve and retain one per centum on the amount of said bonds so deposited, at each semi-annual payment of interest thereon; and all sums so reserved and retained shall be paid into the treasury under the direction of the Secretary, and every bank, banking association, or corporation, not organized under the provisions of this act, issuing notes calculated or intended to circulate as money, shall, on the first day of July next, and regularly on the first days of January and July thereafter, make and deliver to the comptroller of the currency a true and accurate return of the gross amount of notes issued by it, whether in circulation, or in its vaults, or on deposit elsewhere, and in default of any such return, the bank, banking association, or corporation so failing to make return, shall pay to the United States a penalty of two per centum upon its entire capital stock, to be recovered, for the use of the United States, in any court of competent jurisdiction.

Plates and dies to be under control of comptroller.

Expense of procuring notes.

Each association to pay annually one per cent. of its circulation.

Provision in case of default.

Banks, &c., not organized under this act, to make returns semi-annually.

Penalty for default, and how recovered.

SEC. 20. *And be it further enacted*, That after any such association shall have caused its promise to pay such notes on demand to be signed by the president or vice-president and cashier thereof in such manner as to make them obligatory promissory notes, payable on demand, at its

When association may issue the currency circulation as money;

to be received at par for all except duties, and to be paid for all except interest on public debt.

Other issues prohibited.

Bonds transferred, as security for circulation, to have the fact stated thereon.

How transferred.

Record of transfers to contain what.

Duty of comptroller.

Duty of comptroller.

Comptroller and treasurer may examine each others books.

place of business, such association is hereby authorized to issue and circulate the same as money; and the same shall be received as par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except for duties on imports, and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on public debt; and no such association shall issue post notes, or any other notes to circulate as money, than such as are authorized by the foregoing provisions of this act.

SEC. 21. *And be it further enacted*, That all transfers of United States bonds which shall be made by any association as security for circulating notes under the provisions of this act, shall be made to the treasurer of the United States, with a memorandum written or printed on the certificate of such bonds, and signed by the cashier, or some other officer of the association making the deposit, stating that it is held in trust for the association on whose behalf such transfer is made, and as security for the redemption and payment of the circulating notes delivered to such association; and no transfer of any such bonds by the treasurer shall be deemed valid, or of binding force and effect, unless sanctioned by the order or request of the comptroller of the currency upon the treasurer. It shall be the duty of the comptroller of the currency to keep in his office a book in which shall be entered the name of every association from whose account such transfer of bonds is made by the treasurer, and the name of the party to whom such transfer is made, unless such transfer is made in blank, in which case the fact shall be stated in said book, and in either case the par value of the bonds so transferred shall be entered therein; and it shall be the duty of the comptroller, immediately upon countersigning and entering the same, to advise by mail the association from whose account such transfer was made, the kind of bonds and the amount thereof so transferred.

SEC. 22. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to countersign and enter in the book, in the manner aforesaid, every transfer or assignment of any bonds held by the treasurer presented for his signature; and the comptroller shall have at all times during office hours access to the books of the treasurer, for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign; and the treasurer shall have the like access to the book above mentioned, kept by the comptroller, during office hours to ascertain the correctness of the entries in the same.

SEC. 23. *And be it further enacted*, That it shall be the duty of either the president or cashier of every banking association having stocks deposited in the office of the treasurer of the United States, once or more in each fiscal year, and at such time or times during the ordinary business hours as said officer or officers may select, to examine and compare the bonds so pledged with the books of said Department, and, if found correct, to execute to the said treasurer a certificate setting forth the different kinds and the amounts thereof, and that the same are in the possession and custody of the treasurer at the date of such certificate. Such examination may be made by an agent of such association, duly appointed in writing for that purpose, whose certificate before mentioned shall be of like force and validity as if executed by such president or cashier.

Some officer of each banking association to examine yearly its bonds and compare same with the books of the department.

SEC. 24. *And be it further enacted*, That every association issuing circulating notes under the provisions of this act, shall make a quarterly report to the comptroller of the currency commencing on the first day of the quarter of the year next succeeding the organization of such association, and continuing on the first days of each succeeding quarter in every year thereafter, which report shall be verified by the oath or affirmation of the president and cashier, and all wilful false swearing in respect to such report shall be perjury, and subject to the punishment prescribed by law for such offence. The report hereby required shall be in the form prescribed by the comptroller, and shall contain a true statement of the condition of the association making such report, before the transaction of any business on the morning of the day specified, next preceding the date of such report, in respect of the following items and particulars, to wit: Loans and discounts, overdrafts due from banks, amount due from the directors of the association, real estate, specie, cash items, stocks, bonds, and promissory notes, bills of solvent banks, bills of suspended banks, loss and expense account, capital, circulation, profits, amount due to banks, amount due to individuals and corporations other than banks, amount due the treasurer of the United States, amount due to depositors on demand, amount due, not included under either of the above heads. And it shall be the duty of the comptroller to publish full abstracts of such reports together in two newspapers to be designated by him for that purpose, one in the city of Washington and the other in the city of New York, exhibiting the items of capital, circulation, and deposits, specie and cash items, public securities and private securities; and the separate report of each association shall be published in a newspaper published in the place where such association is established, or, if there be no newspaper at such place, then in a newspaper published at the capital of the State, at the expense of the association

Associations to report quarterly to comptroller under oath.

Contents of report.

Abstracts of reports to be published.

Separate reports of each association to be published in local newspaper.

Association in larger cities to publish reports monthly.

making such report. In addition to the quarterly reports required by this section, every association located and doing business in the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, and New Orleans, shall publish, or cause to be published, on the morning of the first Tuesday in each month, in a newspaper printed in the city in which the association making such report is located, to be designated by the comptroller of the currency, a statement, under the oath of the president or cashier, showing the condition of the association making such statement, on the morning of the day next preceding the date of such statement, in respect to the following items and particulars, to wit: average amount of loans and discounts, specie, deposits, and circulation.

Upon failure to redeem its circulation, holder may protest the same, unless, &c.

SEC. 25. *And be it further enacted*, That if any such association shall, at any time fail to redeem, in the lawful money of the United States, any of its circulating notes, when payment thereof shall be lawfully demanded, during the usual hours of business, at the office of such association, the holder may cause the same to be protested, in one package, by a notary public, unless the president or cashier of the association shall offer to waive demand and notice of the protest, and shall, in pursuance of such offer, make, sign, and deliver to the party making such demand an admission in writing, stating the time of the demand, the amount demanded, and the fact of the non-payment thereof; and such notary public, on making such protest, or upon receiving such admission, shall forthwith forward such admission or notice of protest to the comptroller of the currency; and after such default it shall not be lawful for the association suffering the same to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it, and to deliver special deposits: *Provided, however*, That if satisfactory proof be produced to such notary public that the payment of any such notes is restrained by order of any court of competent jurisdiction, such notary public shall not protest the same; and when the holder of such notes shall cause more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

Association not afterwards to continue banking business.

Proviso.

Upon notice of such failure to redeem, comptroller to ascertain the fact.

SEC. 26. *And be it further enacted*, That on receiving notice that any such association has failed to redeem any of its circulating notes, as specified in the next preceding section, the comptroller of the currency, with the concurrence of the Secretary of the Treasury, may appoint a special agent, (of whose appointment immediate notice shall be given to such association,) who shall immediately proceed to ascertain whether such association has refused to pay its circulating notes, in the lawful money of the United States, when demanded as aforesaid, and report

to the comptroller the facts so ascertained; and if, from such protest or the reports so made, the comptroller shall be satisfied that such association has refused to pay its circulating notes as aforesaid, and is in default, he shall, within thirty days after he shall have received notice of such failure, declare the United States bonds and securities pledged by such association forfeited to the United States, and the same shall thereupon be forfeited accordingly; and thereupon the comptroller shall immediately give notice, in such manner as the Secretary of the Treasury shall, by general rules or otherwise, direct, to the holders of the circulating notes of such association to present them for payment at the treasury of the United States; and the same shall be paid as presented, whereupon said comptroller may, in his discretion, cancel an equal amount of the bonds pledged by such association, equal at current market rates, not exceeding par, to the notes paid; and it shall be lawful for the Secretary of the Treasury, from time to time, to make such regulations respecting the disposition to be made of such circulating notes after presentation thereof for payment as aforesaid, and respecting the perpetuation of the evidence of the payment thereof, as may seem to him proper; but all such notes, on being paid, shall be cancelled; and for any deficiency in the proceeds of the bonds pledged by such association, when disposed of as hereinafter specified, to reimburse to the United States the amount so expended in paying the circulating notes of such association, the United States shall have a first and paramount lien upon all the assets of such association, and such deficiency shall be made good out of such assets in preference to any and all other claims whatsoever, except the necessary costs and expenses of administering the same.

SEC. 27. *And be it further enacted*, That whenever the comptroller shall become satisfied, as in the last preceding section specified, that any such association has refused to pay its circulating notes as therein mentioned, he may, instead of cancelling the United States bonds pledged by such association, as provided in the next preceding section, cause so much of them as may be necessary to redeem the outstanding circulating notes of such association to be sold at public auction in the city of New York, after giving thirty days' notice of such sale to such association.

SEC. 28. *And be it further enacted*, That the comptroller of the currency may, if he shall be of opinion that the interests of the United States will be best promoted thereby, sell at private sale any of the stock so transferred to him by such association, and receive therefor either money or the circulating notes of such failing association: *Provided*, That no such bonds shall be sold by private sale for less than the par, nor less than the

If satisfied of such failure, he shall declare the bonds pledged to be forfeited, and notify holders of notes to present them for payment.

Proceedings.

Instead of cancelling the bonds comptroller may sell them at public auction,

or private sale.

but not for less than par.

Sale, when complete.

market value thereof at the time of sale. *And provided further*, That no sales of any such stock, either public or private, shall be complete until the transfer thereof shall have been made with the formalities prescribed in this act.

Comptroller may appoint a receiver.

SEC. 29. *And be it further enacted*, That on becoming satisfied, as specified in this act, that any such association has refused to pay its circulating notes as therein mentioned, and is in default, the comptroller of the currency may forthwith appoint a receiver, and require of him such bond and security as he shall deem proper, who, under the direction of the comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to such association, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, sell all the real and personal property of such association, on such terms as the court shall direct; and such receiver shall pay over all moneys so made to the treasurer of the United States, and also make report to the comptroller of the currency of all his acts and proceedings. The comptroller shall thereupon cause notice to be given, by advertisement in such newspapers as he may direct, for three consecutive months, calling on all persons who may have claims against such association to present the same, and to make legal proof thereof; and from time to time the comptroller, after full provision shall have been first made for refunding to the United States any such deficiency in redeeming the notes of such association as is mentioned in this act, shall make a ratable dividend of the moneys so paid over to him by such receiver on all such claims as may have been so proved or adjudicated in a court of competent jurisdiction, and from time to time, as the proceeds of the assets of such association shall be paid over to him, he shall make further dividends, as aforesaid, on all claims previously proved or adjudicated; and the remainder of such proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held: *Provided, however*, That if any such association, against which proceedings have been so instituted on account of any alleged refusal to redeem its circulating notes as aforesaid, shall deny having failed to do so, such association may at any time within ten days after such association shall have been

Proceedings in such case.

Association denying failure may apply to court for injunction, and have the issue tried.

notified of the appointment of an agent, as provided in this act, apply to the nearest circuit, or district, or territorial court of the United States, to enjoin further proceeding in the premises; and such court, after citing the comptroller of the currency to show cause why further proceedings should not be enjoined, and after the decision of the court or finding of a jury that such association has not refused to redeem its circulating notes, when legally presented, in the lawful money of the United States, shall make an order enjoining the comptroller, and any receiver acting under his direction, from all further proceedings on account of such alleged refusal.

SEC. 30. *And be it further enacted*, That the bonds transferred to the treasurer of the United States, as hereinbefore provided, by any banking association for the security of its circulating notes, shall be held exclusively for that purpose, until such notes shall be redeemed, except as provided in this act; but the comptroller of the currency may give to any such banking association powers of attorney to receive and appropriate to its own use the interest on the bonds which shall have been so transferred to the treasurer by it; but such powers shall become inoperative whenever such banking association shall fail to redeem its circulating notes as aforesaid; and said comptroller may direct the return of any of said bonds to the banking association which transferred the same, upon the surrender to him and the cancellation of a proportionate amount of such circulating notes: *Provided*, That ninety per centum of the current market value of the remaining bonds which shall have been transferred by the banking association offering to surrender such circulating notes shall be equal to the amount of all the circulating notes retained by such banking association: *And provided, further*, That there shall have been no failure by such association to redeem its circulating notes, and that there shall have been no other violation by such association of any of the provisions of this act for the security of the creditors of such association; nor shall the treasurer be required to surrender such bonds in fractional sums of less than one thousand dollars; and if, at any time after said bonds shall be deposited with the treasurer of the United States, as aforesaid, the market or cash value shall be reduced, the comptroller of the currency is hereby authorized to demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association receiving said bills, to be deposited with the treasurer of the United States, as long as such depreciation continues.

Bonds transferred as security, shall be held exclusively for that purpose, until, &c.

Interest.
May be surrendered on cancelling circulation.

Proviso.

If market value of bonds depreciates, and difference is not made good, comptroller to retain interest,

SEC. 31. *And be it further enacted*, That whenever the price of any of the bonds pledged as aforesaid for the redemption of the circulating notes of any such banking association shall be, at the stock exchange in the city of New York, for four consecutive weeks, at a rate less than that at which they shall have been estimated when so pledged, and such depreciation shall not have been made good by a deposit of other bonds or money, it shall be the duty of the comptroller of the currency to notify the treasurer of the United States of such fact, and the payment of interest upon such depreciated bonds shall be suspended, and such interest shall be retained by said treasurer until the same, when added to the current market value of the bonds so pledged, to be ascertained as before provided, shall be equal to the amount for which such bonds were pledged: *Provided*, That it shall be the duty of the comptroller of the currency, at the expiration of every period of three months, to cause the whole of the sums so retained, and then remaining in the treasury of the United States, to be invested in United States bonds, in the name of the comptroller of the currency, in trust for the respective associations by which the bonds on which such interest shall have accrued shall have been pledged; and whenever the price of such depreciated bonds at the stock exchange in New York shall rise to the price at which they were pledged, and so remain for four consecutive weeks, such investment shall be assigned to such association, and all accruing interest on such pledged bonds shall thereafter be paid to such association on demand thereof.

and invest the same quarterly in bonds.

When former market value is regained.

Worn-out or mutilated notes may be exchanged for new.

Proceedings.

SEC. 32. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to receive worn-out or mutilated circulating notes issued by any such banking association, and to deliver in place thereof to such association other blank circulating notes to an equal amount; and such worn-out or mutilated notes, after a memorandum shall have been entered in the proper books, in accordance with such regulations as may be established by the comptroller, as well as all circulating notes which shall have been paid or surrendered to be cancelled, shall be burned to ashes in presence of three persons, one to be appointed by the Secretary of the Treasury, one by the comptroller of the currency, and one by the treasurer of the United States, under such regulations as the Secretary of the Treasury may prescribe; and in case such notes shall have been delivered to the comptroller by an officer or agent of such association, then in the

presence, also, of such officer or agent; and a certificate of such burning, signed by the parties so appointed, shall be made in the books of the comptroller, and a duplicate thereof given to such officer or agent.

SEC. 33. *And be it further enacted*, That it shall be unlawful for any officer acting under the provisions of this act to countersign or deliver to any such association, or to any other company or person, any circulating notes contemplated by this act, except as hereinbefore provided, and in accordance with the true intent and meaning of this act; and any officer who shall violate the provisions of this section shall be deemed guilty of a high misdemeanor, and on conviction thereof shall be punished by fine not exceeding double the amount so countersigned and delivered, and imprisonment not exceeding fifteen years, at the discretion of the court in which he shall be tried.

Notes not to be delivered except as provided in this act.

Penalty.

SEC. 34. *And be it further enacted*, That all fees for protesting the notes issued by any such banking association shall be paid by the person procuring the protest to be made, and such banking association shall be liable therefor; but no part of the stock pledged by such banking association, as aforesaid, shall be applied to the payment of such fees; and all expenses of any preliminary or other examinations into the condition of any association shall be paid by such association; and all expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

Costs of protest.

Expenses of preliminary examination, of receivership.

SEC. 35. *And be it further enacted*, That the stockholders, collectively, of any such association shall at no time be liable to such association, either as principal debtors or sureties, or both, to an amount greater than three fifths of the capital stock actually paid in and remaining undiminished by losses or otherwise; nor shall the directors be so liable, except to such amount and in such manner as shall be prescribed by the by-laws of such association, adopted by its stockholders to regulate such liabilities.

Indebtedness of stockholders to association limited,

of directors.

SEC. 36. *And be it further enacted*, That the capital stock of any association formed under this act shall be divided into shares of one hundred dollars each, and shall be assignable on the books of the association in such manner as its by-laws shall prescribe; but no shareholder in any association under this act shall have power to sell or transfer any share held in his own right so long as he shall be liable, either as principal, debtor, surety, or otherwise, to the association for any debt

Capital stock of association, how divided.

Shares, how assignable.

Limit upon sale and transfer.

which shall have become due and remain unpaid, nor in any case shall such shareholder be entitled to receive any dividend, interest, or profit on such shares so long as such liabilities shall continue, but all such dividends, interests, and profits shall be retained by the association, and applied to the discharge of such liabilities; and no stock shall be transferred without the consent of a majority of the directors while the holder thereof is thus indebted to the association.

Associations
not to take
their stock as
security for
loans, &c.,

nor own it, or
stock of other
association,
unless, &c.

SEC. 37. *And be it further enacted*, That no banking association shall take, as security for any loan or discount, a lien upon any part of its capital stock; but the same security, both in kind and amount, shall be required of shareholders as of other persons; and no such banking association shall be the purchaser or holder of any portion of its capital stock, or of the capital stock of any other incorporated company, unless such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, on security which, at the time, was deemed adequate to insure the payment of such debt, independent of any lien upon such stock; or in case of forfeiture of stock for the non-payment of instalments due thereon, and stock so purchased or acquired, shall in no case be held by such association so purchasing for a longer period of time than six months, if the same can, within that time, be sold for what the stock cost.

Shareholders
entitled to one
vote for each
share.

Proxies.

SEC. 38. *And be it further enacted*, That in all elections of directors, and in deciding all questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him; shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or book-keeper of such association shall act as proxy; and no stockholder whose liability is past due and unpaid shall be allowed to vote.

Directors.

Number.

Residence.

Interest.

SEC. 39. *And be it further enacted*, That the affairs of every such association shall be managed by not less than five nor more than nine directors, one of whom shall be president of the association; every director shall, during his whole term of service, be a citizen of the United States and a resident of the state in which such association is located. At least three fourths of the directors shall have resided in the state in which such association is located one year next preceding their election as directors; and each director shall own in his own right, at least one per centum of the capital stock of such as-

sociation not exceeding two hundred thousand dollars, and the half of one per centum of its capital if over two hundred thousand dollars. Each director shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate, or willingly permit to be violated, any of the provisions of this act, and that he is the bonâ fide owner, in his own right, of the shares of stock standing in his name on the books of the association, and that the same is not hypothecated, or in any way pledged, as security for any loan obtained or debt owing to the association of which he is a director, which oath, subscribed by himself, and certified by the officer before whom it is taken, shall be immediately transmitted to the comptroller of the currency, and by him filed and preserved in his office.

Oath.

SEC. 40. *And be it further enacted*, That the directors of any such association first elected shall hold their places until their successors shall be elected and qualified. All subsequent elections shall be held annually, on such day in the month of January as the stockholders of said association may prescribe; and the directors so elected shall hold their places for one year, and until their successors are elected and qualified. But any director removing from the state, or ceasing to be the owner of the requisite amount of stock, shall thereby vacate his place. Any vacancy in the board shall be filled by appointment by the remaining directors. The director so appointed shall hold his place until the next annual election; and if, from any cause, an election of directors shall not be made at the time appointed, the association shall not for that cause be dissolved, but an election may be held on any subsequent day, thirty days' notice thereof having been given in a newspaper printed, or of general circulation, in the city, town, or county in which the association is located, and if no newspaper is published in such city, town, or county, such notice shall be published in a newspaper in the county adjoining.

Term of office.

Election.

Vacancy.

SEC. 41. *And be it further enacted*, That every such association shall at all times have on hand, in lawful money of the United States, an amount equal to at least twenty-five per centum of the aggregate amount of its outstanding notes of circulation and its deposits; and whenever the amount of its outstanding notes of circulation and its deposits shall exceed the above-named proportion for the space of twelve days, or whenever such lawful money of the United States shall at any time fall below the amount of twenty-five per centum of its circulation and deposits, such association shall not increase its

Associations to have what amount of money on hand.

When not to make new loans, &c.

What may be deemed lawful money.

liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange, payable at sight, nor make any dividend of its profits, until the required proportion between the aggregate amount of its outstanding notes of circulation and its deposits and lawful money of the United States shall be restored: *Provided, however,* That clearing-house certificates, representing specie or lawful money specially deposited for the purpose of any clearing-house association, shall be deemed to be lawful money in the possession of any association belonging to such clearing-house holding and owning such certificates, and considered to be a part of the lawful money which such association is required to have, under the foregoing provisions of this section: *Provided, further,* That any balance due to any association organized under this act in other places from any association in the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, or New Orleans, in good credit, subject to be drawn for at sight, and available to redeem their circulating notes and deposits, may be deemed to be a part of the lawful money which such association in other places than the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, and New Orleans, are required to have by the foregoing provisions of this section, to the extent of three fifths of the said amount of twenty-five per centum required. And it shall be competent for the comptroller of the currency to notify any such association whose lawful money reserve, as aforesaid, shall fall below said proportion of twenty-five per centum, to make good such reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of lawful money of the United States, the comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of such association, as provided in this act.

Indebtedness of associations limited, except, &c.

SEC. 42. *And be it further enacted,* That no association shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in, and remaining undiminished by losses or otherwise, except on the following accounts, that is to say:

First. On account of its notes of circulation.

Second. On account of moneys deposited with, or collected by, such association.

Third. On account of bills of exchange or drafts drawn against money actually on deposit to the credit of such association, or due thereto.

Fourth. On account of liabilities to its stockholders, for money paid in on capital stock, and dividends thereon, and reserved profits.

SEC. 43. *And be it further enacted*, That no association shall, either directly or indirectly, pledge or hypothecate any of its notes of circulation, for the purpose of procuring money to be paid in on its capital stock, or to be used in its banking operations, or otherwise.

Associations not to pledge their circulation.

SEC. 44. *And be it further enacted*, That no association, or any member thereof, shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in form of dividends, loans to stockholders for a longer time than six months or in any other manner, any portion of its capital; and if losses shall at any time have been sustained by any such association equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it shall continue its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts; and all debts due to any association, on which interest is past due and unpaid for a period of six months, unless the same shall be well secured, and shall be in process of collection, shall be considered bad debts within the meaning of this act.

Capital not to be diminished by dividends, &c.

SEC. 45. *And be it further enacted*, That the directors of every association shall semi-annually in the amounts of May and November, declare a dividend of so much of the profits of such association as they shall judge expedient; and on each dividend day, the cashier shall make, and verify by his oath, a full, clear, and accurate statement of the condition of the association, as it shall be on that day after declaring the dividend; which statement shall contain—

Dividends in May and November.

On each dividend day cashier to make statement to comptroller as to

First. The amount of the capital stock actually paid in and then remaining, as the capital stock of such association.

Capital.

Secondly. The amount of the circulating notes of such association then in circulation.

Circulation.

Thirdly. The greatest amount in circulation at any time since the making of the last previous statement, as shall have been exhibited by the weekly statements of the cashier, specifying the times when the same occurred.

Due other banks.

Fourthly. The amount of balances and debts of every kind due to other banks and banking associations.

Depositors.

Fifthly. The amount due to depositors.

Liabilities.

Sixthly. The total amount of debts and liabilities of every description, and the greatest amount since the making of the last previous statement, specifying the time when the same accrued.

- Dividend.** Seventhly. The total amount of dividend declared on the day of making the statement.
- Subject to draft.** Eighthly. The amount of lawful money of the United States belonging to the association, and in its possession at the time of making the statement.
- Bills on hand.** Ninthly. The amount subject to be drawn at sight, in lawful money of the United States, then remaining on deposit with any associations, banks or bankers; specifying the amounts so on deposit in the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, and New Orleans.
- Due from other banks.** Tenthly. The amount then on hand of bills or notes, issued by other banks and banking associations.
- Assets.** Eleventhly. The amount of balances due from other banks, bankers, and banking associations, excluding deposits subject to be drawn at sight as aforesaid.
- Real and personal estate.** Twelfthly. The amount on hand of bills, bonds, stocks, notes, and other evidences of debts, discounted or purchased by the association, specifying particularly the amount of suspended debt, the amount considered bad, the amount considered doubtful, and the amount in suit or judgment.
- Thirteenthly. The value of the real and personal property held for the convenience of the association, specifying the amount of each.
- Fourteenthly. The amount of real estate taken in payment of debts due to the association.
- Undivided profits. Debts of directors.** Fifteenthly. The amount of the undivided profits of the association.
- Sixteenthly. The total amount of the liability to the association by the directors thereof collectively, specifying the gross amount of such liabilities as principal debtors, and the gross amount of indorsers or sureties.
- The statement thus made shall forthwith be transmitted to the comptroller of the currency.
- Rate of interest on loans and discounts.** SEC. 46. *And be it further enacted,* That every association may take, reserve, receive, and charge on any loan, or discount made, or upon any note, bill of exchange, or other evidence of debt, such rate of interest or discount as is for the time the established rate of interest for delay in the payment of money, in the absence of contract between the parties, by the laws of the several States in which the associations are respectively located, and no more: *Provided, however,* That interest may be reserved or taken, in advance, at the time of making the loan or
- Usury to forfeit the debt.**

discount, according to the usual rules of banking; and the knowingly taking, reserving, or charging of a rate of interest greater than that allowed by this section shall be held and adjudged a forfeiture of the debt or demand on which the same is taken, reserved, or charged; but the purchase, discount, or sale of a bill of exchange, drawn on actually existing values, and payable at another place than the place of such purchase, discount, or sale, at the current discount or premium, shall not be considered as taking, reserving, or charging interest.

SEC. 47. *And be it further enacted*, That the total liabilities of any person, or of any company or firm, (including in the liabilities of a company or firm the liabilities of the several members thereof,) to any association, including liabilities as acceptor of bonâ fide bills of exchange, payable out of the state where the association is located, shall at no time exceed one third; exclusive of liabilities as acceptor, one fifth; and exclusive of liabilities on such bills of exchange, one tenth part of the amount of the capital stock of such association actually paid in.

Limit of liability of any individual to association.

SEC. 48: *And be it further enacted*, That no association shall, at any time, pay out on loans or discounts, or in purchasing drafts or bills of exchange, or in payment of deposits, nor shall it in any other mode put in circulation the notes of any bank or banking association, which notes shall not, at any such time, be receivable, at par, on deposit, and in payment of debts by the association so paying out or circulating such notes; nor shall it knowingly pay out or put in circulation any notes issued by any bank or banking association which at the time of such paying out or putting in circulation is not redeeming its circulating notes in lawful money of the United States.

What notes associations shall not pay out.

SEC. 49. *And be it further enacted*, That all transfers of the notes, bonds, bills of exchange, and other evidences of debt owing to any association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, with a view to prevent the application of its assets in the manner prescribed by this act, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void.

All transfers, &c., after any act of insolvency, or in contemplation thereof, with intent, &c., to be void.

If directors knowingly violate, &c., any provisions of this act, the franchise to be forfeited, and they held individually.

SEC. 50. *And be it further enacted*, That if the directors of any association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate any of the provisions of this act, all the rights, privileges, and franchises of the association derived from this act shall be thereby forfeited; such violation shall, however, be determined and adjudged by a proper circuit, district or territorial court of the United States, before the association shall be declared dissolved; and in cases of such violation every director who participated in or assented to the same shall be held liable in his personal and individual capacity for all damages which the association, its shareholders, or any other person, shall have sustained in consequence of such violation.

Comptroller to cause examinations of each association to be made.

SEC. 51. *And be it further enacted*, That the comptroller of the currency, with the approbation of the Secretary of the Treasury, as often as shall be deemed necessary or proper, shall appoint a suitable person or persons to make an examination of the affairs of every banking association, which person shall not be a director or other officer in any association whose affairs he shall be appointed to examine, and who shall have power to make a thorough examination into all the affairs of the association, and, in doing so, to examine any of the officers and agents thereof on oath, and shall make a full and detailed report of the condition of the association to the comptroller; and the association shall not be subject to any other visitatorial powers than such as are authorized by this act, except such as are vested in the several courts of law and chancery. And every person appointed to make such examination shall receive for his services at the rate of five dollars for each day by him employed in such examination, and two dollars for every twenty-five miles he shall necessarily travel in the performance of his duty, which shall be paid by the association by him examined.

Pay of examiners.

Embezzlement, &c., of funds by officers or directors, how punished.

SEC. 52. *And be it further enacted*, That every president, director, cashier, teller, clerk, or agent of any association, who shall embezzle, abstract, or wilfully misapply any of the moneys, funds, or credits of the association, or shall, without authority from the directors, issue or put in circulation any of the notes of the association, or shall, without such authority, issue or put forth any certificate of deposit, draw any order or bill of exchange, make any acceptance, assign any note, bond, draft, bill of exchange, mortgage, judgment, or decree, or shall make any false entry in any book, report, or statement of the association, with intent, in either case, to injure or defraud any other company, body politic, or corporate, or any individual person, or to deceive any officer or agent appointed to examine the affairs of any such association, shall be deemed guilty of a misde-

meanor, and upon conviction thereof shall be punished by imprisonment not less than five nor more than ten years.

SEC. 53. *And be it further enacted*, That the president and cashier of every such association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association in the office where its business is transacted; and such list shall be subject to the inspection of all the shareholders and creditors of the association during business hours of each day in which business may be legally transacted; and a copy of such list, verified by the oath of such president or cashier, shall, at the beginning of every year, be transmitted to the comptroller of the currency, commencing on the first day of the first quarter after the organization of the association.

List of shareholders to be kept.

SEC. 54. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized, whenever, in his judgment, the public interests will be promoted thereby, to employ any of such associations doing business under this act as depositaries of the public moneys, except receipts from customs.

Any association may be made a depository of public moneys, except, &c.

SEC. 55. *And be it further enacted*, That all suits and proceedings arising out of the provisions of this act, in which the United States or its officers or agents shall be parties, shall be conducted by the district attorneys of the several districts, under the direction and supervision of the solicitor of the treasury.

Suits in behalf of the United States to be conducted by district attorneys.

SEC. 56. *And be it further enacted*, That every person who shall mutilate, cut, deface, disfigure, or perforate with holes, or shall unite or cement together, or do any other thing to any bank bill, draft, note, or other evidence of debt issued by any such association, or shall cause or procure the same to be done, with intent to render such bank bill, draft, note, or other evidence of debt, unfit to be reissued by said association, shall upon conviction forfeit fifty dollars to the association who shall be injured thereby, to be recovered by action in any court having jurisdiction.

Mutilation, &c., of such bank bills with intent, &c., how punished.

SEC. 57. *And be it further enacted*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any note in imitation of, or purporting to be in imitation of, the circulating notes issued under the provisions of this act, or shall pass, utter, or publish, or attempt to pass, utter, or publish any false, forged, or counterfeited note, purporting to be issued by any association doing a banking business under the provisions of this act, knowing the same to be falsely made, forged, or counterfeited, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering, any such circulating notes, issued as aforesaid, or shall pass, utter or

Forging, &c., circulating notes, how punished.

publish, or attempt to pass, utter or publish as true, any falsely altered or spurious circulating note, issued or purporting to have been issued as aforesaid, knowing the same to be falsely altered or spurious, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a period not less than five years nor more than fifteen years, and to be fined in a sum not exceeding one thousand dollars.

Engraving, &c., or having custody of plates, paper, &c., with intent, &c., how punished.

SEC. 58. *And be it further enacted*, That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody or possession any engraved plate or block after the similitude of any plate from which any circulating notes issued as aforesaid shall have been printed, with intent to use such plate or block, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any paper adapted to the making of such notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, every such person, being thereof convicted by due courts of law, shall be sentenced to be imprisoned and kept to hard labor for a term not less than five nor more than fifteen years, and fined in a sum not exceeding one thousand dollars.

Suits, &c., against associations may be brought in any federal court in the proper district.
Annual report of comptroller.

SEC. 59. *And be it further enacted*, That suits, actions, and proceedings by and against any association under this act may be had in any circuit, district, or territorial court of the United States held within the district in which such association may be established.

Summary of associations.

SEC. 60. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to report annually to Congress, at the commencement of its session—

First. A summary of the state and condition of every association from whom reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, the amount of circulating notes outstanding, and the total amount of means and resources, specifying the amount of specie held by them at the times of their several returns, and such other information in relation to said associations as, in his judgment, may be useful.

Second. A statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed, and the amount outstanding.

List of associations closed.

Third. To suggest any amendment to the laws relative to banking by which the system may be improved, and the security of the bill-holders and depositors may be increased.

Suggestion of amendments.

Fourth. To report the names and compensation of the clerks employed by him, and the whole amount of the expenses of the banking department during the year; and such report shall be made by or before the first day of December in each year, and the usual number of copies for the use of the Senate and House, and one thousand copies for the use of the Department, shall be printed by the public printer and in readiness for distribution on the first meeting of congress.

Names, &c., of clerks, and expenses of department.

When report to be made and printed.

SEC. 61. *And be it further enacted*, That any banking association or corporation lawfully in existence as a bank of circulation on the first day of January, Anno Domini eighteen hundred and sixty-three, organized in any state, either under a special act of incorporation or a general banking law, may, at any time within — years after the passage of this act become an association under the provisions of this act; that in such case the certificate of association provided for by this act shall be signed by the directors of such banking association or corporation, and in addition to the specifications required by this act, shall specify that such directors are authorized by the owners of two thirds of the capital stock of such banking association or corporation, to make such certificate of association, and such certificate of association shall thereafter have the same effect, and the same proceedings shall be had thereon, as is provided for as to other associations organized under this act. And such association or corporation thereafter shall have the same powers and privileges, and shall be subject to the same duties, responsibilities, and rules, in all respects, as is [are] prescribed in this act for other associations organized under it, and shall be held and regarded as an association under this act.

Any lawfully existing bank may become an association under this act.

Proceedings in such case.

SEC. 62. *And be it further enacted*, That any bank or banking association, authorized by any State law to engage in the business of banking, and duly organized under such State law at the time of the passage of this act, and which shall be the holder and owner of United States bonds to the amount of fifty per centum of its capital stock, may transfer and deliver to the treasurer of the United States such bonds, or any part thereof, in the manner provided by this act; and upon making such transfer and delivery, such bank or banking association shall be entitled to receive from the comptroller of the currency, circulating notes, as herein provided, equal in

Certain existing banks owning bonds may transfer them and receive circulating notes.

amount to eighty per centum of the amount of the bonds so transferred and delivered.

Provisions in case such bank fails to redeem such circulation.

SEC. 63. *And be it further enacted*, That upon the failure of any such State bank or banking association, to redeem any of its circulating notes issued under the provisions of the preceding section, the comptroller of the currency shall, when satisfied that such default has been made, and within thirty days after notice of such default, proceed to declare the bonds transferred and delivered to the treasurer, forfeited to the United States, and the same shall thereupon be forfeited accordingly. And thereupon the circulating notes which have been issued by such bank or banking association shall be redeemed and paid at the treasury of the United States, in the same manner as other circulating notes issued under the provisions of this act are redeemed and paid.

Bonds forfeit may be cancelled or sold.

SEC. 64. *And be it further enacted*, That the bonds forfeited, as provided in the last preceding section, may be cancelled to an amount equal to the circulating notes redeemed and paid, or such bonds may be sold, under the direction of the Secretary of the Treasury, and after retaining out of the proceeds a sum sufficient to pay the whole amount of circulating notes, for the redemption of which such bonds are held, the surplus, if any remains, shall be paid to the bank, or banking association from which such bonds were received.

This act may at any time be repealed, &c.

SEC. 65. *And be it further enacted*, That Congress reserves the right, at any time, to amend, alter, or repeal this act.

APPROVED, February 25, 1863.

Annual Report, Comptroller of Currency (Hugh McCulloch)

[November 28, 1863]

OFFICE OF THE COMPTROLLER OF THE CURRENCY,
November 28, 1863.

In compliance with the requirements of 60th section of the act of Congress entitled an "Act to provide a national currency secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," I have the honor to submit the following report.

Up to the present time there have been organized under said act one hundred and thirty-four banks, which are located as follows:

In Maine.....	2	In District of Columbia.....	1
In New Hampshire.....	2	In Illinois.....	7
In Vermont.....	2	In Indiana.....	20
In Massachusetts.....	3	In Iowa.....	6
In Rhode Island.....	1	In Kentucky.....	1
In Connecticut.....	4	In Michigan.....	4
In New York.....	16	In Missouri.....	2
In New Jersey.....	1	In Ohio.....	38
In Pennsylvania.....	20	In Wisconsin.....	4

direction of the Secretary of the Treasury, and after retaining out of the proceeds a sum sufficient to pay the whole amount of circulating notes for the redemption of which such bonds are held, the surplus, if any remains, shall be paid to the bank or banking association from which such bonds were received. Sec. in C. D. And he it further enacted, that Congress reserves the right at any time to amend, alter, or repeal this act.

Calvin H. Hunt

Speaker of the House of Representatives
 William Root
 President of the Senate, *pro tempore*

Approved, February 25, 1863.

Abraham Lincoln

A statement of the condition of some of the banks, on the first of October last, accompanies this report. Most of those now organized had not at that time commenced business; hence the partial returns.

A statement of the names and compensation of the clerks employed by me, and of the expenses of the bureau up to the first of July, the commencement of the financial year, also accompanies this report.

The same section of the act makes it my duty "to suggest any amendment to the laws relative to banking by which the system may be improved, and the security of the billholders and depositors may be increased."

The national currency act, although admirable in its leading features, is not altogether symmetrical in its arrangement, nor clear, if it is even consistent in all of its provisions. I respectfully suggest, therefore, that the act be carefully revised; that those parts of it that refer to the same subject be placed in juxta-position, and that it be relieved of certain obscurities and apparent inconsistencies that render some of its provisions of difficult construction. A law of so much importance as this, which is to be interpreted by so many people, and is to be the charter of so many banking institutions, should be methodical in its arrangement, clear in language, and comprehensive and consistent in its provisions. In these respects the national currency act is somewhat defective. Sections relating to the same subject are scattered throughout the act. Words of different significance are sometimes used as if they were convertible. Many passages are ambiguous in language, if they do not contain inconsistent provisions. For example, the law requires that articles of association should be entered into, and organization certificates executed, stating for what purpose the certificates shall be made, and indicating other and different things to be provided for in the articles of association, and yet in some instances these certificates and articles seem to be referred to as if they were one and the same instrument. Section 6 makes certified copies of organization certificates legal and sufficient evidence of the existence of associations, while section 11 provides that the associations shall have succession, &c., by the name designated in their articles. The last mentioned section, which confers banking powers upon the banks, has also a provision which bankers find it difficult to interpret. After bestowing upon the banks general powers to discount bills, notes, and other evidences of debt, it authorizes the loan of money "on real and personal security, in the manner specified in the articles of association, and for the purposes authorized by the act." This is the only power conferred by this section, the exercise of which is made dependent upon the articles of association, and it has been found difficult to give a precise meaning to the language, and to form articles that should cover and secure the power intended to be conferred.

Section 13 authorizes associations to provide in their articles of association for an increase of capital, subject to the limitations of the act; but there is no limitation in the act of the capital stock of the associations, separately or in the aggregate. The same section seems to require that the Comptroller shall *certify to the banks* the amount of their increased stock, instead of giving him the power to authorize the banks to increase their capitals, and to approve of the increase, upon his being furnished with evidence that the additional capital has actually been paid in.

Section 15 provides that United States bonds to the amount of one-third of the paid-in capital of an association shall be deposited with the Treasurer, and a fair construction of the act has seemed to me to warrant the decision that the banks should not only deposit with the Treasurer, but that they should keep with him constantly, this proportion of bonds; while section 30 provides that the Comptroller may (shall) direct the return of any such bonds to the association that transferred the same, upon the surrender to him and the cancellation of a proportionable amount of its circulating notes &c., &c. This provision, construed by itself, might nullify the requirements of the 15th section, even if it did not defeat the most important object of the act.

Section 37, literally construed, might prevent the national banks from discounting on the security of the stocks of other corporations, many of which stocks are regarded by bankers as among the most desirable collaterals; while the object of the restrictions in this section undoubtedly was, merely to prevent banks from discounting upon the security of their own stocks and from engaging in stock speculations. I have decided that under section 41, three-fifths of the twenty-five per cent. of lawful money required to be kept on hand by the national banks might be kept in similar associations in the cities named, *but in no others*. The ninth article of the 45th section is supposed, however, by many to indicate that no such restriction in regard to the character of the depositary was intended.

An absolutely strict construction of another part of section 41 would seem to deny to banks in the cities named the privileges granted to those in other places, but I have thought and decided that a more liberal construction should be given to it, because it was not reasonable to suppose it to have been the intention of Congress to withhold from banks in Chicago privileges granted to banks in Buffalo, nor from our banks in Providence privileges granted to banks in Hartford, New Haven, &c., &c.

These, and others like them, may be regarded as minor defects, and such as do not materially affect the proper working of the system, but they serve to embarrass the bankers, and may cause improper decisions on the part of the Comptroller. The law would be greatly improved if it were relieved of them.

I suggest, also, that section 47 be struck out entirely. While it is true that large loans to a single individual or firm should, as a general thing, be avoided, there may be, and frequently are, exceptional cases in which such loans are both necessary and judicious. I think, therefore, that this is a matter that should be left to the discretion of the managers of the banks, and that it can be safely intrusted to them.

I suggest, also, that section 39 be so amended that the affairs of the national banks may be managed by not more than thirteen directors instead of nine, and that only two-thirds of the directors be required to be residents of the State in which the banks are respectively located. I can conceive of no valid reason why the stockholders of a national bank should be prohibited from electing more than nine directors. It is not likely that the stockholders of many banks will be inclined to do so; but some State banks have more than nine directors, and if they should be converted into national banks, and the stockholders thereof should desire to retain their present number, or if any new associations should prefer a larger number than nine, they should have the privilege of doing it.

The requirement that all the directors of a bank should be residents of the State in which it is located, may, in some instances, prevent stockholders from availing themselves of the services of men whom it may be desirable to have in the direction. Many persons carrying on business in our large cities reside in neighboring States. Should they, therefore, be disqualified from being directors of the city banks? The object for which this resolution was inserted in the act will doubtless be secured by requiring two-thirds of the board to be residents of the State in which an association is organized.

Instead of the liability of the stockholders, many of whom have little voice in the management of their banks, I would suggest that section 12 be so amended that the failure of a national bank be declared *prima facie* fraudulent, and that the officers and directors, under whose administration each insolvency shall occur, be made personally liable for the debts of the bank, and be punished criminally, unless it shall appear, upon investigation, that its affairs were honestly administered. The individual liability provision, if continued, will prevent, as it is now doing, many prudent men and men of wealth from becoming shareholders in national banks, and consequently hinder a proper and desirable distribution of their stock, and will not protect creditors to the same extent as would be done by the proposed liability of the managers.

I also suggest that section 24 be so amended that the publication by an association of its quarterly reports, where there is no newspaper in the place where the association is located, be made in the nearest paper thereto, instead of a paper published at the capital of the State.

I suggest, also, that section 39 be so amended that stockholders of banks of large capital be eligible to the direction thereof, who may be the owners of less than one-half per cent. of the capital. As the law now stands, no stockholder can be a director in a bank of \$10,000,000 of capital, without owning at least \$50,000 of its stock. Such a provision is obviously unwise. The best brains and the highest integrity might thus be excluded from the management of banks. There is another objection to this section. According to its provisions, a stockholder who owns but \$1,500 of stock can be a director of a bank with \$300,000 capital, while one must own \$2,000 of stock to be a director of a bank with \$200,000 capital.

I suggest, also, that section 31 be repealed. Aside from the consideration that a depreciation of government securities should not be contemplated by Congress, it is hardly just to the banks to compel them to furnish these securities as a pledge for their circulation, at the rate of ninety per cent. on the dollar, and then subject them to the caprices of the New York stock exchange.

The act authorizes the organization of banks with a capital of \$50,000 each, and requires the payment of only thirty per cent. thereof on the commencement of business, so that a bank may commence the business of banking with a paid in capital of only fifteen thousand dollars.

I suggest that the act be so amended that no bank shall commence business with a less capital, actually paid in, than fifty thousand dollars. To say nothing of the facilities which the law affords to the banks, for building up a fictitious capital by the use of its circulating notes, when the stock is paid up by instalments, fifteen thousand dollars is altogether too insignificant a sum, even at the commencement,

for the capital of a bank. It is very questionable whether a bank should be organized with a capital less than one hundred thousand dollars; fifty thousand to be paid in at the commencement of business, and the balance in instalments of ten per cent. every sixty days thereafter.

There is, at present, no provision for the voluntary closing of the national banks. I suggest, therefore, that a provision be inserted in the act, requiring banks that may desire to close up their affairs to give notice of their intention to do so, to the Comptroller of the currency, and such notice to the public as he may prescribe, and authorizing the banks, at any time after two years from the publication of such notice, to withdraw from the Treasurer the bonds deposited with him for the security of their circulation, upon paying into the Treasury of the United States the amount of their outstanding notes in lawful money, which notes shall thenceforth be redeemable at the treasury, and the banks respectively, and the stockholders thereof be discharged from all liability therefor.

It would thus appear that the benefits resulting from the lost circulation are to inure to the government, and not to the banks; but it will be remembered, that the notes are furnished to the banks at the expense of the government, which will probably be no more than covered by what may be lost or destroyed; especially as the banks, being at no expense therefor, will be likely to keep their circulation clean and unmutilated, by frequent exchanges of old notes for new ones.

I suggest, also, that the act be so amended that the rate of interest to be charged by the national banks be uniform in all the States; that the penalty for usury be a forfeiture of the interest, instead of a forfeiture of the debt, on which more than the legal rate is taken, and that the banks in the large commercial cities of the seaboard States be relieved in certain contingencies, from all penalties for usury, in order that they may prevent, as far as practicable, by raising the rate of interest, excessive importations of foreign merchandise and heavy exportations of the precious metals.

The expediency of making the rate of interest uniform throughout the country is manifest. The objection to national legislation upon this subject is, that the States are supposed to have the exclusive right to regulate the interest upon loans of money.

It is true that the power to regulate the rates of interest at which money shall be loaned has always been exercised (except in the case of the United States Bank) by the States, and it is also true that the laws upon this subject in the different States have been various and changeable. There are scarcely two States in the Union whose interest laws are exactly alike. Few things have been more embarrassing to the trade between the different sections of the country, and none have been more prolific of litigation and conflicting judicial decisions, than the different and frequently changing legislation of the States in fixing the value of the use of money.

Whatever opinions may have heretofore obtained upon the subject, there are now very few intelligent business men of the country, who have watched the effect upon trade and exchanges of the efforts of the States to establish by law the rates of interest, who are not agreed in the opinion, that the regulation of commerce between the States cannot be perfectly accomplished without the establishment of a uniform rate

of interest throughout the Union. The commerce of the country ignores State boundaries, and Congress has the exclusive right of regulating it. Congress ought, therefore, to have the incidental power of preventing the States from embarrassing commercial intercourse between the people of the States, which is done to no little extent, by their fixing different rates of interest upon money. If such power exists in Congress it ought to be exercised. In my judgment, it is demanded both by considerations of public policy and public convenience.

But whatever opinions may be entertained in regard to the general authority of Congress to regulate the rate of interest upon loans of money, there can be but little question of its power to regulate the rate which shall be charged by the banks through which a national circulation is to be issued, and which are organized under a national law. Unless it possesses this power, *the national government must divide with the States* the control of the affairs of banks created to carry out its rightful, acknowledged, and necessary functions.

As the law now stands, banks in New York and Michigan can charge seven per cent. on their loans, while those of New England and most other States are restricted to six; and State laws can be so framed as to attract capital to be invested in national banks too largely into particular States, or to prevent such an investment of it in such States altogether.

It is recommended, therefore, that the rate of interest to be charged by national banks be made uniform throughout the States, and that this rate be seven per cent. per annum.

The authority of Congress to so change the act has been settled, I think, by the Supreme Court. The Bank of the United States was authorized by its charter to loan money at the rate of six per cent. per annum. Suppose, that in a State in which a branch of that bank was located the legal rate of interest had been five per cent., would a contract made with the branch for six per cent. have been void as contravening a State law? The right to assess and collect taxes for the support of the State is a right indispensable to the existence of the State government. Nevertheless, the State of Maryland was prohibited from taxing the stock of the branch of the United States Bank in the city of Baltimore, and on the ground that States had no power by taxation or otherwise to impede, or in any manner control, laws enacted by Congress in the exercise of its legitimate powers. If, instead of attempting to tax the Baltimore branch bank, the State of Maryland had passed a law reducing the rate of interest to be charged by all corporations within its limits, not authorized by the State, to four per cent., (as it would have had an undoubted right to do if the power to regulate the rate of interest upon moneys loaned belongs absolutely and exclusively to the States,) would not the Supreme Court have declared such a law, in its application to a branch of the United States Bank, unauthorized and void? Is the power to regulate the rate of interest upon money any more clearly a power reserved by the States than the power to tax? If Congress had the constitutional authority to pass the national currency act, it has unquestionably the incidental right to regulate, irrespective of State legislation, the rate of interest which shall be charged by the banks organized under it, for, without this right, State laws might so control or impede the business of the banks as to render the act itself practically inoperative.

Few questions have been more frequently and thoroughly discussed, or in relation to which there has been a greater difference of opinion among intelligent men, than the question of usury. Much of this difference of opinion has arisen from the fact that men have viewed it from different stand-points. The opinion of one who has lived in Germany or England, where capital is abundant, and no usury laws have existed for years, will, of course, be very different from that of one who has lived in Minnesota or California, and noticed the evils which have resulted from the high rates which money has commanded in those States. Notwithstanding the fact that money is the standard of value, it is not free from the operations of the great regulating law of supply and demand. Where money is abundant it is cheap, where scarce it is dear; and no legislation has been able to control the effect of this general law. There is no necessity for usury laws in most of the States at the present time, because money is abundant and lenders are plenty, and borrowers are scarce. When the war is over, and business goes back again to its accustomed channels, and the disbursements of the government are largely curtailed, borrowers will be plenty and lenders scarce. Because usury laws are not needed now, it does not follow that they will not be required at no very distant day, nor does it follow, because legislation has not been able absolutely to regulate the value of the use of money, and because all usury laws are frequently evaded, that, therefore, these laws are inefficacious and unwise. Usury laws, no matter how much they have been evaded, have had the effect of preventing, to some extent, excessive charges on loans of money. There is scarcely a banker or money-lender in the country who has not often been restrained in his charges, for the money he has loaned, by the usury laws which have been in force. In all countries, in which there is not a superabundance of capital, usury laws have been found necessary to protect those whose interest it is to borrow money, against excessive charges for it by those who have it to lend, and the experience of the nations is not to be disregarded. Money, whether it be in the form of the precious metals or of bank notes, is created by law. Gold and silver are not money until coined and made such by the authority of the government. It is not like merchandise or other personal property, the result of man's industry, but a creation of the government, and government, which fixes the value that shall be placed upon it, has the right to say, and it is the duty to say, what shall be charged for the use of it. Of course solvent bank notes, whether issued by national or State authority, depend for their value as money upon the value of the coin of the United States. The only question, then, which it is necessary to consider in this connexion is, what penalty shall be attached to violations of usury laws. On this point, I am of the opinion that while the penalty should be such as will protect the borrower from oppression, it should not be of such a character as to tempt too strongly his honor, or to compel both the lender and borrower to resort to shifts for its evasion, which make money dearer to the latter than it otherwise would be. The laws of those States that make void all usurious contracts, even in the hands of innocent parties, and punish usury as a crime, are impolitic and unwise; those laws that make valid, contracts for any rates of interest which may be agreed upon are scarcely less so. I think it will be found that those laws which make the penalty for usury the forfeiture of

interest, leaving the lender the right to collect only the principal of the loan, are more equitable in their operations, and more effective in inducing fair dealing between man and man, than the more stringent laws of some States and the less stringent ones of others. I feel it to be my duty, therefore, to recommend that the 46th section of the national currency act be further amended, so that the penalty for taking or reserving by the national banks of a greater rate of interest than seven per cent. be a forfeiture of the interest, instead of the forfeiture of the debt on which more than the legal rate shall have been taken or reserved. And inasmuch as the history of all commercial nations has shown it to be occasionally necessary, for the regulation of trade between them and other nations, that the rate of interest should be under the control of an authority less arbitrary than statutes, I further recommend that the Secretary of the Treasury, or a commission to be created by Congress, be authorized temporarily to relieve the national banks in the cities of Philadelphia, New York, Boston, &c., from all penalties for usury, whenever it shall be thought that the public interests will be promoted thereby.

The judicious use of the power possessed by the Bank of England of checking, by an advance of the rate of interest, excessive speculation, and the creation of a foreign debt, to be liquidated by shipments of coin, has frequently prevented financial crises in Great Britain. The same power, prudently and resolutely wielded by the banks of New York as a unit, would, in years past, have saved millions to the United States. It may be many years before the national banks will possess the power now held by the State banks in that city, but they may have it in due time; and when this is the fact, no statutory restrictions should prevent them from using it for the benefit of the country.

If it should be thought inadvisable, as I trust will not be the case, to make the suggested amendments in regard to interest and usury, I would, in that event, recommend, as the national banks are to be subject to State laws in regard to the interest that shall be charged upon discounts, that they be also subject to the penalties for usury which the State laws may impose. If the exclusive right to regulate the rate of interest is to be left to the States, they should also fix the penalty for usury. The power to regulate, by law, the charge that shall be made for the use of money, and the power to punish for the violation of the law, should be in the same hands. Under the present provisions of the act, Congress must adopt State legislation, whatever it may be, upon the subject of interest, whether it be three per cent. or twenty, while it inflicts a penalty for a violation of State laws which the State laws do not themselves impose.

I suggest also that section 45 be repealed, and that instead thereof a section be inserted authorizing the banks to make semi-annual dividends of profits, but requiring them, before dividends are declared, to carry to the "surplus" one-sixth part of their net profits, until their surplus funds shall amount to thirty per cent. of their respective capitals. The advantages of the creation, by a bank, of a large surplus fund to cover losses that no prudence can prevent, and, as a preparation for commercial crises, are so well understood as to need no illustration. The rest of this section refers to semi-annual reports. By section 24 the banks are required to make full quarterly reports of the condition of

their affairs, in view of which the semi-annual report would seem to be unnecessary.

I recommend also that sections 62, 63, and 64 be repealed.

The national currency system contemplates the organization of national banks, which, by becoming its financial agents, may aid the government in the safekeeping and transmission of its revenues, and the transaction of its business, and through the instrumentality of which a safe and uniform circulation may be furnished to the people.

The sixty-second section makes it the duty of the Comptroller to furnish the national currency to any banks or banking institutions authorized by a State law to engage in the business of banking, upon their delivering to the Treasurer the required securities. No matter what may be the restrictions of the State law upon the issues of State banks, or the character of the banks, if they *claim* to be the owners and are the holders of United States bonds to the amount of fifty per cent. of their capitals, they can deposit *any part* of these bonds, and obtain circulation therefor. It is difficult to conceive of a measure better calculated to bring the national currency system into conflict with the States, and into disrepute with the people, than this. Under it we should have banks receiving government notes without being in any measure subject to the supervision of the government—deriving all their corporate powers from the States, and yet issuing notes not authorized by State laws. We should have banks that may have borrowed the government securities attempting to bolster up a doubtful reputation by the credit which an issue of national circulation would give them, and casting reproach upon the system by their inability to redeem it.

If States have the right to create banks of issue, they must have the sole right to control them. Congress can neither increase nor diminish the powers of institutions brought into existence by State laws if their powers do not encroach upon the authority of the general government.

But if enabling acts should be passed by State legislatures, authorizing State banks to avail themselves of the privileges of the 62d section, the objection to the delivery of notes to State banks would be only partially removed. The government should have no connexion with institutions not created by its own laws. If the two systems of national and State banking are to co-exist, let it be as separate and independent systems. Let there be no non-descripts which are part State and part national, issuing two kinds of circulation, created by different authorities and based upon different securities.

In every aspect in which I have been able to view this part of the act, I have found it to be objectionable. It is an encroachment upon State authority. It contemplates the mixing of two systems that ought to be independent. It would destroy the symmetry of the national currency and afford no advantages to *solvent* State banks, which they could not obtain, to a greater extent, by a transfer of their capitals into national organizations.

I suggest also that it be made the duty of the national banks, if required by the Secretary of the Treasury, to act as financial agents of the government, and to receive on deposit moneys for account of the United States, or any disbursing agent thereof, and to give satis-

factory security for the faithful performance of the duties required of them.

I further suggest that the national banks shall be required to prevent their notes from being depreciated in the commercial cities of the country, and that the national banks in those cities be required to keep their reserve of lawful money in their own vaults. The national currency—secured as it is to be by the entire resources of the government, receivable for all public dues except duties upon imports, and for all obligations of the government, except the interest on the public debt, and in case of the failure of the banks to be promptly redeemed at the treasury of the United States, can never be much depreciated, no matter what may be the location of the banks by which it is issued. If, in addition to all this, the national currency is, in the commercial cities of the Union, kept absolutely and always at par, it will attain a perfection never yet reached by a bank note circulation. That this may be done without prejudice to the banks, but rather to their advantage, I have not a particle of doubt.

The redemption of their notes at the commercial cities by the interior banks would tend to increase largely the deposits of the banks in these cities; hence the necessity that the latter should keep constantly on hand a large reserve—a reserve which might and perhaps ought to be increased beyond the present requirements of the act.

The rapidity with which national banks are being organized in the western States, and the high character of most of the stockholders thereof, indicate the popularity of the system in that part of the Union. In the eastern States it will be observed that comparatively few banks have been organized; but even in these States the opinion is rapidly gaining ground that the national system will there, at no remote period, supersede the State system of banking. It is desirable that this should be done by a transfer of capital from the latter to the former without any serious interruption of business. Some of the older States have capital enough already invested in banking, and the bank note circulation of these States should be curtailed rather than increased. I know that bank notes, notwithstanding the preference that is given to legal tenders by the people, are in great demand, and that currency is reported to be scarce throughout the country; but no one can be ignorant of the fact that this scarcity is in a measure attributable to the high prices which bank issues have contributed to bring about. It is frequently the case that money is apparently the most plenty when there is the least of it in circulation, and the scarcest when it has attained the highest point, before a financial crisis. An increase of the circulating medium inflates prices. High prices require an increased circulation, and so they act and react upon each other, and there appears to be no redundancy of currency, no matter how vast the volume may be, until a collapse takes a place, and what was supposed to be real prosperity is shown to be without a substantial foundation.

The national currency system was not designed to add to the evils of excessive paper issues, but rather to check them by the substitution of a circulation protected by adequate securities, and restricted in amount by being based upon actual values, for the too frequently

unsecured and unrestricted issues of the States. It was certainly not created to increase the banking capital of the seaboard States in which there is enough of such capital already, but to supersede the systems of banking in those States by attracting to it the capital of existing banks. It promises to do this by a transfer of capital from one to the other, and without any collision between them. Where there are no enabling acts of State legislatures, the conversion takes place by the organization of national banks by the stockholders of State banks, and the transfer to the former of the assets and capital of the latter. This has already been done in several instances without even an interruption of business, and certainly without injury to the stockholders. The idea that the national banks cannot supersede the State banks without breaking them down and ruining their stockholders is an erroneous one, and can only be honestly entertained by those who have not carefully considered the subject or noticed the process of conversion, which has changed some banks in the west, and is changing others in the east, from one system to the other. No war is being waged, or is intended to be waged, by the national system upon State institutions. So far from it, it opens the way by which the interests of stockholders can be protected, at the same time that the character of their organizations is changed.

The war in which the country is engaged, although a great calamity in itself, will not be an unmixed evil financially even, if one result of it is the establishment of a system of banking by which, without an interference with the rights of the States, and without detriment to their solvent institutions, a bank note circulation shall be furnished to the people, as solvent as the nation itself, and uniform in value, as a substitute for that now supplied by the States, which is neither uniform in value nor, as a general thing, properly secured. The amount of losses which the people have sustained by insolvent State banks, and by the high rate of exchanges—the result of a depreciated currency—can hardly be estimated. That some of the new States have prospered, notwithstanding the vicious and ruinous banking systems with which they have been scourged, is evidence of the greatness of their resources and the energy of their people. The idea has at last become quite general among the people that the whole system of State banking, as far as circulation is regarded, is unfitted for a commercial country like ours. The United States is a nation as well as a union of States. Its vast railroad system extends from Maine to Kansas, and will soon be extended to the Pacific ocean. Its immense trade is not circumscribed by State lines, nor subject to State laws. Its internal commerce is national, and so should be its currency. At present some fifteen hundred State banks furnish the people with a bank-note circulation. This circulation is not confined to the States by which it is authorized, but is carried by trade or is forced by the banks all over the Union. People receive it and pay it out, scarcely knowing from whence it comes or in what manner it is secured. Banks have been organized in some States with a view to lending their circulation to the people of others. Probably not one quarter of the circulation of the New England banks is needed or used in New Eng-

land—the balance being practically loaned to other States. The national currency system is intended to change this state of things, not by a war upon the State banks, but by providing a means by which the circulation which is intended for national use shall be based upon national securities through associations organized under a national law. The United States notes, the issue of which was rendered necessary by the exigencies of the government, and which it is presumed will be withdrawn whenever this exigency ceases, have taught the people the superiority of a national circulation over that to which they have been accustomed. In many sections the produce of the country cannot be purchased with bank notes, and people find it difficult travelling from State to State without legal tenders. Everywhere the opinion is prevailing that the circulation of local banks has about had its day, and must yield to the demands of the people for a circulation of which the government is the guarantor.

By the national currency act the principle is for the first time recognized and established, that the redemption of bank notes should be guaranteed by the government authorizing their issue. The national currency will be as solvent as the nation of which it represents the unity. The country has at last secured to it a permanent paper circulating medium of a uniform value, without the aid of a national bank. This national system confers no monopoly of banking, but opens its advantages equally to all. It interferes with no State rights. It meets both the necessities of the government and the wants of the people. It needs modifications, and may require others than those which are suggested in this report; but it is right in principle, and of its success there can, I think, be no reasonable doubt.

The work of preparing the national circulation has been attended with unlooked for delays, but it is confidently expected, after the banks already organized are supplied, which will probably be accomplished within the next two months, that all associations will be furnished with notes within thirty days from the time bonds are deposited with the Treasurer. Contracts have been made with the Continental and American Bank Note Companies for engraving the plates for the five, ten, twenty, fifty, and one hundred dollar notes, and the printing of the fives and tens has been commenced. The delivery will soon follow, and the banks, and through the banks the people, will soon be put in possession of the much-desired currency.

With the suggested amendments of the act, it is not supposed that the national banking system will be an absolutely perfect one, but it is supposed that it will afford to the people a better bank note circulation than any heretofore devised. There may be under this law imprudent banking, and perhaps banking on fictitious capital, which no law can absolutely prevent. It should, however, be the aim of those who have the supervision of the system to guard it by every means in their power against such perversions. Men without capital, and adventurous speculators, should have no connexion with banking institutions. If such men do obtain control of national banks, the restrictions of the law should be so enforced as to render that control

a temporary one. Encouragement should be given to honorable, straightforward, legitimate banking, and to no other.

But whatever mismanagement of the affairs of any particular national bank may exist, the holders of its notes will not be prejudiced by it. If the banks fail, and the bonds of the government are depressed in the market, the notes of the national banks must still be redeemed in full at the treasury of the United States. The holder has not only the public securities, but the faith of the nation pledged for their redemption.

If, in addition to this, the national currency, when distributed among the people, shall tend to give steadiness to trade by preventing bank note panics, and to facilitate a return to specie payments, and shall aid in regulating the exchanges of the country, at the same time that it meets the necessities of the government in the collection of its internal revenues, and binds the people by the strong ties of pecuniary interest to the government, it will prove that the war, calamitous as it may be, is not without its compensations, and a national debt is not without its advantages.

HUGH McCULLOCH, *Comptroller*.

HON. S. P. CHASE,
Secretary of the Treasury.

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Third Annual Message—Abraham Lincoln

Thirty-Eighth Congress, 1st Session

DECEMBER 8, 1863

[Source: Senate Journal, 38th Cong., 1st Sess., p. 11, communicated December 8.]

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The operations of the treasury during the last year have been successfully conducted. The enactment by Congress of a national banking law has proved a valuable support of the public credit; and the general legislation in relation to loans has fully answered the expectations of its favorers. Some amendments may be required to perfect existing laws, but no change in their principles or general scope is believed to be needed.

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Annual Report, Secretary of Treasury (Salmon P. Chase)

[Thirty-Eighth Congress, 1st Session, December 10, 1863, Pages 19-21]

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The Secretary has heretofore expressed the opinion that whatever may be the true degree in which the currency of the country is affected by a bank-note circulation, issued without national sanction and by corporations independent of national authority, and not receivable for

national dues, it cannot be questioned that in some similar degree the negotiation of national loans must be prejudiced and their value to the national finances diminished. This opinion is confirmed by observation and experience.

Impelled, therefore, by a profound sense of the present necessity of a national currency to the successful prosecution of the war against rebellion, and of its utility at all times in protecting labor, cheapening exchanges, facilitating travel, and increasing the safety of all business transactions; and at the same time unwilling to urge even salutary and necessary reforms in such a way as needlessly to disturb existing conditions or impair the value of existing investments of capital, the Secretary recommended, in two successive reports, the authorization of national banking associations, to which the capital of the corporations now issuing notes for circulation might be transferred, with advantage to the parties in interest as well as to the general public.

The sanction of Congress was given to these views at the last session; and the simple assurance thus given that, henceforth, the country is to have a national currency secured by a pledge of national bonds, and the belief that this currency will at no distant day take the place of the heterogeneous corporate currency which has hitherto filled the channels of circulation, at once inspired faith in the securities of the government, and more than any other one cause enabled the Secretary to provide for the prompt payment of the soldiers and the public creditors.

If the policy thus indicated shall be fairly and judiciously pursued, and proper measures adopted to induce the conversion, at the earliest practicable period, of the bank corporations of the States into national banking associations, and of the corporate circulation into national currency, the Secretary believes, and, as he thinks, not without good grounds, that all the money needed for prompt payment of troops, and for the most vigorous prosecution of the war, can be obtained by loans on reasonable terms; while all interest on debt, and all ordinary expenditures, and a considerable part also of the extraordinary expenditures caused by this war, will be met by the ordinary resources. Nor does he doubt that, through wise legislation, sustained by intelligent popular will, and supported by prudence and energy in civil and military administration, national currency can be so approximated in recognized value to coin, that a resumption of payments in specie can be brought about much sooner than even sanguine persons now permit themselves to hope.

The Secretary has already referred in general terms to the reports of the heads of the various bureaus and branches of administration in his department. A peculiar interest is felt at this time in their operations, and especially in the operation of those most recently brought into existence.

The Comptroller of the Currency reports the organization under the national banking act, prior to the 29th of November, of one hundred and thirty-four associations; all which, upon the suggestion of the Secretary, have adopted the name of National Banks, distinguished

by order of organization and by locality. These Banking Associations have been formed in seventeen States and the District of Columbia, and have an aggregate capital of \$16,081,200. The great care and labor required for the preparation of suitable notes for the new national currency has delayed its issue beyond expectation; but the printing is now begun, and the several associations will be supplied with the amounts to which they are respectively entitled within a few weeks. Besides the associations reported as actually organized, there are many others in process of organization. There is hardly a State not controlled by the rebellion, and hardly a considerable city, in which a national banking association has not been organized, or is not being organized. Even New Orleans is not an exception to this statement.

Thus the great work of introducing a permanent national currency has been entered upon in a spirit and with an energy which promise perfect success. The Secretary thinks he risks nothing in saying that within the present year the benefits of the system will have so approved themselves to the sense and patriotism of the people, that it will be beyond the reach of successful assault.

The Comptroller has indicated some amendments to the law which the Secretary concurs with him in regarding as important to its success. As among the most essential of these, the Secretary asks the special attention of Congress to the proposition for a uniform rate of interest, and the repeal of the section which connects the issues of national currency in any degree with State banks. The Secretary also recommends, as likely to be useful, a provision to be made by law for the deposit with national banks, and also with the Treasurer and Assistant Treasurers, at such rates of interest and for such periods of time as the Secretary may prescribe, of moneys paid into or invested under the orders of judicial courts. It is not impossible that in this way many millions would be placed in the treasury at moderate rates of interest.

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Monthly returns are now required of many of the national banking associations, and should be required of all; and from them, as well as from the banks not organized under national legislation, should be required a fair contribution to the general burdens of the people. The Secretary refers to Congress the question, whether the duty on national currency and the deposits of national banking associations shall correspond with the duties on other circulation and deposits. He thinks that for the present, at least, some discrimination in favor of the national associations may be properly admitted in consideration of the indispensable importance of a national currency, not adapted only, like United States notes, to temporary emergencies, but permanent in its very nature, and adequate to all demands of business, and capable, at no distant period, of being made equal to and convertible into coin, and therefore its real representative and equivalent.

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Act of June 3, 1864 (The National Bank Act)

[13 Statutes at Large 99, Thirty-Eighth Congress, Chapter 106, 1st Session, Approved June 3, 1864, by Abraham Lincoln]

AN ACT TO PROVIDE A NATIONAL CURRENCY, SECURED BY A PLEDGE OF UNITED STATES BONDS, AND TO PROVIDE FOR THE CIRCULATION AND REDEMPTION THEREOF

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established in the treasury department a separate bureau, which shall be charged with the execution of this and all other laws that may be passed by congress respecting the issue and regulation of a national currency secured by United States bonds. The chief officer of the said bureau shall be denominated the comptroller of the currency, and shall be under the general direction of the Secretary of the Treasury. He shall be appointed by the President, on the recommendation of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years unless sooner removed by the President, upon reasons to be communicated by him to the Senate; he shall receive an annual salary of five thousand dollars; he shall have a competent deputy, appointed by the secretary, whose salary shall be two thousand five hundred dollars, and who shall possess the power and perform the duties attached by law to the office of comptroller during a vacancy in such office and during his absence or inability; he shall employ, from time to time, the necessary clerks to discharge such duties as he shall direct, which clerks shall be appointed and classified by the Secretary of the Treasury in the manner now provided by law. Within fifteen days from the time of notice of his appointment the comptroller shall take and subscribe the oath of office prescribed by the constitution and laws of the United States; and he shall give to the United States a bond in the penalty of one hundred thousand dollars, with not less than two responsible sureties, to be approved by the Secretary of the Treasury, conditioned for the faithful discharge of the duties of his office. The deputy-comptroller so appointed shall also take the oath of office prescribed by the constitution and laws of the United States, and shall give a like bond in the penalty of fifty thousand dollars. The comptroller and deputy-comptroller shall not, either directly or indirectly, be interested in any association issuing national currency under the provisions of this act.

SEC. 2. *And be it further enacted,* That the comptroller of the currency, with the approval of the Secretary of the Treasury, shall devise a seal, with suitable inscriptions, for his office, a description of which, with a certificate of

Currency bureau established.

Comptroller of the currency.

Appointment.

Term of office.

Salary.
Deputy comptroller.

Clerks.

Comptroller to take oath within what time.

Bond.

Oath and bond of deputy comptroller.

Not to be interested in any banking asso-

Seal of currency bureau, and where to be kept.

approval by the Secretary of the Treasury, shall be filed in the office of the Secretary of State with an impression thereof, which shall thereupon become the seal of office of the comptroller of the currency, and the same may be renewed when necessary. Every certificate, assignment, and conveyance executed by the comptroller, in pursuance of any authority conferred on him by law, and sealed with his seal of office, shall be received in evidence in all places and courts whatsoever; and all copies of papers in the office of the comptroller, certified by him and authenticated by the said seal, shall in all cases be evidence equally and in like manner as the original. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

Certain papers under such seal to be evidence.

Impression may be upon paper.

Rooms for currency bureau.

Fire-proof vaults.

Furniture, &c.

Term "United States Bonds" to include what.

Banking associations, how may be formed.

Organization certificate to specify.

name.

place of business,

SEC. 3. *And be it further enacted*, That there shall be assigned to the comptroller of the currency by the Secretary of the Treasury suitable rooms in the treasury building for conducting the business of the currency bureau, in which shall be safe and secure fire-proof vaults, in which it shall be the duty of the comptroller to deposit and safely keep all the plates not necessarily in the possession of engravers or printers, and other valuable things belonging to his department; and the comptroller shall from time to time furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the said business.

SEC. 4. *And be it further enacted*, That the term "United States Bonds," as used in this act, shall be construed to mean all registered bonds now issued, or that may hereafter be issued, on the faith of the United States by the Secretary of the Treasury in pursuance of law.

SEC. 5. *And be it further enacted*, That associations for carrying on the business of banking may be formed by any number of persons, not less in any case than five, who shall enter into articles of association, which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with the provisions of this act, which the association may see fit to adopt for the regulation of the business of the association and the conduct of its affairs, which said articles shall be signed by the persons uniting to form the association, and a copy of them forwarded to the comptroller of the currency, to be filed and preserved in his office.

SEC. 6. *And be it further enacted*, That the persons uniting to from such an association shall, under their hands, make an organization certificate, which shall specify—

First. The name assumed by such association, which name shall be subject to the approval of the comptroller.

Second. The place where its operations of discount and deposit are to be carried on, designating the state, territory, or district, and also the particular county and city, town, or village.

capital and shares,

Third. The amount of its capital stock, and the number of shares into which the same shall be divided.

names, &c., of shareholders.

Fourth. The names and places of residence of the shareholders, and the number of shares held by each of them.

purpose of certificate.

Fifth. A declaration that said certificate is made to enable such persons to avail themselves of the advantages of this act.

Certificate to be acknowledged.

The said certificate shall be acknowledged before a judge of some court of record or a notary public, and such certificate, with the acknowledgment thereof authenticated by the seal of such court or notary, shall be transmitted to the comptroller of the currency, who shall record and carefully preserve the same in his office. Copies of such certificate, duly certified by the comptroller, and authenticated by his seal of office, shall be legal and sufficient evidence in all courts and places within the United States, or the jurisdiction of the government thereof, of the existence of such association, and of every other matter or thing which could be proved by the production of the original certificate.

Copies under seal to be evidence.

Amount of capital to be not less than, &c.

SEC. 7. *And be it further enacted*, That no association shall be organized under this act, with a less capital than one hundred thousand dollars, nor in a city whose population exceeds fifty thousand persons, with a less capital than two hundred thousand dollars: *Provided*, That banks with a capital of not less than fifty thousand dollars may, with the approval of the Secretary of the Treasury, be organized in any place the population of which does not exceed six thousand inhabitants.

Proviso.

Associations when to be corporations and when to commence business.

SEC. 8. *And be it further enacted*, That every association formed pursuant to the provisions of this act shall, from the date of the execution of its organization certificate, be a body corporate, but shall transact no business except such as may be incidental to its organization and necessarily preliminary, until authorized by the comptroller of the currency to commence the business of banking. Such association shall have power to adopt a corporate seal, and shall have succession by the name designated in its organization certificate, for the period of twenty years from its organization, unless sooner dissolved according to the provisions of its articles of association, or by the act of its shareholders owning two thirds of its stock, or unless the franchise shall be forfeited by a violation of this act; by such name it may make contracts, sue and be sued, complain and defend, in any court of law and equity as fully as natural persons; it may elect or appoint directors, and by its board of directors appoint a president, vice-president, cashier, and other officers, define their duties, require bonds of them and fix the penalty thereof, dismiss said officers or any of them at pleasure, and appoint others to fill their places, and exercise under this act all such incidental powers as

Seal.

May continue twenty years, unless, &c.

General powers.

Directors and officers.

shall be necessary to carry on the business of banking by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; by obtaining, issuing, and circulating notes according to the provisions of this act; and its board of directors shall also have power to define and regulate by by-laws, not inconsistent with the provisions of this act, the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its general business conducted, and all the privileges granted by this act to associations organized under it shall be exercised and enjoyed; and its usual business shall be transacted at an office or banking house located in the place specified in its organization certificate.

By-laws.

SEC. 9. *And be it further enacted*, That the affairs of every association shall be managed by not less than five directors, one of whom shall be the president. Every director shall, during his whole term of service, be a citizen of the United States; and at least three fourths of the directors shall have resided in the state, territory, or district in which such association is located one year next preceding their election as directors, and be residents of the same during their continuance in office. Each director shall own, in his own right, at least ten shares of the capital stock of the association of which he is a director. Each director, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate, or willingly permit to be violated, any of the provisions of this act, and that he is the bona fide owner, in his own right, of the number of shares of stock required by this act, subscribed by him, or standing in his name on the books of the association, and that the same is not hypothecated, or in any way pledged, as security for any loan or debt; which oath, subscribed by himself, and certified by the officer before whom it is taken, shall be immediately transmitted to the comptroller of the currency, and by him filed and preserved in his office

Directors;
qualifications;
one to be president.

Oath.

SEC. 10. *And be it further enacted*, That the directors of any association first elected or appointed shall hold their places until their successors shall be elected and qualified. All subsequent elections shall be held annually on such day in the month of January as may be specified in the articles of association; and the directors so elected shall hold their places for one year, and until their successors are elected and qualified. But any director ceasing to be the owner of the requisite amount of stock, or having in any other manner become disqualified, shall thereby vacate his place. Any vacancy in the board

Term of office
of directors.

Elections.

Vacancies,
how filled.

shall be filled by appointment by the remaining directors, and any director so appointed shall hold his place until the next election. If from any cause an election of directors shall not be made at the time appointed, the association shall not for that cause be dissolved, but an election may be held on any subsequent day, thirty days' notice thereof in all cases having been given in a newspaper published in the city, town, or county in which the association is located; and if no newspaper is published in such city, town, or county, such notice shall be published in a newspaper published nearest thereto. If the articles of association do not fix the day on which the election shall be held, or if the election should not be held on the day fixed, the day for the election shall be designated by the board of directors in their by-laws, or otherwise: *Provided*, That if the directors fail to fix the day, as aforesaid, shareholders representing two thirds of the shares may.

Voting and proxies.

SEC. 11. *And be it further enacted*, That in all elections of directors, and in deciding all questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him. Shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or book-keeper of such association shall act as proxy; and no shareholder whose liability is past due and unpaid shall be allowed to vote.

Capital stock to be divided into shares.

SEC. 12. *And be it further enacted*, That the capital stock of any association formed under this act shall be divided into shares of one hundred dollars each, and be deemed personal property and transferable on the books of the association in such manner as may be prescribed in the by-laws or articles of association; and every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of the prior holder of such shares, and no change shall be made in the articles of association by which the rights, remedies, or security of the existing creditors of the association shall be impaired. The shareholders of each association formed under the provisions of this act, and of each existing bank or banking association that may accept the provisions of this act, shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such association to the extent of the amount of their stock therein at the par value thereof, in addition to the amount invested in such shares; except that shareholders of any banking association now existing under state laws, having not less than five millions of dollars of capital actually paid in, and a surplus of twenty per centum on hand, both to be determined by the comptroller of the currency, shall be liable only to the amount invested in their shares; and such surplus of twenty per centum shall be kept undiminished, and be in addition to the

Transfer.

Rights of existing creditors not to be impaired.

Individual liability.

surplus provided for in this act; and if at any time there shall be a deficiency in said surplus of twenty per centum, the said banking association shall not pay any dividends to its shareholders until such deficiency shall be made good; and in case of such deficiency, the comptroller of the currency may compel said banking association to close its business and wind up its affairs under the provisions of this act. And the comptroller shall have authority to withhold from an association his certificate authorizing the commencement of business, whenever he shall have reason to suppose that the shareholders thereof have formed the same for any other than the legitimate objects contemplated by this act.

When comptroller may withhold certificate.

Increase of capital stock.

SEC. 13. *And be it further enacted*, That it shall be lawful for any association formed under this act, by its articles of association, to provide for an increase of its capital from time to time, as may be deemed expedient, subject to the limitations of this act: *Provided*, That the maximum of such increase in the articles of association shall be determined by the comptroller of the currency; and no increase of capital shall be valid until the whole amount of such increase shall be paid in, and notice thereof shall have been transmitted to the comptroller of the currency, and his certificate obtained specifying the amount of such increase of capital stock, with his approval thereof, and that it has been duly paid in as part of the capital of such association. And every association shall have power, by the vote of shareholders owning two thirds of its capital stock, to reduce the capital of such association to any sum not below the amount required by this act, in the formation of associations: *Provided*, That by no such reduction shall its capital be brought below the amount required by this act for its outstanding circulation, nor shall any such reduction be made until the amount of the proposed reduction has been reported to the comptroller of the currency and his approval thereof obtained.

Maximum.

Minimum.

SEC. 14. *And be it further enacted*, That at least fifty per centum of the capital stock of every association shall be paid in before it shall be authorized to commence business; and the remainder of the capital stock of such association shall be paid in instalments of at least ten per centum each on the amount of the capital as frequently as one instalment at the end of each succeeding month from the time it shall be authorized by the comptroller to commence business; and the payment of each instalment shall be certified to the comptroller, under oath, by the president or cashier of the association.

Amount to be paid in before commencing business.

Remainder, when to be paid.

SEC. 15. *And be it further enacted*, That if any shareholder, or his assignee, shall fail to pay any instalment on the stock when the same is required by the foregoing section to be paid, the directors of such association may sell the stock of such delinquent shareholder at public

Proceedings, if shareholder fails to pay instalments.

Stock of delinquent shareholders to be sold.

auction, having given three weeks' previous notice thereof in a newspaper published and of general circulation in the city or county where the association is located, and if no newspaper is published in said city or county, then in a newspaper published nearest thereto, to any person who will pay the highest price therefor, and not less than the amount then due thereon, with the expenses of advertisement and sale; and the excess, if any, shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association, and the cost of advertisement and sale, the amount previously paid shall be forfeited to the association, and such stock shall be sold as the directors may order, within six months from the time of such forfeiture, and if not sold it shall be cancelled and deducted from the capital stock of the association; and if such cancellation and reduction shall reduce the capital of the association below the minimum of capital required by this act, the capital stock shall, within thirty days from the date of such cancellation, be increased to the requirements of the act; in default of which a receiver may be appointed to close up the business of the association according to the provisions of the fiftieth section of this act.

United States registered bonds to be deposited with treasurer to an amount equal to one third of the capital stock.

SEC. 16. *And be it further enacted*, That every association, after having complied with the provisions of this act, preliminary to the commencement of banking business under its provisions, and before it shall be authorized to commence business, shall transfer and deliver to the treasurer of the United States any United States registered bonds bearing interest to an amount not less than thirty thousand dollars nor less than one third of the capital stock paid in, which bonds shall be deposited with the treasurer of the United States and by him safely kept in his office until the same shall be otherwise disposed of, in pursuance of the provisions of this act; and the Secretary of the Treasury is hereby authorized to receive and cancel any United States coupon bonds, and to issue in lieu thereof registered bonds of like amount, bearing a like rate of interest, and having the same time to run; and the deposit of bonds shall be, by every association, increased as its capital may be paid up or increased, so that every association shall at all times have on deposit with the treasurer registered United States bonds to the amount of at least one third of its capital stock actually paid in: *Provided*, That nothing in this section shall prevent an association that may desire to reduce its capital or to close up its business and dissolve its organization from taking up its bonds upon returning to the comptroller its circulating notes in the proportion hereinafter named in this act, nor from taking up any excess of bonds beyond one third of its capital stock and upon which no circulating notes have been delivered.

Deposit to be increased;

may be diminished.

SEC. 17. *And be it further enacted*, That whenever a certificate shall have been transmitted to the comptroller of the currency, as provided in this act, and the association transmitting the same shall notify the comptroller that at least fifty per centum of its capital stock has been paid in as aforesaid, and that such association has complied with all the provisions of this act as required to be complied with before such association shall be authorized to commence the business of banking, the comptroller shall examine into the condition of such association, ascertain especially the amount of money paid in on account of its capital, the name and place of residence of each of the directors of such association, and the amount of the capital stock of which each is the bona fide owner, and generally whether such association has complied with all the requirements of this act to entitle it to engage in the business of banking; and shall cause to be made and attested by the oaths of a majority of the directors and by the president or cashier of such association, a statement of all the facts necessary to enable the comptroller to determine whether such association is lawfully entitled to commence the business of banking under this act.

Comptroller to examine and determine if association can commence business.

SEC. 18. *And be it further enacted*, That if, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it shall appear that such association is lawfully entitled to commence the business of banking, the comptroller shall give to such association a certificate, under his hand and official seal, that such association has complied with all the provisions of this act required to be complied with before being entitled to commence the business of banking under it, and that such association is authorized to commence said business accordingly; and it shall be the duty of the association to cause said certificate to be published in some newspaper published in the city or county where the association is located for at least sixty days next after the issuing thereof: *Provided*, That if no newspaper is published in such city or county the certificate shall be published in a newspaper published nearest thereto.

When association is found entitled to commence business, comptroller to give certificate.

Certificate to be published.

SEC. 19. *And be it further enacted*, That all transfers of United States bonds which shall be made by any association under the provisions of this act shall be made to the treasurer of the United States in trust for the association, with a memorandum written or printed on each bond, and signed by the cashier or some other officer of the association making the deposit, a receipt therefor to be given to said association, or by the comptroller of the currency, or by a clerk appointed by him for that purpose, stating that it is held in trust for the association on whose behalf such transfer is made, and as security for

Transfers of bonds by association, to be made to the treasurer in trust.

How executed.

the redemption and payment of any circulating notes that have been or may be delivered to such association. No assignment or transfer of any such bonds by the treasurer shall be deemed valid or of binding force and effect unless countersigned by the comptroller of the currency. It shall be the duty of the comptroller of the currency to keep in his office a book in which shall be entered the name of every association from whose accounts such transfer of bonds is made by the treasurer, and the name of the party to whom such transfer is made; and the par value of the bonds so transferred shall be entered therein; and it shall be the duty of the comptroller, immediately upon countersigning and entering the same, to advise by mail the association from whose account such transfer was made of the kind and numerical designation of the bonds and the amount thereof so transferred.

Comptroller to keep transfer book, &c.

Transfers to be countersigned and entered.

Books to be accessible.

Associations, after transfer, may receive circulating notes.

Limit of amount.

Entire circulation not to exceed \$300,000,000.

Comptroller to prepare the notes.

SEC. 20. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to countersign and enter in the book, in the manner aforesaid, every transfer or assignment of any bonds held by the treasurer presented for his signature; and the comptroller shall have at all times during office hours access to the books of the treasurer, for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign; and the treasurer shall have the like access to the book above mentioned, kept by the comptroller, during office hours, to ascertain the correctness of the entries in the same; and the comptroller shall also at all times have access to the bonds on deposit with the treasurer, to ascertain their amount and condition.

SEC. 21. *And be it further enacted*, That upon the transfer and delivery of bonds to the treasurer, as provided in the foregoing section, the association making the same shall be entitled to receive from the comptroller of the currency circulating notes of different denominations, in blank, registered and countersigned as herein-after provided, equal in amount to ninety per centum of the current market value of the United States bonds so transferred and delivered, but not exceeding ninety per centum of the amount of said bonds at the par value thereof, if bearing interest at a rate not less than five per centum per annum; and at no time shall the total amount of such notes, issued to any such association, exceed the amount at such time actually paid in of its capital stock.

SEC. 22. *And be it further enacted*, That the entire amount of notes for circulation to be issued under this act shall not exceed three hundred millions of dollars. In order to furnish suitable notes for circulation, the comptroller of the currency is hereby authorized and required, under the direction of the Secretary of the Treasury, to cause plates and dies to be engraved, in the best manner to guard against counterfeiting and

fraudulent alternations, and to have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of one dollar, two dollars, three dollars, five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, and one thousand dollars, as may be required to supply, under this act, the associations entitled to receive the same; which notes shall express upon their face that they are secured by United States bonds, deposited with the treasurer of the United States by the written or engraved signatures of the treasurer and register, and by the imprint of the seal of the treasury; and shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the signatures of the president or vice-president and cashier. And the said notes shall bear such devices and such other statements, and shall be in such form, as the Secretary of the Treasury shall, by regulation, direct: *Provided*, That not more than one sixth part of the notes furnished to an association shall be of a less denomination than five dollars, and that after specie payments shall be resumed no association shall be furnished with notes of a less denomination than five dollars.

Denominations.

Notes to express what.

Devices.

Notes under \$5.

SEC. 23. *And be it further enacted*, That after any such association shall have caused its promise to pay such notes on demand to be signed by the president or vice-president and cashier thereof, in such manner as to make them obligatory promissory notes, payable on demand, at its place of business, such association is hereby authorized to issue, and circulate the same as money; and the same shall be received at par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except for duties on imports; and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on the public debt, and in redemption of the national currency. And no such association shall issue post notes or any other notes to circulate as money than such as are authorized by the foregoing provisions of this act.

When notes may be circulated as money;

to be received for all dues, except, &c.

Post notes, &c., not to be issued.

SEC. 24. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to receive worn-out or mutilated circulating notes issued by any such banking association, and also, on due proof of the destruction of any such circulating notes, to deliver in place thereof to such association other blank circulating notes to an equal amount. And such worn-out or mutilated notes, after a memorandum shall have been entered in the proper books, in accordance with such regulations as may be established by the comptroller, as well as all circulating notes which shall have been paid or surrendered to be cancelled, shall be burned to ashes in presence of four persons, one to be appointed by the Secretary of

Worn-out and mutilated notes.

the Treasury, one by the comptroller of the currency, one by the treasurer of the United States, and one by the association, under such regulations as the Secretary of the Treasury may prescribe. And a certificate of such burning, signed by the parties so appointed, shall be made in the books of the comptroller, and a duplicate thereof forwarded to the association whose notes are thus cancelled.

Associations to examine annually its bonds deposited, and make certificate.

SEC. 25. *And be it further enacted*, That it shall be the duty of every banking association having bonds deposited in the office of the treasurer of the United States, once or oftener in each fiscal year, and at such time or times during the ordinary business hours as said officer or officers may select, to examine and compare the bonds so pledged with the books of the comptroller and the accounts of the association, and, if found correct, to execute to the said treasurer a certificate setting forth the different kinds and the amounts thereof, and that the same are in the possession and custody of the treasurer at the date of such certificate. Such examination may be made by an officer or agent of such association, duly appointed in writing for that purpose, whose certificate before mentioned shall be of like force and validity as if executed by such president or cashier; and a duplicate signed by the treasurer shall be retained by the association.

Examination of associations.

Deposited bonds to be held exclusively to secure circulation.

SEC. 26. *And be it further enacted*, That the bonds transferred to and deposited with the treasurer of the United States, as hereinbefore provided, by any banking association for the security of its circulating notes, shall be held exclusively for that purpose, until such notes shall be redeemed, except as provided in this act; but the comptroller of the currency shall give to any such banking association powers of attorney to receive and appropriate to its own use the interest on the bonds which it shall have so transferred to the treasurer; but such powers shall become inoperative whenever such banking association shall fail to redeem its circulating notes as aforesaid. Whenever the market or cash value of any bonds deposited with the treasurer of the United States, as aforesaid, shall be reduced below the amount of the circulation issued for the same, the comptroller of the currency is hereby authorized to demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association receiving said bills, to be deposited with the treasurer of the United States as long as such depreciation continues. And said comptroller, upon the terms prescribed by the Secretary of the Treasury, may permit an exchange to be made of any of the bonds deposited with the treasurer by an association for other bonds of the United States authorized by this act to be received as security for circulating notes, if he shall be of opinion that such an exchange can be made without prejudice to the United States, and he may direct the return of any of said bonds

Provision as to interest.

If bonds depreciate, security to be made good.

Bonds may be exchanged, if, &c.;

to the banking association which transferred the same, in sums of not less than one thousand dollars, upon the surrender to him and the cancellation of a proportionate amount of such circulating notes: *Provided*, That the remaining bonds which shall have been transferred by the banking association offering to surrender circulating notes shall be equal to the amount required for the circulating notes not surrendered by such banking association, and that the amount of bonds in the hands of the treasurer shall not be diminished below the amount required to be kept on deposit with him by this act: *And provided*, That there shall have been no failure by such association to redeem its circulating notes, and no other violation by such association of the provisions of this act, and that the market or cash value of the remaining bonds shall not be below the amount required for the circulation issued for the same.

may be returned upon cancellation of circulating notes.
Proviso.

SEC. 27. *And be it further enacted*, That it shall be unlawful for any officer acting under the provisions of this act to countersign or deliver to any association, or to any other company or person, any circulating notes contemplated by this act, except as hereinbefore provided, and in accordance with the true intent and meaning of this act. And any officer who shall violate the provisions of this section shall be deemed guilty of a high misdemeanor, and on conviction thereof shall be punished by fine not exceeding double the amount so countersigned and delivered, and imprisonment not less than one year and not exceeding fifteen years, at the discretion of the court in which he shall be tried.

The countersigning and delivery of circulating notes, except as permitted by this act, made unlawful.

Penalty.

SEC. 28. *And be it further enacted*, That it shall be lawful for any such association to purchase, hold, and convey real estate as follows:—

Associations may hold, &c., certain real estate.

First. Such as shall be necessary for its immediate accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

Real estate.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by such association, or shall purchase to secure debts due to said association.

Such associations shall not purchase or hold real estate in any other case or for any other purpose than as specified in this section. Nor shall it hold the possession of any real estate under mortgage, or hold the title and possession of any real estate purchased to secure any debts due to it for a longer period than five years.

SEC. 29. *And be it further enacted*, That the total liabilities to any association, of any person, or of any company, corporation, or firm for money borrowed, includ-

No person, &c., to be liable to association for more than, &c.

Certain discounts not to be included.

ing in the liabilities of a company or firm the liabilities of the several members thereof, shall at not time exceed one tenth part of the amount of the capital stock of such association actually paid in: *Provided*, That the discount of bona fide bills of exchange drawn against actually existing values, and the discount of commercial or business paper actually owned by the person or persons, corporation, or firm negotiating the same shall not be considered as money borrowed.

Rate of interest.

SEC. 30. *And be it further enacted*, That every association may take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidences of debt, interest at the rate allowed by the laws of the state or territory where the bank is located, and no more, except that where by the laws of any state a different rate is limited for banks of issue organized under state laws, the rate so limited shall be allowed for associations organized in any such state under this act. And when no rate is fixed by the laws of the state or territory, the bank may take, receive, reserve, or charge a rate not exceeding seven per centum, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run. And the knowingly taking, receiving, reserving, or charging a rate of interest greater than aforesaid shall be held and adjudged a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. And in case a greater rate of interest has been paid, the person or persons paying the same, or their legal representatives, may recover back, in any action of debt, twice the amount of the interest thus paid from the association taking or receiving the same: *Provided*, That such action is commenced within two years from the time the usurious transaction occurred. But the purchase, discount, or sale of a bona fide bill of exchange, payable at another place than the place of such purchase, discount, or sale, at not more than the current rate of exchange for sight drafts in addition to the interest, shall not be considered as taking or receiving a greater rate of interest.

Penalty for taking greater interest.

Action to be commenced in two years.

Amount of money to be kept on hand.

SEC. 31. *And be it further enacted*, That every association in the cities hereinafter named shall, at all times, have on hand, in lawful money of the United States, an amount equal to at least twenty-five per centum of the aggregate amount of its notes in circulation and its deposits; and every other association shall, at all times, have on hand, in lawful money of the United States, an amount equal to at least fifteen per centum of the aggregate amount of its notes in circulation, and of its deposits. And whenever the lawful money of any association in any of the cities hereinafter named shall be below the amount of twenty-five per centum of its circulation and deposits, and whenever the lawful money of any other association shall be below fifteen per centum of its circulation and

deposits, such associations shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividend of its profits until the required proportion between the aggregate amount of its outstanding notes of circulation and deposits and its lawful money of the United States shall be restored: *Provided*, That three fifths of said fifteen per centum may consist of balances due to an association available for the redemption of its circulating notes from associations approved by the comptroller of the currency, organized under this act, in the cities of Saint Louis, Louisville, Chicago, Detroit, Milwaukee, New Orleans, Cincinnati, Cleveland, Pittsburg, Baltimore, Philadelphia, Boston, New York, Albany, Leavenworth, San Francisco, and Washington City: *Provided, also*, That clearing-house certificates, representing specie or lawful money specially deposited for the purpose of any clearing-house association, shall be deemed to be lawful money in the possession of any association belonging to such clearing-house holding and owning such certificate, and shall be considered to be a part of the lawful money which such association is required to have under the foregoing provisions of this section: *Provided*, That the cities of Charleston and Richmond may be added to the list of cities in the national associations of which other associations may keep three fifths of their lawful money, whenever, in the opinion of the comptroller of the currency, the condition of the southern states will warrant it. And it shall be competent for the comptroller of the currency to notify any association, whose lawful money reserve as aforesaid shall be below the amount to be kept on hand as aforesaid, to make good such reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of lawful money of the United States, the comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of such association, as provided in this act.

SEC. 32. *And be it further enacted*, That each association organized in any of the cities named in the foregoing section shall select, subject to the approval of the comptroller of the currency, an association in the city of New York, at which it will redeem its circulating notes at par. And each of such associations may keep one half of its lawful money reserve in cash deposits in the city of New York. And each association not organized within the cities named in the preceding section shall select subject to the approval of the comptroller of the currency, an association in either of the cities named in the preceding section at which it will redeem its circulating notes at par, and the comptroller shall give public notice of the names of the associations so selected at which redemptions are to be made by the respective asso-

Liabilities not to be increased until reserve is made good.

Money deposited for redemption of circulation in certain cities to be included.

Clearing-house certificates to be deemed lawful money for this purpose.

Charleston and Richmond.

If association fails, after notice, to make good its reserve.

Circulation to be redeemed in New York at par.

Certain associations to select place for redemption of circulation.

Proceedings in case of failure.

ciations, and of any change that may be made of the association at which the notes of any association are redeemed. If any association shall fail either to make the selection or to redeem its notes as aforesaid, the comptroller of the currency may, upon receiving satisfactory evidence thereof, appoint a receiver, in the manner provided for in this act, to wind up its affairs: *Provided*, That nothing in this section shall relieve any association from its liability to redeem its circulating notes at its own counter, at par, in lawful money, on demand: *And provided, further*, That every association formed or existing under the provisions of this act shall take and receive at par, for any debt or liability to said association, and all notes or bills issued by any association existing under and by virtue of this act.

Each association to take notes of other associations.

Dividends. Surplus funds.

SEC. 33. *And be it further enacted*, That the directors of any association may, semi-annually, each year, declare a dividend of so much of the net profits of the association as they shall judge expedient; but each association shall, before the declaration of a dividend, carry one tenth part of its net profits of the preceding half year to its surplus fund until the same shall amount to twenty per centum of its capital stock.

Association to report to Comptroller quarterly.

Contents of report.

SEC. 34. *And be it further enacted*, That every association shall make to the comptroller of the currency a report, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of such association; which report shall exhibit in detail, and under appropriate heads, the resources and liabilities of the association before the commencement of business on the morning of the first Monday of the months of January, April, July, and October of each year, and shall transmit the same to the comptroller within five days thereafter. And any bank failing to make and transmit such report shall be subject to a penalty of one hundred dollars for each day after five days that such report is delayed beyond that time. And the comptroller shall publish abstracts of said reports in a newspaper to be designated by him for that purpose in the city of Washington, and the separate report of each association shall be published in a newspaper in the place where such association is established, or if there be no newspaper at such place, then in a newspaper published at the nearest place thereto, at the expense of the association making such report. In addition to the quarterly reports required by this section, every association shall, on the first Tuesday of each month, make to the comptroller of the currency a statement, under the oath of the president or cashier, showing the condition of the association making such statement, on the morning of the day next preceding the date of such statement, in respect to the following items and particulars, to wit: average amount of loans and dis-

Penalty for failing to report.

Comptroller to publish abstracts.

Monthly statements.

counts, specie, and other lawful money belonging to the association, deposits, and circulation. And associations in other places than those cities named in the thirty-first section of this act shall also return the amount due them available for the redemption of their circulation.

SEC. 35. *And be it further enacted*, That no association shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale, in default of which a receiver may be appointed to close up the business of the association, according to the provisions of this act.

Associations not to make loans, &c., on the security of their own stock, &c.

SEC. 36. *And be it further enacted*, That no association shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, except on the following accounts, that is to say:—

Indebtedness not to exceed capital stock, except, &c.

First. On account of its notes of circulation.

Second. On account of moneys deposited with, or collected by, such association.

Third. On account of bills of exchange or drafts drawn against money actually on deposit to the credit of such association, or due thereon.

Fourth. On account of liabilities to its stockholders for dividends and reserved profits.

SEC. 37. *And be it further enacted*, That no association shall, either directly or indirectly, pledge or hypothecate any of its notes of circulation, for the purpose of procuring money to be paid in on its capital stock, or to be used in its banking operations, or otherwise; nor shall any association use its circulating notes, or any part thereof, in any manner or form, to create or increase its capital stock.

Associations not to hypothecate circulating notes, for, &c.;

SEC. 38. *And be it further enacted*, That no association, or any member thereof, shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in form of dividends or otherwise, any portion of its capital. And if losses shall at any time have been sustained by any such association equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it shall continue its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts. And all debts due to any association, on which interest is past due and unpaid for a period of six months, unless the same shall be well secured, and shall be in process of collection, shall be considered bad debts

not to withdraw any portion of their capital.

Losses.

Bad debts.

What to be deemed bad debts.

within the meaning of this act: *Provided*, That nothing in this section shall prevent the reduction of the capital stock of the association under the thirteenth section of this act.

Associations not to pay out certain notes.

SEC. 39. *And be it further enacted*, That no association shall at any time pay out on loans or discounts, or in purchasing drafts or bills of exchange, or in payment of deposits, or in any other mode pay or put in circulation the notes of any bank or banking association which shall not, at any such time, be receivable, at par, on deposit and in payment of debts by the association so paying out or circulating such notes; nor shall it knowingly pay out or put in circulation any notes issued by any bank or banking association which at the time of such paying out or putting in circulation is not redeeming its circulating notes in lawful money of the United States.

List of names and residences of shareholders to be kept ;

SEC. 40. *And be it further enacted*, That the president and cashier of every such association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association, and the number of shares held by each, in the office where its business is transacted; and such list shall be subject to the inspection of all the shareholders and creditors of the association, and the officers authorized to assess taxes under state authority, during business hours of each day in which business may be legally transacted; and a copy of such list, on the first Monday of July in each year, verified by the oath of such president or cashier, shall be transmitted to the comptroller of the currency.

to be subject to inspection ;

to be sent to comptroller.

Comptroller to keep control of plates and special dies.

SEC. 41. *And be it further enacted*, That the plates and special dies to be procured by the comptroller of the currency for the printing of such circulating notes shall remain under his control and direction, and the expenses necessarily incurred in executing the provisions of this act respecting the procuring of such notes, and all other expenses of the bureau, shall be paid out of the proceeds of the taxes or duties now or hereafter to be assessed on the circulation, and collected from associations organized under this act. And in lieu of all existing taxes, every association shall pay to the treasurer of the United States, in the months of January and July, a duty of one half of one per centum each half year from and after the first day of January, eighteen hundred and sixty-four, upon the average amount of its notes in circulation, and a duty of one quarter of one per centum each half year upon the average amount of its deposits, and a duty of one quarter of one per centum each half year, as aforesaid, on the average amount of its capital stock beyond the amount invested in United States bonds; and in case of default in the payment thereof by any association, the duties aforesaid may be collected in the manner provided

Expenses to be borne by associations.

Duty upon circulation, deposits, and capital stock to be paid semi-annually.

for the collection of United States duties of other corporations, or the treasurer may reserve the amount of said duties out of the interest, as it may become due, on the bonds deposited with him by such defaulting association. And it shall be the duty of each association, within ten days from the first days of January and July of each year, to make a return, under the oath of its president or cashier, to the treasurer of the United States, in such form as he may prescribe, of the average amount of its notes in circulation, and of the average amount of its deposits, and of the average amount of its capital stock, beyond the amount invested in United States bonds, for the six months next preceding said first days of January and July as aforesaid, and in default of such return, and for each default thereof, each defaulting association shall forfeit and pay to the United States the sum of two hundred dollars, to be collected either out of the interest as it may become due such association on the bonds deposited with the treasurer, or, at his option, in the manner in which penalties are to be collected of other corporations under the laws of the United States; and in case of such default the amount of the duties to be paid by such association shall be assessed upon the amount of notes delivered to such association by the comptroller of the currency, and upon the highest amount of its deposits and capital stock, to be ascertained in such other manner as the treasurer may deem best: *Provided*, That nothing in this act, shall be construed to prevent all the shares in any of the said associations, held by any person or body corporate, from being included in the valuation of the personal property of such person or corporation in the assessment of taxes imposed by or under state authority at the place where such bank is located, and not elsewhere, but not at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such state: *Provided, further*, That the tax so imposed under the laws of any state upon the shares of any of the associations authorized by this act shall not exceed the rate imposed upon the shares in any of the banks organized under authority of the state where such association is located: *Provided, also*, 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.

Sec. 42. *And be it further enacted*, That any association may go into liquidation and be closed by the vote of its shareholders owning two thirds of its stock. And whenever such vote shall be taken it shall be the duty of the board of directors to cause notice of this fact to be certified, under the seal of the association, by its president or cashier, to the comptroller of the currency, and publication thereof to be made for a period of two months in a newspaper published in the city of New York, and

How collected, if not paid in time.

Return of circulation, &c., to be made.

Penalty for default.

Shares not hereby exempted from taxation by state authority.

Limit of state tax.

Real estate to be taxed.

How associations may be closed.

Proceedings.

also in a newspaper published in a city or town in which the association is located, and if no newspaper be there published, then in the newspaper published nearest thereto, that said association is closing up its affairs, and notifying the holders of its notes and other creditors to present the notes and other claims against the association for payment. And at any time after the expiration of one year from the time of the publication of such notice as aforesaid, the said association may pay over to the treasurer of the United States the amount of its outstanding notes in the lawful money of the United States, and take up the bonds which said association has on deposit with the treasurer for the security of its circulating notes; which bonds shall be assigned to the bank in the manner specified in the nineteenth section of this act, and from that time the outstanding notes of said association shall be redeemed at the treasury of the United States, and the said association and the shareholders thereof shall be discharged from all liabilities therefor.

Treasurer to execute duplicate receipts.

SEC. 43. *And be it further enacted*, That the treasurer, on receiving from an association lawful money for the payment and redemption of its outstanding notes, as provided for in the preceding section of this act, shall execute duplicate receipts therefor, one to the association and the other to the comptroller of the currency, stating the amount received by him, and the purpose for which it has been received, which amount shall be paid into the treasury of the United States, and placed to the credit of such association upon redemption account. And it shall be the duty of the treasurer, whenever he shall redeem any of the notes of said association, to cause the same to be mutilated, and charged to the redemption account of said association; and all notes so redeemed by the treasurer shall, every three months, be certified to and burned in the manner prescribed in the twenty-fourth section of this act.

Redeemed notes to be mutilated, &c.

State banks may become national associations.

SEC. 44. *And be it further enacted*, That any bank incorporated by special law, or any banking institution organized under a general law of any state, may, by authority of this act, become a national association under its provisions, by the name prescribed in its organization certificate; and in such case the articles of association and the organization certificate required by this act may be executed by a majority of the directors of the bank or banking institution; and said certificate shall declare that the owners of two thirds of the capital stock have authorized the directors to make such certificate and to change and convert the said bank or banking institution into a national association under this act. And a majority of the directors, after executing said articles of association and organization certificate, shall have power to execute all other papers, and to do whatever may be required to make its organization perfect and complete as a national

Mode of procedure.

association. The shares of any such bank may continue to be for the same amount each as they were before said conversion, and the directors aforesaid may be the directors of the association until others are elected or appointed in accordance with the provisions of this act; and any state bank which is a stockholder in any other bank, by authority of state laws, may continue to hold its stock, although either bank, or both, may be organized under and have accepted the provisions of this act. When the comptroller shall give to such association a certificate, under his hand and official seal, that the provisions of this act have been complied with, and that it is authorized to commence the business of banking under it, the association shall have the same powers and privileges, and shall be subject to the same duties, responsibilities, and rules, in all respects as are prescribed in this act for other associations organized under it, and shall be held and regarded as an association under this act: *Provided, however,* That no such association shall have a less capital than the amount prescribed for banking associations under this act.

SEC. 45. *And be it further enacted,* That all associations under this act, when designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the government; and they shall perform all such reasonable duties, as depositaries of public moneys and financial agents of the government, as may be required of them. And the Secretary of the Treasury shall require of the associations thus designated satisfactory security, by the deposit of United States bonds and otherwise, for the safe-keeping and prompt payment of the public money deposited with them, and for the faithful performance of their duties as financial agents of the government: *Provided,* That every association which shall be selected and designated as receiver or depository of the public money shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid in to the government for internal revenue, or for loans or stocks.

SEC. 46. *And be it further enacted,* That if any such association shall at any time fail to redeem, in the lawful money of the United States, any of its circulating notes, when payment thereof shall be lawfully demanded, during the usual hours of business, at the office of such association, or at its place of redemption aforesaid, the holder may cause the same to be protested, in one package, by a notary-public, unless the president or cashier of the association whose notes are presented for payment, or the president or cashier of the association at the

Associations, when so designated, may be depositaries of public moneys, except, &c. ;

may be financial agents.

Designated depositaries to pay promptly ;

to receive national currency bills at par.

If associations fail to redeem their circulation, the notes may be protested, unless, &c.

Notice of protest, &c., to be forwarded to comptroller.

Association not to do business further, except, &c.

Notes not to be protested in certain cases.

Fees of notary.

Upon notice of failure to redeem circulation, comptroller to send special agent to ascertain facts,

when to declare securities forfeited,

to notify holders of notes to present them for payment,

to pay notes and cancel bonds.

place at which they are redeemable, shall offer to waive demand and notice of the protest, and shall, in pursuance of such offer, make, sign, and deliver to the party making such demand an admission in writing, stating the time of the demand, the amount demanded, and the fact of the non-payment thereof; and such notary-public, on making such protest, or upon receiving such admission, shall forthwith forward such admission or notice of protest to the comptroller of the currency, retaining a copy thereof. And after such default, on examination of the facts by the comptroller, and notice by him to the association, it shall not be lawful for the association suffering the same to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it, and to deliver special deposits: *Provided*, That if satisfactory proof be produced to such notary-public that the payment of any such notes is restrained by order of any court of competent jurisdiction, such notary-public shall not protest the same; and when the holder of such notes shall cause more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

SEC. 47. *And be it further enacted*, That on receiving notice that any such association has failed to redeem any of its circulating notes, as specified in the next preceding section, the comptroller of the currency, with the concurrence of the Secretary of the Treasury, may appoint a special agent (of whose appointment immediate notice shall be given to such association) who shall immediately proceed to ascertain whether such association has refused to pay its circulating notes in the lawful money of the United States, when demanded as aforesaid, and report to the comptroller the fact so ascertained; and if, from such protest or the report so made, the comptroller shall be satisfied that such association has refused to pay its circulating notes as aforesaid and is in default, he shall, within thirty days after he shall have received notice of such failure, declare the United States bonds and securities pledged by such association forfeited to the United States, and the same shall thereupon be forfeited accordingly. And thereupon the comptroller shall immediately give notice in such manner as the Secretary of the Treasury shall, by general rules or otherwise, direct, to the holders of the circulating notes of such association to present them for payment at the treasury of the United States, and the same shall be paid as presented in lawful money of the United States; whereupon said comptroller may, in his discretion, cancel an amount of bonds pledged by such association equal at current market rates, not exceeding par, to the notes paid. And it shall be lawful for the Secretary of the Treasury, from time to time, to make such regula-

tions respecting the disposition to be made of such circulating notes after presentation thereof for payment as aforesaid, and respecting the perpetuation of the evidence of the payment thereof as may seem to him proper; but all such notes, on being paid, shall be cancelled. And for any deficiency in the proceeds of the bonds pledged by such association, when disposed of as hereinafter specified, to reimburse to the United States the amount so expended in paying the circulating notes of such association, the United States shall have a first and paramount lien upon all the assets of such association: and such deficiency shall be made good out of such assets in preference to any and all other claims whatsoever, except the necessary costs and expenses of administering the same.

The United States to have priority of lien upon assets for and deficiency in redemption of circulation.

Sec. 48. *And be it further enacted*, That whenever the comptroller shall become satisfied, as in the last preceding section specified, that any association has refused to pay its circulating notes as therein mentioned, he may, instead of cancelling the United States bonds pledged by such association, as provided in the next preceding section, cause so much of them as may be necessary to redeem the outstanding circulating notes of such association to be sold at public auction in the city of New York, after giving thirty days' notice of such sale to such association.

Bonds pledged as security may be sold at auction;

Sec. 49. *And be it further enacted*, That the comptroller of the currency may, if he shall be of opinion that the interests of the United States will be best promoted thereby, sell at private sale any of the bonds pledged by such association, and receive therefor either money or the circulating notes of such failing association: *Provided*, That no such bonds shall be sold by private sale for less than par, nor less than the market value thereof at the time of sale: *And provided, further*, That no sales of any such bonds, either public or private, shall be complete until the transfer thereof shall have been made with the formalities prescribed in this act.

or at private sale.

Sec. 50. *And be it further enacted*, That on becoming satisfied, as specified in this act, that any association has refused to pay its circulating notes as therein mentioned, and is in default, the comptroller of the currency may forthwith appoint a receiver, and require of him such bond and security as he shall deem proper, who, under the direction of the comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to such association, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, sell all the real and personal property of such association, on such terms as the court shall direct; and may, if necessary to pay the debts of such association, enforce

Proviso.

Comptroller may appoint a receiver to close affairs of defaulting association.

Bond and duties of receiver, &c.

the individual liability of the stockholders provided for by the twelfth section of this act; and such receiver shall pay over all money so made to the treasurer of the United States, subject to the order of the comptroller of the currency, and also make report to the comptroller of the currency of all his acts and proceedings. The comptroller shall thereupon cause notice to be given, by advertisement in such newspapers as he may direct, for three consecutive months, calling on all persons who may have claims against such association to present the same, and to make legal proof thereof. And from time to time the comptroller, after full provision shall have been first made for refunding to the United States any such deficiency in redeeming the notes of such association as is mentioned in this act, shall make a ratable dividend of the money so paid over to him by such receiver on all such claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction; and from time to time, as the proceeds of the assets of such association shall be paid over to him, he shall make further dividends, as aforesaid, on all claims previously proved or adjudicated; and the remainder of such proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held: *Provided, however,* That if such association against which proceedings have been so instituted, on account of any alleged refusal to redeem its circulating notes as aforesaid, shall deny having failed to do so, such association may, at any time within ten days after such association shall have been notified of the appointment of an agent, as provided in this act, apply to the nearest circuit, or district, or territorial court of the United States, to enjoin further proceedings in the premises; and such court, after citing the comptroller of the currency to show cause why further proceedings should not be enjoined, and after the decision of the court or finding of a jury that such association has not refused to redeem its circulating notes, when legally presented, in the lawful money of the United States, shall make an order enjoining the comptroller, and any receiver acting under his direction, from all further proceedings on account of such alleged refusal.

SEC. 51. *And be it further enacted,* That all fees for protesting the notes issued by any such banking association shall be paid by the person procuring the protest to be made, and such banking association shall be liable therefor; but no part of the bonds pledged by such banking association, as aforesaid, shall be applied to the payment of such fees. And all expenses of any preliminary or other examinations into the condition of any association shall be paid by such association; and all expenses of any receivership shall be paid out of the assets of

If association denies that it has failed to redeem its notes, it may apply to the courts for an injunction.

Proceedings.

Fees for protest and other expenses, how to be paid.

such association before distribution of the proceeds thereof.

SEC. 52. *And be it further enacted*, That all transfer of the notes, bonds, bills of exchange, and other evidences of debt owing to any association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, with a view to prevent the application of its assets in the manner prescribed by this act, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void.

Transfers, assignments, &c., in contemplation of insolvency, &c., to be void.

SEC. 53. *And be it further enacted*, That if the directors of any association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate any of the provisions of this act, all the rights, privileges, and franchises of the association derived from this act shall be thereby forfeited. Such violation shall, however, be determined and adjudged by a proper circuit, district, or territorial court of the United States, in a suit brought for that purpose by the comptroller of the currency, in his own name, before the association shall be declared dissolved. And in cases of such violation, every director who participated in or assented to the same shall be held liable in his personal and individual capacity for all damages which the association, its shareholders, or any other person, shall have sustained in consequence of such violation.

Penalty upon directors for violations of this act.

Violation, how to be determined.

Personal liability.

SEC. 54. *And be it further enacted*, That the comptroller of the currency, with the approbation of the Secretary of the Treasury, as often as shall be deemed necessary or proper, shall appoint a suitable person or persons to make an examination of the affairs of every banking association, which person shall not be a director or other officer in any association whose affairs he shall be appointed to examine, and who shall have power to make a thorough examination into all the affairs of the association, and, in doing so, to examine any of the officers and agents thereof on oath; and shall make a full and detailed report of the condition of the association to the comptroller. And the association shall not be subject to any other visitatorial powers than such as authorized by this act, except such as are vested in the several courts of law and chancery. And every person appointed to make such examination shall receive for his services at the rate of five dollars for each day by him employed in such examination, and two dollars for every twenty-five miles he shall necessarily travel in the performance of his duty, which shall be paid by the association by him examined.

Comptroller may appoint person to examine the affairs of any association.

Duty of such examiner.

Pay.

Penalty upon officers, &c., of association for embezzlement, &c., of funds.

SEC. 55. *And be it further enacted*, That every president, director, cashier, teller, clerk, or agent of any association, who shall embezzle, abstract, or wilfully misapply any of the moneys funds, or credits of the association, or shall, without authority from the directors, issue or put in circulation any of the notes of the association, or shall, without such authority, issue or put forth any certificate of deposit, draw any order or bill of exchange, make any acceptance, assign any note, bond, draft, bill of exchange, mortgage, judgment, or decree, or shall make any false entry in any book, report, or statement of the association, with intent, in either case, to injure or defraud the association or any other company, body politic or corporate, or any individual person, or to deceive any officer of the association, or any agent appointed to examine the affairs of any such association, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than five nor more than ten years.

District attorneys to conduct certain suits.

SEC. 56. *And be it further enacted*, That all suits and proceedings arising out of the provisions of this act, in which the United States or its officers or agents shall be parties, shall be conducted by the district attorneys of the several districts, under the direction and supervision of the solicitor of the treasury.

In what courts, suits, &c., under this act may be prosecuted.

SEC. 57. *And be it further enacted*, That suits, actions, and proceedings, against any association under this act, may be had in any circuit, district, or territorial court of the United States held within the district in which such association may be established; or in any state, county, or municipal court in the county or city in which said association is located, having jurisdiction in similar cases: *Provided, however*, That all proceedings to enjoin the comptroller under this act shall be had in a circuit, district, or territorial court of the United States, held in the district in which the association is located.

Proceedings for injunctions to be in what courts.

Penalty for mutilating notes to make them unfit for reissue.

SEC. 58. *And be it further enacted*, That every person who shall mutilate, cut, deface, disfigure, or perforate with holes, or shall unite or cement together, or do any other thing to any bank bill, draft, note, or other evidence of debt, issued by any such association, or shall cause or procure the same to be done, with intent to render such bank bill, draft, note, or other evidence of debt unfit to be reissued by said association, shall, upon conviction, forfeit fifty dollars to the association who shall be injured thereby, to be recovered by action in any court having jurisdiction.

Penalty for counterfeiting notes.

SEC. 59. *And be it further enacted*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any note in imitation of, or purporting to be in imitation of, the circulating notes issued under the provisions of

this act, or shall pass, utter, or publish, or attempt to pass, utter, or publish, any false, forged, or counterfeited note, purporting to be issued by any association doing a banking business under the provisions of this act, knowing the same to be falsely made, forged, or counterfeited, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering, any such circulating notes, issued as aforesaid, or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any falsely altered or spurious circulating note issued, or purporting to have been issued, as aforesaid, knowing the same to be falsely altered or spurious, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law shall be sentenced to be imprisoned and kept at hard labor for a period of not less than five years, nor more than fifteen years, and fined in a sum not exceeding one thousand dollars.

for knowingly uttering, &c.

SEC. 60. *And be it further enacted*, That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody or possession any plate, die, or block after the similitude of any plate, die, or block from which any circulating notes issued as aforesaid shall have been prepared or printed, with intent to use such plate, die, or block, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any paper adapted to the making of such notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, every such person, being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labor for a term not less than five or more than fifteen years, and fined in a sum not exceeding one thousand dollars.

for engraving, &c., plates for forging notes, &c.

for having blank notes, &c., with intent,

for having paper, &c.

SEC. 61. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to report annually to congress at the commencement of its session—

Comptroller to report annually to congress.

First. A summary of the state and condition of every association from whom reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, the amount of circulating notes outstanding, and the total amount of means and resources,

Contents of report.

Contents of
comptroller's
report to
congress.

specifying the amount of lawful money held by them at the times of their several returns, and such other information in relation to said associations as, in his judgment, may be useful.

Second. A statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed and the amount outstanding.

Third. Any amendment to the laws relative to banking by which the system may be improved, and the security of the holders of its notes and other creditors may be increased.

Fourth. The names and compensation of the clerks employed by him, and the whole amount of the expenses of the banking department during the year. And such report shall be made by or before the first day of December in each year, and the usual number of copies for the use of the senate and house, and one thousand copies for the use of the department, shall be printed by the public printer and in readiness for distribution at the first meeting of congress.

Saving clauses.

SEC. 62. *And be it further enacted*, That the act entitled "An act to provide a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved February twenty-fifth, eighteen hundred and sixty-three, is hereby repealed: *Provided*, That such repeal shall not affect any appointments made, acts done, or proceedings had, or the organization, acts, or proceedings of any association organized or in the process of organization under the act aforesaid: *And provided, also*, That all such associations so organized or in process of organization shall enjoy all the rights and privileges granted, and be subject to all the duties, liabilities, and restrictions imposed by this act, and with the approval of the comptroller of the currency, in lieu of the name specified in their respective organization certificates, may take any other name preferred by them and duly certified to the comptroller, without prejudice to any right acquired under this act, or under the act hereby repealed; but no such change shall be made after six months from the passage of this act: *Provided, also*, That the circulation issued or to be issued by such association shall be considered as a part of the circulation provided for in this act.

Executors,
trustees, &c.,
holding stock,
not to be per-
sonally liable.

SEC. 63. *And be it further enacted*, That persons holding stock as executors, administrators, guardians, and trustees, shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or person interested in said trust-funds would be if they were respectively living and competent to act and hold the stock in their own names.

Act may be
altered or
repealed.

SEC. 64. *And be it further enacted*. That congress may at any time amend, alter, or repeal this act.

APPROVED, June 3, 1864.

Annual Report, Comptroller of Currency (Hugh McCulloch)

[November 25, 1864]

OFFICE OF COMPTROLLER OF THE CURRENCY,
November 25, 1864.

In compliance with the requirements of the 61st section of the national currency act, I have the honor of making through you to the Congress of the United States the following report:

Since my last annual report two hundred and eighty-two new banks have been organized, and one hundred and sixty-eight State banks have been changed into national ones. Of the one hundred banks last organized, sixty-seven have been conversions of State banks, and nearly all the papers now being filed are for the change of State banks into national associations.

There are now in existence, under the national currency act, five hundred and eighty-four associations, which are located in the following States:

In Maine.....	18	In Ohio.....	84
In New Hampshire.....	9	In Michigan.....	15
In Vermont.....	10	In Indiana.....	34
In Massachusetts.....	67	In Illinois.....	38
In Rhode Island.....	2	In Wisconsin.....	15
In Connecticut.....	20	In Minnesota.....	4
In New York.....	100	In Iowa.....	20
In New Jersey.....	16	In Missouri.....	7
In Pennsylvania.....	109	In Kansas.....	1
In Delaware.....	1	In Nebraska Territory.....	1
In Maryland.....	3	In Kentucky.....	1
In District of Columbia.....	2	In Tennessee.....	3
In Virginia.....	1	In Louisiana.....	1
In West Virginia.....	2		

The paid-in capital of the banks in the respective States and Territories, the currency delivered to them, (a considerable portion of which has not been put into circulation,) and the bonds deposited with the Treasurer to secure their notes, are as follows:

State.	Capital stock paid in.	Circulation.	Bonds.
Maine.....	\$2, 749, 800. 00	\$1, 887, 880	\$2, 244, 500
New Hampshire.....	1, 120, 000. 00	552, 700	944, 000
Vermont.....	1, 490, 000. 00	1, 311, 800	1, 636, 000
Rhode Island.....	700, 000. 00	414, 000	560, 000
Massachusetts.....	25, 909, 040. 00	12, 536, 850	16, 888, 650
Connecticut.....	5, 176, 638. 00	4, 084, 050	4, 525, 500
New York.....	20, 599, 175. 03	12, 584, 950	14, 064, 600
Pennsylvania.....	21, 120, 148. 88	10, 193, 830	14, 964, 100
New Jersey.....	2, 141, 249. 00	1, 756, 170	2, 011, 000
Delaware.....	300, 000. 00	200, 000	250, 000
Maryland.....	1, 560, 000. 00	1, 245, 000	1, 400, 000
District of Columbia.....	600, 000. 00	477, 000	534, 000
Virginia.....	95, 025. 00	95, 000	112, 000
West Virginia.....	206, 950. 00	140, 000	230, 000
Ohio.....	10, 035, 165. 86	7, 505, 880	8, 749, 850
Kentucky.....	200, 000. 00	162, 000	184, 000
Indiana.....	4, 201, 671. 26	3, 148, 400	3, 924, 100
Illinois.....	4, 147, 837. 25	3, 396, 560	3, 794, 600
Michigan.....	1, 165, 090. 00	797, 800	943, 500
Wisconsin.....	1, 040, 277. 00	774, 500	903, 050
Minnesota.....	590, 000. 00	442, 000	603, 000
Iowa.....	1, 215, 000. 00	945, 900	1, 092, 000
Nebraska Territory.....	40, 000. 00	27, 000	30, 000
Kansas.....	100, 000. 00	49, 000	55, 000
Missouri.....	1, 621, 530. 00	722, 000	865, 000
Tennessee.....	340, 000. 00	234, 380	263, 000
Louisiana.....	500, 000. 00	180, 000	200, 000
Total.....	108, 964, 597. 28	65, 864, 650	81, 961, 450

A detailed statement of the affairs of each bank on the first Monday of October last, with an abstract of the condition of all of them in the aggregate on that day, is herewith submitted, together with the names and compensation of the clerks, and the total expenses of the bureau for the fiscal year.

A large proportion of the circulating notes which have been furnished by the Comptroller was intended to take the place and is taking the place of the circulation of such State banks as have been converted into national ones, or of those whose notes have been voluntarily retired, or have been returned from those parts of the country in which the notes of the United States and of the national banks are alone current; so that the currency delivered to the national banks is not and will not be altogether an addition to the paper money of the country, but rather, to a considerable extent, the substitution of it for that of the State banks.

It is perhaps to be regretted that so many new banks have been organized in States where, before the passage of the act, there was no deficiency of banking capital. There would have been less cause for apprehension that banking capital in any of the States was being too rapidly increased, if, by suitable legislation of the States, State

banks had been sooner authorized to avail themselves of the benefits of the national currency act, and the managers of banks, where the necessary legislation had been obtained, had more promptly discerned the inevitable tendency of the public sentiment, and co-operated with the government in its efforts to nationalize the bank note circulation of the country. It was not the intention of the originators and friends of the system, nor has it been the policy of the Comptroller, to swell, through the instrumentality of the national banks, the volume of paper money. On the contrary, the system was designed to check overissues by requiring ample security for every dollar which should be put into circulation, and it has been the aim of the Comptroller so to administer the law as to prevent, instead of encouraging, an unhealthy and dangerous expansion of credits.

I am happy in being able to say that my apprehensions of a too rapid increase of national banks have been much lessened by the recent action of many State banks. The legislature of Pennsylvania, following the example of the legislatures of Massachusetts, Connecticut, &c., has recently authorized the banks of that State to reorganize under the national system, and the stockholders of so many of them are availing themselves of this authority, as to render it quite certain that at an early day there will be in this great central State, without a dangerous increase of its banking capital, but one system of banking. In fact, the indications are now unmistakable that the time is not far distant when the people of the United States will be everywhere relieved of a bank note circulation of limited credit and uncertain value, and supplied with one of uniform credit and as solvent as the nation. It has been the earnest wish of the Comptroller that this desirable result should be brought about through the agency of existing banks, rather than by the organization of new ones, so that the national circulation might be introduced with as little increase of banking capital as possible. A national bank note currency will be one of the compensations for the heavy debt which has been incurred in the terrible contest in which the nation has been involved. If it can be everywhere introduced, as now seems probable, without creating a dangerous bank note inflation, it will prove to be a compensation which more than anything else will reconcile the people to the burdens which the war must necessarily impose upon them. It will be so by its tendency to regulate domestic exchanges, by the stability it will give to trade, in preventing unsecured issues and bank note panics, by saving the people from losses in the use of paper money, and by its influence in securing and perpetuating the national unity which is the ark of our safety.

It is an interesting fact, that this great change is taking place—this great financial revolution, if I may so call it, is being accomplished, without disturbing the business of the country. State banks, whose conversions are facilitated by enabling acts, are being daily reorganized without a curtailment of discounts, or even a temporary derangement of their affairs. Nearly all the banking capital of Philadelphia has been recently nationalized, with scarcely an interruption of the business of the banks for a single day. In States where no enabling legislation has been obtained, the change from the State to the national system is attended with more difficulty. But even in these States, by the organization of national banks by the stockholders of

State banks, and the transfer of the assets of the latter to the former, the change has been already, in many instances, effected without loss to the owners, and with very little practical inconvenience to the managers.

It is also an interesting fact, that the stock of State banks which have been changed into national associations has not been depreciated by the change; on the contrary, the shares of most of them have been appreciated, and I know of no instance in which their real or market value has been injuriously affected by it. This fact sufficiently refutes the charge, sometimes urged against the system, that it was being forced upon the country to the prejudice of the stockholders of State institutions.

It may be proper for me to state another fact in this connexion of interest to the public, which is, that the national banks are, without any known exceptions, in safe, although some of them are in inexperienced hands, and that the fears that the national banking system would be the means of filling the country with banks of fictitious capitals, and be a reproduction, on a large scale, of the stock banking systems of States in which they had proved to be a failure, if not a fraud, are, from present indications, without a real foundation.

The fact that such apprehensions were entertained or were professed to be entertained by the bankers of a State, in which a system similar in some of its main features was in practical operation, intimidated, for a while, the capitalists of other States, and retarded the reorganization of State banks, but worked no permanent injury to the national system. On the contrary, the expression of these fears has led to a thorough examination of the act, and a careful observation of its administration, and the result has been favorable to both. It has been discovered that in many important particulars the national system differs from, and is an improvement upon, the State system, which it the most closely resembles; that it restricts circulation to ninety per cent. of the bonds on deposit with the Treasurer, and prohibits the banks from issuing notes to an amount exceeding their bona fide paid up capitals, sworn to by their officers; that every interior national bank, in addition to redeeming its notes at its own counter, is compelled to redeem at par, at some commercial centre, thereby tending to prevent high rates of exchange between the different sections of the country, and that, in case of the failure of a bank to redeem its notes according to the provisions of the act, these notes, instead of being depreciated, would be at once redeemable in lawful money, at the treasury of the United States. It has been also ascertained that the Comptroller is requiring the most satisfactory references or credentials in regard to the standing and responsibility of the persons proposing to organize national banks, and is instituting a system of examinations which will do much to expose and check improper practices on the part of the bankers, and violations of the wholesome provisions of the law.

This examination of the act, and the observation of the manner in which it is being administered, have resulted in the entering up of a popular judgment in favor of the national banking system; a judgment, not that the system is a perfect one, nor free from danger of abuse, but that it is a safer system, better adapted to the nature of our political institutions, and to our commercial necessities, giving more strength to the government, with less risk of its being used by the

government against the just rights of the States, or the rights of the people, than any system which has yet been devised, and that by such amendments of the act as experience may show to be needful, it may be made as little objectionable, and as beneficial to the government and the people, as any paper money banking system that wisdom and experience are likely to invent. It promises to give to the people that long existing "desideratum," a national currency without a national bank, a bank note circulation of uniform value without the creation of a moneyed power in a few hands over the politics and business of the country.

Of course this system depends for its success upon the maintenance of the faith and credit of the nation, which, in their turn, depend upon the preservation of the national integrity. If these fail, the national banking system will fail; but it will go down with all other important interests, and will be but a part of the general wreck. That such a calamity is not in store for us is the confident hope and belief of all true men of the loyal States. The anxieties and apprehensions which have existed heretofore on this point are rapidly disappearing as the loyal mind of the United States has hardened to the inexorable resolution that the Union shall be preserved, and the public credit shall be maintained, no matter what sacrifices and burdens the execution of this resolution may involve.

It is a common objection to the national banking system, on the part of some who favor a national currency, that it will deprive the government of the privilege it might safely use, and the field it might profitably occupy, by the continued circulation of its own notes. Why, it is asked, should not the government drive out of circulation all bank notes, and continue to issue, as it has done since the commencement of the war, its own notes, and thus save the interest which otherwise will go to the banks? In answer, I would remark:

The banking interest in the United States is an important one; it has grown with the business of the country, and has been largely instrumental in developing the national resources and in increasing the national wealth. Banks of issue, badly and dishonestly as many of them have been managed, and disastrous as have been the failures which bad management and dishonesty have produced, have still been of unquestionable advantage to the people. The capital of the country has been largely, and in good faith, invested in them, and thousands of stockholders depend upon the dividends upon their bank stock for support. It is an interest which has stood by the government in its struggles with a gigantic rebellion; and now, when it is indispensable that the government should control the issues of paper money, there has been created a national banking system, not to destroy the State banks but to absorb them, and that, too, without prejudice to their stockholders.

Governments should not be bankers. None has existed which could be safely trusted with the privilege of permanently issuing its own notes as money. Circulating notes have been issued under peculiar circumstances by other governments, as it is now being done by that of the United States, but the judgment of the world is against it as a permanent policy, and nothing but an overpowering public exigency will at any time justify it. Under popular institutions like ours no more dangerous, no more corrupting power could be lodged in the

hands of the party in possession of the government; none more perilous to official probity, and free elections. Give to a party dominant in the legislative and executive branches of the government the authority of issuing paper money for the purpose of furnishing the country with its currency, subject as it would be to no restraint but its own pleasure, and what guaranty would there be that this authority would be honestly and judiciously used? If there were no risk in the preparation of the notes, and checks were provided to make fraudulent issues an impossibility, the power of issuing government promises as a circulating medium is too dangerous a one to be conferred upon any party, except under extraordinary circumstances.

The present issue of United States notes as lawful money, and the decisions of the courts sustaining the constitutionality of the issue, have been justified by the consideration that under a great public necessity, when the nation's life is in peril, policies must be framed and laws must be interpreted with a view to the preservation of the government. This is the paramount consideration to which all others must bend. Whatever opinions may have been, in times past, entertained in regard to the propriety of the issue of United States notes, and the expediency as well as the constitutionality of the law making them a legal tender, there are now, I apprehend, very few intelligent persons who are not persuaded that without these notes, and the character of lawful money given to them by Congress and confirmed by the courts, the credit of the nation would have given way at the very outbreak of the rebellion. When the war has been concluded, and the exigency which made the issue of government notes a necessity has ceased to exist, there will be very few to advocate the continued use of them on the ground of economy.

If, however, there were no objections of the kind alluded to, there are other objections to the permanent issue of circulating notes by the government, which must be apparent to all who have considered the object and uses of a paper currency.

Paper money has been found to be useful, or rather an absolute necessity in all commercial countries for the convenient transaction of business, and as a circulating representative of values too large to be represented by coin. Although the fruitful cause of great evils, by reason of its unregulated use, and of its uncertain and frequently deceptive character, the general utility of it can hardly be questioned. Now, what is needed in a paper circulating medium, is, that it should be convertible into coin; that it should be sufficient in amount to answer the purposes of legitimate business; that it should not, on the one hand, by being overissued, encourage extravagance and speculation and give an artificial and unreliable value to property; nor, on the other hand, by being reduced below the proper standard, interrupt business and unsettle values. It should be supplied to just the extent of the demands of a healthy trade. It should be increased as the regular business of the country may require its increase, and be diminished as the proper demand for it is diminished.

It is not pretended that banks of issue have furnished this kind of circulation. Bank notes, with few exceptions, have been convertible

into coin when there was no demand for coin, and inconvertible when there was. They have, too generally, been issued for the exclusive benefit of the bankers, and not for the convenience of the public, and they have encouraged speculation, when their true mission was to facilitate trade. It has been the bane of a bank note circulation that it has been expanded by the avarice of the bankers, and contracted by the distrust that overissues have created.

Now, this objection to a bank note circulation applies with much greater force to government issues. There is always inducement enough for banks to keep up a full circulation, and against excessive issues there are the restrictions of law and the liability to redeem. Government notes, in the issue thereof, would be regulated only by the necessities of the government or the interests of the party in power. At one time they might be increased altogether beyond the needs of commerce and trade, thereby enhancing prices and inducing speculation; at another, they might be so reduced as to embarrass business and precipitate financial disasters. They would be incomparably worse in this respect than a bank note currency, because the power that should control circulation would be the power that furnishes it. Supplied by an authority not in sympathy with trade, they would not be accommodated to the requirements of trade. They might be the fullest in volume when there was the least demand for a full circulation, and the most contracted when there was a healthy demand for an increase. They would eventually become an undesirable circulation, because there would be no way in which the redemption of them could be enforced: they would be a dangerous circulation, because they would be under the control of political parties; an unreliable circulation, because having no connexion with trade and commerce, they would not be regulated by their necessities.

There are objections to all kinds of paper money; but, in some form, it is a commercial necessity, and no form has yet been contrived so little objectionable as that which is authorized by the national currency act. Under this act the government perform its proper functions by exercising one of its constitutional powers for the regulation of commerce, by fixing the maximum of bank note circulation, securing its solvency, and giving to it nationality of character and uniformity of value. It takes the promises, which are to go among the people through the national banks, puts its seal upon them, and guarantees *their* redemption, as it takes the precious ore from the mines—the property of individuals—coins it into money of the United States and fixes the value thereof. It thus performs the proper offices of government. In doing so it interferes with no State rights, meddles with no man's lawful pursuits. It stands between the bankers and the people, and while it protects the latter from imposition in the use of a bank note currency, it trespasses upon no privileges of the former. Without becoming a banker, and without, as in the case of the charter of the United States Bank, conferring peculiar if not dangerous privileges upon a single corporation, it provides a national circulation, indispensable for its own use and safety in the collection of its internal revenues, and suited to the circumstances of the country.

But while the national currency act is restrictive in its general provisions, and is expected when generally adopted to prevent expansions, there is still danger that too much capital will be invested under it during the suspension of specie payments, and in the existing unsettled condition of our political and financial affairs. When money is plenty, and fortunes are being rapidly acquired, the country is always in a feverish and unhealthy state. This is especially true at the present time. The enormous expenditures of the government, and the great advances in prices since the commencement of the war, have made many persons suddenly rich, and upon fortunes suddenly acquired, have followed reckless expenditures, extravagance, waste. Speculation is taking the place of sober and persevering industry, and thousands are deluded with the notion that the wealth of the nation is being increased by the increase of its indebtedness. The inauguration of a new system of banking, under such circumstances, is peculiarly hazardous, and I have been, from the time of my appointment, more apprehensive that too many banks would be organized, than that the system would not be sufficiently attractive to induce capitalists to become connected with it. The government is the great borrower. Its obligations compose a large portion of the discount line of banks, which are making large profits on government securities at little apparent risk, and the danger is, that the national banking system, with all its restrictions, may, during the suspension of specie payments, and the continuance of the war, add to the plethora of paper money; and that, when the war is over, the banks, deprived of the existing means of investment in government obligations, and finding no legitimate use for their capitals, may be tempted to use them in encouraging operations that will eventually prove to be as unprofitable to themselves, as they will be injurious to the country. For the double purpose, therefore, of keeping down the national circulation as far as it has seemed possible to do it, consistently with the establishment of the system throughout the country, and preventing an increase of banking capital, that might hereafter be instrumental in keeping up the inflation, and retarding the resumption of specie payments, or prove unprofitable to its owners, I have felt it to be my duty to discourage, in many instances, the organization of new banks, and in more instances to refuse my sanction to the increase of the capital of those already organized. In doing so, I may seem to have exercised a power not warranted by the act; but if not sustained by its letter, I have been by its spirit, and I am willing to let the future decide as to the correctness or incorrectness of my course.

But while I entertain the opinion that the currency of the country is already too much expanded, and that it would be a calamity if the national banking system should be the means of materially increasing it, I must not be understood as sanctioning the notion, so generally prevalent, that the high price of coin is to be altogether or chiefly attributed to it, or that gold and silver are, at the present time, the standard of value in the United States. When gold sold in Wall street, on the 1st of July last, at 185 premium, many of the best stocks, as well as productive real estate, were no higher than they have been upon a coin basis.

By referring to the gold market in New York during the three past years it will be perceived that its value has been regulated by other causes than the inflation of the currency.

In January, 1862, gold in New York was at a premium of $1\frac{1}{2}$ per cent. It soon fell to 1, from which it rose on the 10th of October to 37, and closed on the 31st of December at 34. On the 24th of February, 1863, it had advanced to $72\frac{1}{2}$, but on the 26th of March (favorable news having been received from the southwest) it went down to $40\frac{1}{2}$, but in twelve days, on the receipt of less favorable intelligence from that quarter, it went up to $59\frac{1}{2}$. A few days after, upon the report of the iron-clad attack upon Fort Sumter, it fell to 46, and on receipt of the intelligence of the surrender of Fort Hudson to $23\frac{1}{2}$. On the 15th of October it rose to 54, but reached no higher point during that year.

On the 1st of January, 1864, it opened at 52, went up to 88 on the 14th of April, and fell to 67 on the 19th of the same month. On the passage of gold bill, June 22, it rose to 130, and fell the next day to 115. On the 1st of July it was forced up to 185, but on the day following (the gold bill having been repealed) it fell to 130. On the 11th of the same month it went up again to 184; on the 15th it fell to 144, and after various fluctuations dropped on the 26th of September to 87—thus rising between the 1st of January and the 1st of July, 1864, from 52 to 185, and falling between the 1st of July and the 26th of September from 185 to 87. None of these fluctuations were brought about by an increase or decrease of the currency; on the contrary, gold rose the most rapidly when there was no considerable increase of the currency, and fell in the face of large additions to it. Nothing can be more conclusive of the incorrectness of the opinion that gold is always the standard of value, and that the high price it has commanded in the United States during the progress of the war is the result of an inflated currency, than this brief statement of its variations in the New York stock market.

Hostility to the government has been as decidedly manifested in the effort that has been made in the commercial metropolis of the nation to depreciate the currency as it has been by the enemy in the field; and unfortunately the effort of sympathizers with the rebellion, and of the agents of the rebellious States, to prostrate the national credit has been strengthened and sustained by thousands in the loyal States, whose political fidelity it might be ungenerous to question. Immense interests have been at work all over the country, and concentrated in New York, to raise the price of coin, and splendid fortunes have been apparently made by their success. The loyal importer and manufacturer of the east and the produce and provision merchant of the west have locked hands with the enemies of the republic in a common effort, although for a different object, and sometimes have produced results which have created serious apprehensions that the Union might be lost for want of means to prosecute the war, or rather on account of the excessive and unnecessary costliness of the war. The government in its struggles with a gigantic rebellion has not only been contending with

armed rebels in the field, but with unarmed rebels in the loyal States, backed by an immense interest in the hands of loyal citizens.

Gold has been a favorite article to gamble in. It has been forced up and down by those tricks and devices that are so well understood at the stock board. The reverses of our arms have been used by the operators for an "advance" to send it up, and our military successes have been turned to the advantage of those who were interested in a "decline." When the banks and the government suspended specie payments, and a new standard of value was created in the legal tenders, gold and silver, whose legal value had been fixed by the same authority, became an article of traffic, subject to the influences that have control of the market, and yet unfortunately everything necessary for use or consumption was made to follow their upward tendency, as if they were still the proper and only regulator of prices.

The effect of all this has been, not to break down the credit of the government, but to increase enormously the cost of the war and the expense of living; for however small may have been the connexion between the price of coin and our domestic products, every rise of gold, no matter by what means effected, has been used as a pretext by holders and speculators for an advance of prices, to the great injury of the government and the sorrow of a large portion of the people. It is unquestionably true that the abundance of money has facilitated the operations against the credit of the government, and that a more stringent market would have tended to check and restrain them, but it is a mistaken notion that the high price of coin is an evidence of an overissue of currency or of its depreciation. If it were generally believed that the war would be ended by the 1st of January, gold would fall before that time to 25 per cent. premium, if not lower, although the paper money in circulation might in the mean time be largely increased.

The expenditures of the government have created a great expansion of currency and of prices. There would have undoubtedly been an expansion, in a less degree it is true, but still an expansion, if the war had been carried on upon a specie basis. Prices of all the necessaries of life as well as luxuries, and of everything which the government must purchase in the prosecution of the war, are enormously high, and the penalty is yet to be paid, for the inflation, in increased taxation, and the ruin which must overwhelm the thousands who believe, and act upon the belief, that the apparent prosperity of the country is real, and is not to be interrupted. Fortunate will the country be if the war can be closed and prices reduced to former standards without a collapse, which will as greatly excel in the extent of its disaster that which occurred at the close of the last war with England as the present war excels that in costliness and magnitude.

As long as there was any uncertainty in regard to the success of the national banking system, or the popular verdict upon its merits and security, I did not feel at liberty to recommend discriminating legislation against the State banks. It is for Congress to determine if there is any longer a reasonable uncertainty on these points, and if the time has not arrived when all these institutions should be compelled to retire

their circulation. It is indispensable for the financial success of the treasury that the currency of the country should be under the control of the government. This cannot be the case as long as State institutions have the right to flood the country with their issues. As a system has been devised under which State banks, or at least as many of them as are needed, can be reorganized, so that the government can assume a rightful control over bank note circulation, it could hardly be considered oppressive if Congress should prohibit the further issue of bank notes not authorized by itself, and compel, by taxation, (which should be sufficient to effect the object without being oppressive,) the withdrawal of those which have been already issued. My own opinion is, that this should be done, and that the sooner it is done the better it will be for the banks themselves and for the public. As long as the two systems are contending for the field, (although the result of the contest can be no longer doubtful,) the government cannot restrain the issue of paper money; and as the preference which is everywhere given to a national currency over the notes of the State banks indicates what is the popular judgment in regard to the merits of the two systems, there seems to be no good reason why Congress should hesitate to relieve the treasury of a serious embarrassment, and the people of an unsatisfactory circulation.

Some important amendments are required to the act in order that it should be fully accommodated to the wants and business of the country.

The provisions in regard to the lawful money reserve and the distribution of the assets of insolvent banks require modification.

I am still of the opinion that the rates of interest to be charged by the national banks should be fixed by Congress, and not by the States.

There are too many points at which the banks may redeem their notes. All, with the exception of those in Philadelphia and Boston, should redeem in New York. The banks ought to be compelled by law to retain a part, if not all the coin received by them, for interest on their gold-bearing bonds, in order that they may be prepared to lend their influence in favor of a return to specie payments, and some provisions should be introduced by which, when specie payments are resumed, excessive importation of goods may be checked and dangerous exportations of coin may be prevented.

It is of the greatest importance that the national currency system should be independent of politics and freed from political influences. To effect this, and to facilitate the business of the banks with the Comptroller, I am clearly of the opinion that the bureau should be made an independent department, and removed from Washington to Philadelphia or New York.

I do not, however, recommend that any amendments be made by the present Congress. The act will do well enough as it is for another year. When the next Congress assembles, the defects in it will be better understood, by the practical working of the system, than they can be at the present time. The act can then be taken up, and, with

the light which the experience of another year has thrown upon it, judiciously amended.

In reporting the names and compensations of the clerks employed in this bureau, I should neglect a duty to them and to the system if I did not respectfully suggest that a general increase of their salaries should be made, and that the increase of the salaries of those who occupy positions of high trust and responsibility should be liberal. This bureau is already an important one, and it is not unlikely to be one of the most important in the department. There is not a desk in it which should not be filled by a man of intelligence, character, and good business qualifications. Without such men the affairs of the bureau cannot be safely or properly administered, and expensive as living now is in Washington, it is questionable if the services required can be secured without an increase of salaries. If there were no doubt, however, on this point, it is not right that honorable and competent men should be faithfully serving the government for such compensations as leave them, with rigid economy, in no better circumstances at the close of a year than they were at its commencement. There are undoubtedly, in the different departments at Washington, a great many drones and incompetent clerks who do not earn the salaries that are paid them, whose "attendance" should be dispensed with; but my observation, since I have been in Washington, has satisfied me that there are in all the departments a body of clerks who, for intelligence, ability, and hearty devotion to their duties have no superiors anywhere.

To them is the country indebted for the accuracy with which an immense business—a business which has increased ten-fold since the commencement of the war—is transacted. The expenses of the department would be largely reduced if only such were employed, and they were paid respectable salaries. Cheap clerks are a costly article to the government—it is a poor economy that drives away or starves competent ones.

The Deputy Comptroller of this bureau holds an important and responsible position. In the absence of the Comptroller he possesses the power and performs the duties attached to the office of the Comptroller. The gentleman who has charge of the vaults and the currency holds a place of great responsibility; and two or three other clerks are performing duties requiring rare qualifications. I am under great obligations to them, and so is the country, for the prompt and able manner in which they are doing their work, and the valuable services they have rendered in the organization of the bureau and systematizing its business. Important duties are devolved upon them, while they receive but a small portion of the credit which the proper performance of their duties secures to the bureau. In my judgment, the salaries

they are receiving are wholly inadequate to the services they are rendering.

I respectfully recommend, therefore, in addition to a general increase of the salaries of the clerks, that the Deputy Comptroller be paid a salary of thirty-five hundred dollars per annum, and that the comptroller be authorized, with the approval of the Secretary of the Treasury, to employ three other clerks as heads of divisions, at salaries not exceeding twenty-five hundred dollars, respectively.

All which is respectfully submitted.

HUGH McCULLOCH, *Comptroller.*

HON. W. P. FESSENDEN,
Secretary of the Treasury.

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Fourth Annual Message—Abraham Lincoln

Thirty-Eighth Congress, 2d Session

DECEMBER 6, 1864.

[Source: Senate Journal, 38th Cong., 2d Sess., p. 10]

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The national banking system is proving to be acceptable to capitalists and to the people. On the twenty-fifth day of November five hundred and eighty-four national banks had been organized, a considerable number of which were conversions from State banks. Changes from State systems to the national system are rapidly taking place, and it is hoped that, very soon, there will be in the United States no banks of issue not authorized by Congress, and no bank-note circulation not secured by the government. That the government and the people will derive great benefit from this change in the banking systems of the country can hardly be questioned. The national system will create a reliable and permanent influence in support of the national credit, and protect the people against losses in the use of paper money. Whether or not any further legislation is advisable for the suppression of State bank issues, it will be for Congress to determine. It seems quite clear that the treasury cannot be satisfactorily conducted unless the government can exercise a restraining power over the bank-note circulation of the country.

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Act of March 3, 1865

[13 Statutes at Large 469, Thirty-Eighth Congress, Chapter 78, 2d Session
Approved March 3, 1865, by Abraham Lincoln]

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE INTERNAL REVENUE TO SUPPORT THE GOVERNMENT, TO PAY INTEREST ON THE PUBLIC DEBT, AND FOR OTHER PURPOSES," APPROVED JUNE THIRTIETH, EIGHTEEN HUNDRED AND SIXTY-FOUR

* * * * *

Tax on bank circulation after, &c.

SEC. 6. *And be it further enacted*, That every national banking association, state bank, or state banking association, shall pay a tax of ten per centum on the amount of notes of any state bank or state banking association, paid out by them after the first day of July, eighteen hundred and sixty-six.

Existing state banks to be preferred until, &c.; in applying to become national banks. 1864, ch. 106.

SEC. 7. *And be it further enacted*, That any existing bank organized under the laws of any state, having a paid-up capital of not less than seventy-five thousand dollars, which shall apply before the first day of July next for authority to become a national bank under the act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June third, eighteen hundred and sixty-four, and shall comply with all the requirements of said act, shall, if such bank be found by the comptroller of the currency to be in good standing and credit, receive such authority in preference to new associations applying for the same: *Provided*, That it shall be lawful for any bank or banking association organized under state laws, and having branches, the capital being joint and assigned to and used by the mother bank and branches in definite proportions, to become a national banking association in conformity with existing laws, and to retain and keep in operation its branches, or such one or more of them as it may elect to retain; the amount of the circulation redeemable at the mother bank and each branch to be regulated by the amount of capital assigned to and used by each.

Proviso.

* * * * *

What to be deemed the capital of a state bank, for purposes of this act.

SEC. 14. *And be it further enacted*, That the capital of any state bank or banking association which has ceased, or shall cease to exist, or which has been or shall be converted into a national bank, for all the purposes of the act to which this is an amendment, shall be assumed to be the capital as it existed immediately before such bank ceased to exist or was converted as aforesaid. And whenever the outstanding circulation of any bank, association, corporation, company, or person shall be reduced to an amount not exceeding five per centum of the chartered or declared capital existing at the time the same was issued, said circulation shall be free from taxation. And whenever any state bank or banking association has been con-

Circulation when free of tax.

verted into a national banking association, and such national banking association has assumed the liabilities of such state bank or banking association, including the redemption of its bills, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed five per centum of the capital before such conversion of such state bank or banking association.

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Approved, March 3, 1865.

Annual Report, Comptroller of Currency (John Jay Knox)

[Forty-third Congress, 1st Session, November 28, 1873, Pages 17-29, 31-32]

* * * * *

RESERVE.

The advocates of a free-banking law are also advocates of the repeal of the chief restrictions of the national currency act, and particularly of the provision which requires the keeping of a certain amount of money as reserve against liabilities. They claim that the directors and managers of the banks, and not the legislature which enacts the law or the officer who executes it, are the best judges of the amount of money to be loaned, and the amount to be held on hand for the protection of their creditors; that the Government should be careful to protect the bill-holder from loss, but the depositor or other creditor may safely be allowed to protect himself. They further maintain that such laws prevent the banks from extending accommodations to legitimate business interests, which, consequently, suffer on account of the lack of such accommodations. In some instances this may be true, but such laws are passed not so much for the benefit of those persons who conduct their business on sound principles as for that class or association of persons which has but little experience in the method of transacting a legitimate business. If the law be correct in principle, it will be found not to interfere with the rights of those persons who understand the true theory of business, but its tendency will be to prevent abuses on the part of those who would otherwise take risks which a prudent and careful man would avoid.

Any association of persons may organize a bank under the provisions of the national currency act. If private citizens wish to transact business in accordance with their own judgment, they can avail themselves of the privilege by conducting a private business. If other citizens prefer to organize corporations under an act of Congress which imposes restrictions designed for the public good, who shall object? The privilege is open to both, and each can decide without prejudice or hindrance. A private banker solicits and obtains business on the strength of his good name, and it is well understood that the funds placed in his hands are to be used at his discretion, the depositors relying upon his business sagacity and judgment; but if corporations desire to organize under the authority and seal of a great nation, care should be exercised that the authority obtained shall not be abused.

During the past few years great corporations have been organized by authority of law, with the advantages of immense subsidies, but almost wholly without restrictions, the law-making power having been led to believe that the corporations authorized would contribute as much to the public good as to their own profit. But it has been found that overgrown corporations are conducted in defiance of the rights of the shareholders, and with little regard to the comfort, wants, and profit of the people, but chiefly for the benefit of the few officers and directors; and the whole country is now aroused to the mistaken

legislation which has placed the highways of the nation under the control of a few men, without reserving such salutary restrictions as should compel the common carrier to deliver the products of the land to the market for a fair remuneration; and it is the great economical problem of the day how to correct a monstrous evil, which would have been under complete control if the proper restrictions had at first been provided and enforced.

The officers and directors of stock companies which have a good reputation are too apt to forget that they are but the servants of the shareholders, and that the poorest shareholder is entitled to information in reference to its affairs. The Bank of Amsterdam is said to have been bankrupt for fifty years prior to the announcement of its failure, yet it continued business for a half century upon the strength of the name and character it had built up; and many individuals and corporations are to-day supposed to be possessed of large wealth, whose affairs, if carefully scrutinized, would be found to exhibit the reverse. If banks are to be organized under the authority of law, and intrusted with the earnings of the people, it is right that legislators shall require them to loan the savings of the people upon real estate security of twice the value of the loan; and if the banks are organized for commercial purposes, it is right that they should be prohibited from loaning money upon real estate, and be required to loan money chiefly to business men upon commercial paper; and depositors have a right to expect that the contract which the law provides between them and the bank shall be enforced. If the law provides for a proper security for circulation, and at the same time defines the kind of security in which deposits shall be invested, it is as important to know that the contract with the depositor will be fulfilled, as well as the contract with the bill-holder. It is the business of such corporations to receive the money of the people, and first of all to fulfill their legal obligations with their creditors, rather than to attempt to follow the vagaries and manipulations of the stock-board, or assume to regulate the rate of interest on the street. While the law permits banking corporations to use a certain portion of the deposits of each creditor, and realize a profit therefrom, it provides also that they shall keep a certain other portion of such deposits on hand for the prompt payment of the creditor whenever it shall be demanded. The correctness of this principle of law is evident, but the difficulty is to ascertain the exact amount necessary to keep on hand. The reckless banker or director would loan it all, and frequently not to his neighbors for the purpose of facilitating legitimate transactions, but to himself, for use in some enterprise which promises well, but results in ruin. The prudent banker invests carefully the savings of his neighbors, and studies their wants, holding an ample fund at his command for all emergencies. The law properly provides that all the assets of a bank, even including the furniture, shall first be applied to the payment of the creditors, the shareholders having a right only to the balance which may remain after the payment of every cent of indebtedness. If the law is so careful to protect the interests of the depositors, it is also just that it should provide restrictions to that end, and devise methods of ascertaining frequently whether these restrictions are strictly observed. The amount of the capital of the shareholder may be small, and the amount of the capital furnished by the depositor may be many times as great, so that the risk of the shareholder is by no means as great, as that of the depositor.

The capital and surplus of the London and Westminster Bank of England belonging to the shareholders is fifteen millions of dollars, while the average capital, in the shape of deposits contributed by its creditors, is one hundred and twenty millions of dollars. Three national banks in the city of New York, with a capital and surplus belonging to the shareholders of ten millions of dollars, had, previous to the late crisis, deposits contributed by their creditors equal to fifty millions of dollars; and a late report from a savings bank in this country, on file in this Office, exhibits a capital belonging to shareholders of but \$25,000, while the capital contributed by the depositors was \$1,000,000. The capital contributed by the depositors in the first instance, that of the English bank, was eight times that contributed by the shareholders; in the second instance, that of the three New York banks, five times, and in the case of the savings bank forty times. The necessity of restrictions to govern corporations holding such large proportionate amounts of credits could not be better illustrated.

The banks of England, of Scotland, and of other countries of Europe, are managed by men who have had long experience in that branch of business, and their experience is handed down from generation to generation to their successors, and the organization of a corporation to conduct the business of banking by men untried in that particular profession or calling would be looked upon with disfavor, and meet with no success. But in this country, under the provisions of the act, any association of persons may organize a bank; and it is no uncommon occurrence for applications to be received for that purpose from persons who have had little or no experience in banking, but who desire to organize under the national currency act, because it is believed that an organization under that act will give to the shareholders a character and credit which they could not obtain if they should attempt to conduct a private banking business.

It is said that the restriction in reference to reserve should be removed from circulation, for the reason that the circulation is already safe beyond a peradventure. This is undoubtedly true, for the security of the circulation rests not alone upon the bonds which are deposited, but also upon the total assets of the bank, the personal liability of the shareholders, and, finally, upon the guarantee of the Government that in any event the face value of the note shall be paid. The absolute certainty of the full payment of the notes is therefore assured. But the question is not whether a reserve shall be held which shall insure the *payment*, merely, of the note, for that is unnecessary, but what amount of reserve shall be held by the banks to insure the *prompt* payment of all their liabilities? The percentage of reserve could be fixed relatively to the capital if the amount of the liabilities were in all cases proportionate to the amount of capital, which as is well known, is not the case. The question is not what percentage should be held upon capital, upon deposits, or upon circulation, but what amount of reserve should be held to protect the demand-liabilities of the bank; and the experience of years can also determine that proportion.

A recent writer* on English banking, who has been extensively quoted in this country, has stated that the provision of the national currency act requiring a fixed proportion of reserve to liabilities is not the proper standard for a bank reserve, for the reason that a fixed proportion "will sometimes err by excess, and sometimes by defect,"

*"Lombard Street," by Walter Bagehot.

and that "the near approach to the legal limit of reserve would be a sure incentive to panic." He says that "the very essence and principle in the American system is faulty;" but in the final summing up of his argument in reference to the reserve which the Bank of England should hold, he gives it as his opinion that the bank "ought never to keep less than £11,000,000, or £11,500,000, of reserve on hand, and that in order not to be below £11,500,000, the bank must begin to take precautions when the reserve is between £14,000,000 and £15,000,000, for experience shows that between £2,000,000 and £3,000,000 may probably enough be withdrawn from the bank's store before the right rate of interest is found which will attract money from abroad, and before that rate has had time to attract it." Again he says, "I should say that at the present time the mind of the monetary world would become feverish and fearful if the reserve of the banking department of England went below £10,000,000." This proportion is equal to more than one-third of the average liabilities of the Bank of England, and is more than eight per cent. in excess of the amount required by the national currency act.

When this distinguished economist asserts that the Bank of England "ought never to keep less than £11,000,000" on hand, and that "the monetary world would become feverish and fearful if the reserve in the bank department of the Bank of England went below £10,000,000," and at the same time that the rule of reserve required by the national currency act "will sometimes err by excess and sometimes by defect," the mind of the searcher after the truth in reference to the principles which should govern legislation upon this subject is bewildered, and will look in vain for light to the abstruse legislation and management of the Bank of England, and to the dark statistics which emanate semi-annually from the parlors of the London joint-stock banks.

The requirement that the reserve shall be proportional to the liabilities is based on the conviction that the amount of the reserve should be dependent on, or have some definite relation to, the varying amount of the liabilities; and the opposite view, to wit, that the reserve should have no such relation, but should be a fixed quantity, entirely independent of and undisturbed by changes in the amount of liabilities, appears to be in conflict with sound principles, and is at variance with the practice, when untrammelled, of the leading and safer banking institutions both of this country and of Europe.*

*Bank of England deposits and reserve, compiled from the London Economist.

Date.	Deposits.	Banking reserve.	Rate of discount.	Per cent. of reserve.
	£	£	Percent.	
July 30.....	24,403,984	12,423,352	3½	.50.9
August 6.....	23,675,965	11,996,907	-----	.50.6
August 13.....	23,989,301	12,713,623	-----	.52.9
August 20.....	24,622,147	13,287,645	3	.53.9
August 27.....	25,662,351	13,318,865	-----	.51.8
September 3.....	27,591,061	12,760,233	-----	.46.2
September 10.....	29,080,534	13,177,780	-----	.46.9
September 17.....	29,416,360	13,346,843	-----	.45.3
September 24.....	29,456,519	13,238,507	4	.44.9
October 1.....	29,040,400	9,954,181	5	.34.2
October 8.....	27,584,764	9,115,152	-----	.33.0
October 15.....	24,747,665	7,861,036	6	.31.7
October 22.....	22,981,415	8,109,529	7	.35.2
October 29.....	22,530,271	8,455,447	8	.37.5
November 6.....	22,357,428	8,071,288	9	.36.1

But it is claimed that the Bank of England is required to hold this large amount of reserve because it holds in its vaults the reserve, not only for its own dealers, but also of the joint-stock banks of England, whose combined deposits are three times as great as all the deposits of the Bank of England; and that, therefore, the Bank of England must at all times be ready, not only to pay the demands of its creditors, but also to extend loans to the other institutions in times of panic. The joint-stock banks of England are not, however, entirely deficient in reserve, for it is found upon reference to the statistics of the London and Westminster Bank for 1867, published by the same author, that this bank, with a capital of £2,000,000 and a surplus of £1,000,000, had at that time deposits of £13,889,021; cash on hand, £2,226,441, and government securities amounting to £3,572,797. This bank, which is the largest joint-stock bank in England, and second only to the Bank of England itself, held therefore at that time six per cent. of its liabilities in cash, and more than 25 per cent. in addition in available resources, while many other of the leading joint-stock banks of England continually hold in available resources a still greater amount, as may be seen from the following table:

Table of reserve, &c., of the ten principal joint-stock banks of London, on June 30, 1873, compiled from the London Economist of October 18, 1873, (supplement.)

Number.	Banks.	Capital and surplus.	Cash deposits.	Reserve.			Proportion of reserve to liabilities.		
				Cash.	Stock investments.	Total.	June 30, 1873.	Dec. 31, 1872.	June 30, 1872.
1	London and Westminster.....	£3,000,000	£28,383,425	a£3,796,639	b£3,298,851	£7,095,490	24.99	n26.48	n25.31
2	London Joint Stock.....	1,673,849	17,404,319	a2,218,816	c1,080,000	3,298,816	18.95	18.22	15.45
3	Union.....	1,500,000	13,371,046	d5,135,994	e2,278,823	7,414,819	55.45	50.93	54.02
4	City.....	750,000	3,050,486	f321,462	g330,527	951,989	31.54	30.	31.96
5	Imperial.....	740,000	2,235,587	f471,949	h88,746	560,695	25.08	24.68	25.06
6	Alliance.....	940,000	1,821,583	f665,028	i58,156	723,184	39.70	36.24	33.43
7	Consolidated.....	876,125	2,988,705	f854,029	j208,402	1,062,431	35.54	32.20	34.50
8	Central.....	109,000	669,018	f159,165	-----	159,165	23.79	42.77	38.30
9	London and Southwestern.....	172,680	729,479	k179,219	-----	k179,219	24.57	23.75	22.12
10	London and County.....	1,800,000	17,821,279	l5,195,143	m1,647,498	6,842,641	38.96	37.80	41.36
	Total.....	11,561,654	88,474,927	19,297,444	8,991,005	28,288,449	31.97	32.55	31.40

a Cash in hand and at the Bank of England.

b Government stock and exchequer bills.

c Consols, new 3 per cents., and reduced at 90.

d Embraces £1,173,516 cash in the bank, £971,292 cash in Bank of England, and £2,991,185 cash lent at call.

e Government stock, exchequer bills, debentures, &c.

f Cash in hand at Bank of England, and at call.

g Exchequer bills, East India debentures, and government securities.

h Consols, India debentures, and city bonds.

i Investments in consols, &c.

j New 3 per cents., and other government stocks.

k Cash in hand and at call.

l Cash on hand at head office and branches, and with Bank of England; cash at call and at notice covered by securities.

m Government and guaranteed stocks.

From the London Economist of March 15, 1873, page 83.

It is well known that the funds of the English government are the most readily convertible of any in the markets of the world, and that while English consols* can at all times be purchased at a moderate discount, (92,) they can also at all times be converted into coin at a smaller loss than any other securities upon the market. The joint-stock banks of England, therefore, have a final resource in which their reserves can be invested with the certainty of conversion at any moment. The Bank of England thus holds continually a reserve of about one-third of the amount of its average liabilities, while the joint-stock banks of England continually hold in available reserve a still greater proportionate amount in cash and government securities; and it is no answer to the proposition under discussion to say that the conversion of the consols held by the English joint-stock banks into coin would have the effect at once to reduce the reserves of the Bank of England, for the money-market of London is, as we have been taught to believe, the money-market of the world, to which is attracted the capital of all nations by the simple process of raising the rate of interest.

The national currency act requires that the country banks shall hold 6 per cent., the redemption cities 12½ per cent., and the New York City banks 25 per cent. of their liabilities in cash, making an aggregate of cash reserve of from 13 to 15 per cent. The remainder of the reserve required to be held by the country banks may be on deposit with the banks in the redemption cities, while that of the redemption cities may be on deposit in the city of New York.

These large accumulations in the redemption cities, and in the banks of the city of New York, are to a large extent invested in call loans, the banks in the redemption cities and in the city of New York having no resource like the joint-stock banks of England in which to place their surplus of reserves, which can be readily converted in the markets of the world into coin, if occasion shall require; and it can hardly be doubted that if the surplus means of the country banks, which were invested in call-loans by their city correspondents, had been invested in funds convertible into cash upon demand, the disastrous results of the late panic would have been largely avoided.

The crisis was caused in a great degree by the desire of the country banks to withdraw their balances from the city banks; first, because in the month of September the amount on deposit with the city banks was needed for the legitimate purposes of trade; and secondly, because the country banks, foreseeing and fearing the return of the experience of previous years, thought it safer to withdraw their balances at once. When the reserves of the New York City banks became alarmingly reduced by the drafts of their country correspondents, the only resource left to the city banks was to convert their call-loans, amounting to some \$60,000,000; but these, if paid at all, were paid in checks upon the associated banks, and the latter found, the next morning, at the clearing-house, that, although a portion of their liabilities had been reduced by the payment of call-loans, they were in the aggregate no richer in currency than on the previous day. Suspension followed; but if the surplus of the country banks had been to a considerable extent invested

*Since the year 1850 the English consols (three per cents.) have ranged in price from 99½ (in 1851) to 87½ (in 1866.) The average price has, however, during that period been above 92; a rate which indicates the borrowing power of the government to be about 3¼ per cent. per annum.

in Government certificates, the drafts upon the city banks would have been proportionately less; and if the surplus fund of the city banks had likewise been held in such certificates, the avails of such certificates would have been quietly withdrawn from the Treasury, and the banks would have found themselves possessed of ready means with which to supply the demands of their dealers.

It is said that the issue of such certificates would facilitate the withdrawal of legal-tender notes for speculative purposes, but the assistant treasurer in New York could hardly fail to be advised of the deposit of large amounts of money with himself for illegitimate purposes, and a provision of law similar to the one already in force, forfeiting the amount of money on deposit, and directing the prosecution of such offenders, would effectually prevent such transactions.

The issue of a Government certificate for the use of all the banks of the country, to be counted as a certain portion of their reserve, was recommended as follows in my last annual report :

The reserves of the nineteen hundred national banks located elsewhere than in the city of New York are held to a great extent in that city. For most of the time during the past year an amount equal to more than one-fifth of the capital of all these national banks has been held on deposit by the national banks of the city of New York to the credit of their correspondents. In many cases these credits amount to twice the capital of the bank with which they are deposited; in other cases the amount of deposits is three, four, and even five times the capital, which amount has been attracted thither largely by the payment of interest on deposits. The failure of one of these New York City banks in a time of monetary stringency would embarrass, if not ruin, many banks in the redemption cities, and, in turn, the country correspondents of these banks would suffer from the imprudence of the New York bank, which would be responsible for wide-spread disaster.

In times of excessive stringency loans are not made by such associations to businessmen upon commercial paper, but to dealers in speculative securities, upon short time, at high rates of interest; and an increase of call-loans beyond the proper limit is more likely to afford facilities for unwarrantable stock speculations than relief to legitimate business transactions.

The variations in the liabilities requiring reserve in the banks of the city of New York are very great. The banks outside of New York, during the dull season, send their surplus means to that city for deposit upon interest, to await the revival of business. The banks in the city of New York, at such periods of the year, have no legitimate outlet for these funds, and are, therefore, threatened with loss. The stock board takes advantage of this condition of affairs, speculation is stimulated by the cheapness of money, and a market is found for the idle funds upon doubtful collaterals, and the result is seen in the increased transactions at the clearing-house, which,

during the past year, exceeded thirty-two thousand millions of dollars, or an average of more than one hundred millions of dollars daily—not one-half of which was the result of legitimate business; the total amount of transactions being greater than that of the bankers' clearing-house of the city of London. The evil arises largely from the payment by the banks of interest on deposits, an old-established custom which cannot easily be changed by direct legislation. A considerable portion of these deposits would remain at home if they could be used at a low rate of interest, and made available at any time upon the return of the season of active business. No sure investment of this kind is, however, open to the country banks, and the universal custom is to send forward the useless dollars, from vaults comparatively insecure, to their correspondents in the city, where they are supposed to be safer, and at the same time earning dividends for shareholders. *A Government issue, bearing a low rate of interest, to be counted as a certain proportion of the reserve, and an increase of the amount which the country banks are required to keep on hand, is the proper remedy for such a state of things. Such an investment need not result in inflation, for the currency invested would be in the possession of the Government. If the currency is held, the objection is the loss of interest to the Government; but this loss would be no more than a just rebate upon the six millions of dollars of taxation annually paid by the banks to the Government, at a time when almost every kind of internal taxation has been discontinued.* Such a reduction of taxation should not be grudgingly made, if the result shall be to give elasticity to the currency, to strengthen and steady the money market, to give additional security to seven hundred millions of dollars belonging to depositors by retaining in the vaults of the banks a large amount of funds for legitimate business purposes, which would otherwise be thrown upon the stock board to unsettle values throughout the country, and alternately increase and depress the price of every commodity.

The recommendation for the issue of these certificates, to be counted as a certain portion of the reserve, is renewed.

The same certificates could also be issued to a large extent as a safe investment for laboring men and others desiring such an investment for earnings. If such certificates were issued in amounts of \$50 they would at once be recognized as the safest possible temporary investment, and the Government would soon ascertain by experience what proportions of such certificates could be safely invested in the 6 per cent. bonds of the United States, thus saving the interest upon the funds in which the earnings of the laboring man were invested, and conferring a permanent benefit upon its humblest citizens.

The returns made to the clearing-house association of the weekly average of reserve of the national banks for each week since the first of January last, show that the provision referred to has been generally observed, and the exceptions to the rule have not been among banks of

old established reputation, whose experience is entitled to great weight, but among banks more recently organized, which have been ambitious to obtain business and are willing to assume risks for that purpose.*

The rule requiring a reserve was adopted by the voluntary action of the clearing-house association of the city of New York, previous to the passage of the national currency act. At a meeting of bank officers, representing forty-two of the forty-six banks of the city of New York, held at the rooms of the clearing-house association in March, 1858, it was agreed "to keep on hand *at all times* an amount of coin equivalent to not less than 20 per cent. of our net deposits of every kind, which shall be made to include certified checks and other liabilities, except circulating notes, deducting the daily exchanges received from the clearing-house." This resolution was adopted five years previous to the passage of the national currency act, and its phraseology is not unlike the provisions of that act in reference to reserves to be held by the national banks of New York City. The resolution did not provide for a reserve on circulation, for the reason that the circulation of the city banks was at that time redeemable at par in coin; so that no action was necessary in respect to the reserve to be held upon circulating notes. From that time to the passage of the national currency act the resolution was generally observed, and since the passage of the act neither the New York clearing-house association nor the clearing-house association of any city has requested the repeal of such restrictions. On the contrary, the New York association has repeatedly refused to modify the rule by agreeing that national bank notes, which by the law can be used in payment of debts to each other, may be so employed.

The national currency act requires that the national banks "shall at all times have on hand" the reserve required in lawful money, and the advocates of a repeal of the reserve laws insist that, under this pro-

* Statement of the weekly average percentage of reserve held by the New York City banks, as reported to the clearing-house.

Week ending—	Average percentage of national banks.	Average percentage of State banks.	Average percentage of all.	Week ending—	Average percentage of national banks.	Average percentage of State banks.	Average percentage of all.
1873.				1873.			
Jan. 4	26.32	18.21	25.61	May 17	27.53	19.57	26.85
11	27.25	19.98	26.61	24	27.03	20.00	26.43
18	27.60	19.31	26.85	31	27.61	18.50	26.82
25	27.46	19.00	26.71	June 7	29.70	21.34	29.00
Feb. 1	26.56	17.59	25.77	14	30.28	20.87	29.50
8	26.35	16.99	25.54	21	30.34	20.80	29.51
15	24.93	17.90	24.32	28	30.97	21.25	30.14
21	24.78	16.88	24.10	July 5	31.78	19.09	30.72
Mar. 1	25.57	16.97	24.84	12	31.42	20.91	30.58
8	25.56	17.61	24.89	19	30.87	21.10	30.94
15	25.53	16.63	24.78	26	30.95	21.54	30.12
22	25.50	17.26	24.80	Aug. 2	30.59	19.83	29.67
29	25.34	16.95	24.62	9	30.18	21.42	29.42
Apr. 5	23.83	15.97	23.16	16	30.39	20.24	29.48
12	24.42	17.38	23.82	23	28.28	18.52	27.43
19	25.02	17.69	24.39	30	27.94	18.84	27.15
26	25.17	18.93	24.65	Sept. 6	25.67	17.62	24.95
May 3	26.51	19.03	25.87	13	24.44	18.35	23.89
10	27.32	19.54	26.67	20	23.55	17.95	23.03

From the weekly average percentage of the State banks is excluded the weekly average percentage of the Bank of America and the Manhattan Company, the former of which was invariably and the latter usually in excess of 25 per cent.

vision, the national banks are absolutely prohibited from using these reserves at any time. The provision requiring that a reserve shall be kept on hand at all times, was intended to protect the depositor, and to keep the bank in funds for the purpose of responding at all times to the demands of its creditors. This is evident from the fact that the bank is required, when its reserves become deficient, to cease discounting and making dividends until the amount of the reserve shall be restored. The word "reserve" is used, as has been suggested, in the same sense as it is used in an army, and "the fact that a military commander cannot be definitely instructed when he may employ his reserve force, is not regarded as a reason why that important portion of the army organization should be abandoned, or be reduced in number or efficiency." To claim that a bank cannot redeem its own notes upon presentation, and cannot pay the checks of its depositors on demand if the payment of such debts shall intrench upon its reserves, is equivalent to declaring that the national currency act was intended to provide for the destruction of the very institutions it had created. From the first organization of the system to the present time, the uniform decisions have been that the object of the reserve is to enable the bank at all times to pay its debts. In times of panic the depositors of a bank, and not its officers and directors, are its masters; and it is absurd to maintain that a bank, liable at such times to be called upon to pay its debts, would, if there were no reserve laws, loan upon commercial paper, at the risk of almost certain failure and disgrace, the money which belongs to its creditors.

While the Comptroller concedes that experience may hereafter justify a modification of the provisions of the act in this respect, he is clearly of the opinion, in view of the lessons to be derived from the late suspension of currency payment in New York, that he would not be warranted in recommending any change at present, except the offer of inducements, as already stated, to the banks of the country to hold a larger proportion of their reserve in their own vaults, in certificates which can be readily converted into cash when the funds of the depositor are demanded.

If the certificates should, however, be issued as proposed, the reserve of the country banks and the reserve of banks in the redemption cities (other than New York) may with propriety be reduced, the amount required to be kept on hand being largely increased; while the banks in the city of New York should still be required to keep on hand 25 per cent., (one-half in certificates, if desired,) subject to a reduction at any time by the Comptroller, with the concurrence of the Secretary, upon the recommendation of the clearing-house. Upon the return to specie payments and the funding of the United States debt into bonds bearing a low rate of interest, the reserve now required may be very much reduced and perhaps altogether dispensed with.

A table in the appendix, which has been compiled from the regular reports to this office, exhibits the percentage of reserve held by the national banks of the country for the past five years, and shows that in every State, and in the principal cities of the Union, they have been found, in almost every instance, to hold in the aggregate an amount of reserve considerably beyond the requirements of the law.

THE PANIC OF 1873.

The monetary crisis of 1873 may be said to have had its beginning in New York City on September 8, by the failure of the Warehouse Security Company, and of two houses which had left their regular business to embark in enterprises foreign thereto, which were followed on the 13th by the failure of a large firm of stock-brokers. On the 18th and 19th two of the largest banking-houses in the city, well known throughout the country, and which were interested in the negotiations of large amounts of railroad securities, also failed; and on the 20th of the same month the failures of the Union Trust Company, the National Trust Company, the National Bank of the Commonwealth, and three other well-known banking-houses were announced. On the same day the New York Stock Exchange, for the first time in its existence, closed its doors, and they were not again opened for a period of ten days, during which period legal-tender notes commanded a premium over certified checks of from one-fourth of one per cent., to three per cent. An active demand for deposits commenced on the 18th, and increased rapidly during the 19th and 20th, chiefly from the country correspondents of the banks; and their drafts continued to such an extent, "calling back their deposits in a medium never before received," that the reserves of the banks were alarmingly reduced.

The "call loans," amounting to more than sixty millions of dollars, upon which the banks relied to place themselves in funds in such an emergency, were entirely unavailable, because the means of the borrowers, upon the realization of which they depended to repay their loans were, to a great extent, pledged with the banks. These collaterals could in ordinary times have been sold, but at that moment no market could be found except at ruinous sacrifices. Had there been a market, the payments would have been made in checks upon the associated banks, which would not have added to the general supply of cash. A meeting of the clearing-house association was called, and on Saturday evening, September 20, the following plan for facilitating the settlement of balances at the clearing-house was unanimously adopted:

In order to enable the banks of this association to afford such additional assistance to the business community, and also for the purpose of facilitating the settlement of the exchanges between the banks, it is proposed that any bank in the clearing-house association, may, at its option, deposit with a committee of five persons, to be appointed for that purpose, an amount of its bills receivable, or other securities to be approved by said committee, who shall be authorized to issue therefor to said depositing bank certificates of deposit, bearing interest at seven per cent. per annum, in denominations of five and ten thousand dollars, such as may be desired, to an amount not in excess of seventy-five per cent. of the securities or bills receivable so deposited.

Except when the securities deposited shall consist of either United States stocks or gold certificates, the certificates of deposit may be issued upon the par value of such securities.

These certificates may be used in settlement of balances at the clearing-house for a period not to extend beyond the first

of November proximo, and they shall be received by creditor banks during that period daily, in the same proportion as they bear to the aggregate amount of the debtor balances paid at the clearing-house.

The interest which may accrue upon these certificates shall, on the 1st day of November next, or sooner, should the certificates all be redeemed, be apportioned among the banks which shall have held them during that time.

The securities deposited with the committee, as above named, shall be held by them as a special deposit, pledged for the redemption of the certificates issued thereon.

The committee shall be authorized to exchange any portion of said securities for an equal amount of others, to be approved by them, at the request of the depositing bank, and shall have power to demand additional security, either by an exchange or an increased amount, at their discretion.

The amount of certificates which this committee may issue as above shall not exceed ten million dollars.

This arrangement shall be binding upon the clearing-house association when assented to by three-fourths of its members.

The banks shall report to the manager of the clearing-house every morning at 10 o'clock the amount of such certificates held by them.

That, in order to accomplish the purposes set forth in this arrangement, the legal tenders belonging to the associated banks shall be considered and treated as a common fund, held for mutual aid and protection, and the committee appointed shall have power to equalize the same by assessment, or otherwise, at their discretion.

For this purpose a statement shall be made to the committee of the condition of each bank on the morning of every day, before the commencement of business, which shall be sent with the exchanges to the manager of the clearing-house, specifying the following items:

- 1st. Amount of loans and discounts.
- 2d. Amount of loan certificates.
- 3d. Amount of United States certificates of deposit and legal-tender notes.
- 4th. Amount of deposits, deducting therefrom the amount of special gold deposits.

The suspension of currency payments followed and was at first confined to the banks of New York City, but afterward extended to other large cities because the New York banks could not respond to the demands of their correspondents in those cities, and these, in turn, could not respond to the demands of *their* correspondents. Exchange on New York, which would otherwise have commanded a slight premium, was at a discount, and to a considerable extent unavailable. The suspension of the banks in other leading cities, almost without exception, therefore followed, and their partial or entire suspension continued for forty days, until confidence was in a measure restored by the resumption of the New York City banks on the first day of November.

Although predictions had been made of the approach of a financial crisis, there were no apprehensions of its immediate occurrence. On the contrary there were in almost every direction evidences of prosperity. The harvest was nearly or quite completed, and the bins and granaries were full to overflowing. The manufacturing and mining interests had also been prosperous during the year, and there was good promise that the fall trade, which had opened, would be as large as during previous years. The value of the cereals, potatoes, tobacco, and hay for 1872, is estimated by the Department of Agriculture at \$1,324,385,000. It is supposed that the value of these products for the present year, a large portion of which was at this time ready for sale and awaiting shipment to market, will not vary materially from the above-mentioned estimate of last year. An estimate based upon the census returns of 1869 gives the probable aggregate value of the marketable products of industry for that year as \$4,036,000,000, and a similar estimate upon the same basis, and upon returns to the Agricultural Department, gives an increase of \$1,788,000,000 for 1873 over the amount for 1868.

It is not the province of the Comptroller to explain the causes which led to this suspension. In order to enter upon such an explanation it would be necessary to obtain comparative data for a series of years in reference to the imports and exports, the products of industry, the issue of currency and other evidences of debt, and, in fact, a general discussion of the political economy of the country. The immediate cause of the crisis is, however, more apparent. The money market had become overloaded with debt, the cost of railroad construction for five years past being estimated to have been \$1,700,000,000, or about \$340,000,000 annually; while debt based upon almost every species of property—State, city, town, manufacturing corporations, and mining companies—had been sold in the market. Such bonds and stocks had been disposed of to a considerable extent in foreign markets, and so long as this continued the sale of similar securities was stimulated, and additional amounts offered. When the sale of such securities could no longer be effected abroad, the bonds of railroads and other enterprises of like nature which were in process of construction were thus forced upon the home market, until their negotiation became almost impossible. The bankers of the city of New York, who were burdened with the load, could not respond to the demands of their creditors, the numerous holders of similar securities became alarmed, and the panic soon extended throughout the country.

The present financial crisis may, in a great degree, be attributed to the intimate relations of the banks of the city of New York with the transactions of the stock-board, more than one-fourth, and in many instances nearly one-third, of the bills-receivable of the banks, since the late civil war, having consisted of demand loans to brokers and members of the stock-board, which transactions have a tendency to impede and unsettle, instead of facilitating, the legitimate business interests of the whole country. Previous to the war the stock-board is said to have consisted of only one hundred and fifty members, and its organic principle was a strictly commission business, under a stringent and conservative constitution and by-laws. The close of the war found the membership of the stock-board increased to eleven hundred, and composed of men from all parts of the country, many

of whom had congregated in Wall street, adopting for their rule of business the apt motto of Horace, "Make money; make it honestly if you can; at all events make money:"* The law of the State of New York, restricting the operations of the stock-board, which had been retained on the statute-book since 1813,† had, unfortunately, been repealed in 1858, so that its members and manipulators were enabled to increase their operations to a gigantic scale.

The quotations of the stock-board are known to be too frequently fictions of speculation, and yet these fictions control the commerce and business of a great country, and their influence is not confined to this country, but extends to other countries, and seriously impairs our credit with foreign nations. The fictitious debts of railroads and other corporations which they have bolstered up, and which have obtained quotations in London and other markets of the world, have now been reduced to a more proper valuation, or stricken from the list.

Whether the Congress of the United States or the legislature of the State of New York may not re-enact a law reviving similar restrictions with great benefit to the true business interests of all parties is respectfully submitted.

Many measures of reform are proposed in order that the lessons of the crisis may not be lost, and others be led hereafter to repeat similar errors. Unity of action among the leading banks of the great cities will do more to reform abuses than any congressional enactment; for unless such corporations shall unite and insist upon legitimate methods of conducting business, the laws of Congress in reference thereto will be likely soon to become inoperative—such enactments being observed in their true spirit by the few, while the many evade them and thus invite a repetition of similar disasters.

If, however, the banks are disinclined to unite for such a purpose, the legislation required of Congress will be such as will induce associations outside of the city of New York to retain in their vaults such funds as are not needed at the commercial center for purposes of legitimate business.

* * * * *

* *Rem facias; rem,*

si possis, recte; si non, quocunque modo rem.

† "All contracts, written or verbal, for the sale or transfer of any certificate or other evidence of debt, due by or from the United States, or any separate State, or of any share or interest in the stock or any bank, or of any company incorporated under any law of the United States, or of any individual State, shall be absolutely void, unless the party contracting to sell or transfer the same shall, at the time of making such contract, be in the actual possession of the certificate or other evidence of such debt, share or interest, or be otherwise entitled in his own right, or be duly authorized by some person so entitled, to sell or transfer the said certificate of debt, share or interest so contracted for.

"All wagers concerning the price or prices, present or future, of any part of any debt due by or from the United States, or any separate State, or of any share or interest in the stock of any bank or other company incorporated under the laws of the United States, or any individual State, or of any certificate or other evidence of any such debt or part of such debt, or of any such share or interest, shall be void.

"Every person who shall pay or deliver any money, goods or thing in action, by way of premium or difference, in pursuance of any contract or wager in the two last sections declared void, and his personal representatives may recover such money, goods, or other thing in action, of any from the party receiving the same and his personal representatives."

Passed February 25, 1813. (Page 706, revised statutes of New York, vol. 1, second edition.) Repealed laws of New York, page 251, eighty-first session, 1858.

INTEREST ON DEPOSITS.

In my last annual report I referred briefly to the evils resulting from the payment of interest upon deposits, and my predecessors have frequently referred more at length to the same subject. The difficulty has been that the proposed legislation by Congress upon the subject would apply only to the national banks. The effect of such legislation would be to bring State banks and savings banks, organized by authority of the different States, in direct competition with the national banks in securing the accounts of correspondents and dealers; the national banks would be desirous of retaining their business, and the more unscrupulous would not hesitate to evade the law by offering to make collections throughout the country free of charge, to buy and sell stocks without commission, and to rediscount paper at low rates. The proposed action of the clearing-house in the city of New York, if adopted by the clearing-houses of the principal cities of the Union, would do more to prevent the payment of interest on deposits than any congressional enactment. But the evils resulting from the payment of interest upon deposits are by no means confined to the city banks. It may be safely said that this custom, which prevails in almost every city and village of the Union, has done more than any other to demoralize the business of banking. State banks, private bankers, and associations under the guise of savings banks everywhere, offer rates of interest upon deposits which cannot safely be paid by those engaged in legitimate business. National banks, desirous of retaining the business of their leaders, also make similar offers, and the result is, not only the increase of the rates of interest paid to business men, but, as a consequence, investment in unsecured loans, bringing ultimate loss both upon the shareholders of the bank and the depositors. The kind of legislation needed is that which shall apply to all banks and bankers alike, whether organized under the national currency act or otherwise. A law prohibiting the payment of interest on deposits by the national banks will have little effect, unless followed by similar legislation under authority of the different States, and there is little hope that such legislation can be obtained. The national currency act, which was passed during the war, provided for a tax of one-half of one percent. upon all deposits, and, subsequently, internal revenue legislation extended this tax to all deposits made with State banks and individual bankers. If legislation prohibiting the payment of interest on deposits shall be proposed, I recommend that this law be so amended as to repeal this tax, so far as it applies to demand deposits, and that an increased rate of taxation be imposed uniformly upon all deposits which, either directly or indirectly, are placed with banks and bankers with the offer or expectation of receiving interest. Such legislation, if rigidly enforced, would have the effect, not only of reducing the rate of interest throughout the country, but at the same time preventing the illegitimate organization of savings-banks—which organizations should be allowed only upon the condition that the savings of the people shall be carefully and prudently invested, and the interest arising therefrom, after deducting reasonable expenses, distributed from time to time to the depositors, and to no other persons whatsoever.

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Annual Report, Secretary of Treasury (William A. Richardson)

[Forty-third Congress, 1st Session, December 1, 1873, Pages xi-xviii]

THE BANKS, THE FINANCIAL CRISIS, AND THE CURRENCY.

The prevailing practice, not only of national banks, but of State banks and private bankers, of paying interest on deposits attracts currency from all parts of the country to the large cities, and especially to New York, the great financial centre. At seasons of the year when there is comparatively little use for currency elsewhere, immense balances accumulate in New York, where, not being required by the demands of legitimate and ordinary business, they are loaned on call at a higher rate of interest than that paid to depositors and are used in speculation.

Every year, at the season when the demand sets in from the West and South for currency to be used in payment for and transportation of their agricultural products, there occurs a stringency in the money market arising from the calling in of such loans to meet this demand.

Until this year, though annually creating some embarrassment, this demand has been met without serious difficulty.

During the past summer, anticipating the usual autumn stringency, the Treasury Department sold gold while the market price was high, currency abundant, and bonds for sale in the market were scarce, and while there was a surplus of gold in the Treasury, and thereby accumulated about fourteen million dollars of currency with the view of using the same or such part thereof as might be necessary in the purchase of bonds for the sinking fund at times during the autumn and winter when they could be bought at a price not above par in gold, or in meeting demands upon the Treasury, as circumstances should require.

This year there was a great demand for currency to pay for the heavy crops of a bountiful harvest, for which the European countries offered a ready market. The suspension of certain large banking houses, the first of which occurred on the 18th day of September, alarmed the people as to the safety of banks and banking institutions in general. Suddenly there began a rapid calling in of demand loans and a very general run on the banks for the withdrawal of deposits. Entire confidence was manifested in United States notes and even in national-bank notes, and they were drawn wherever they could be obtained and were largely hoarded with as much avidity as coin was ever hoarded in times of financial distress when that was the circulating medium of the country. The banks found themselves unable to meet the demands upon them, currency in circulation became exceedingly scarce, and the business of the country became greatly embarrassed.

In this condition of things, great pressure was brought to bear upon the Treasury Department to afford relief by the issue of United States notes. The first application came from a number of gentlemen in New York, suggesting that no measure of relief would be adequate that did not place at the service of the banks of that city twenty millions of dollars in United States notes, and asking that the assistant treasurer

at New York should be authorized to issue to those banks that amount of notes as a loan upon a pledge of clearing-house certificates secured by ample collaterals, and for which certificates all the banks were to be jointly and severally responsible. This proposition was declined, it being clearly not within the duty or the authority of the Treasury Department, under any provisions of law, thus to employ the public money.

Exchange on Europe having fallen to unusually low rates, and indeed having become almost unsaleable in the market, to the embarrassment of our foreign and domestic trade, applications were made to the Secretary of the Treasury to use the money in the Treasury in the purchase of exchange. The Treasury Department having no occasion to do this for its own use, and no necessity for transferring funds to Europe, was compelled to decline this proposition, which, if accepted, would have put the Department in the position of becoming a dealer in exchange, a position clearly inconsistent with its duties.

Subsequently the New York Produce Exchange made a proposition to accomplish the same result in a different form, and also requested, as others had before, that the Secretary should pay at once the twenty-million loan of 1858, to which the following reply was made:

TREASURY DEPARTMENT,
Washington, September 30, 1873.

SIR: Your letter of the 29th inst., covering two resolutions of the New York Produce Exchange, has been received and the subject-matter fully considered.

The resolutions are as follows:

"WHEREAS the critical condition of the commercial interests of the country requires immediate relief by the removal of the block in negotiating foreign exchange; therefore be it

"Resolved, That we respectfully suggest to the Secretary of the Treasury the following plans for relief in this extraordinary emergency:

"*First.* That currency be immediately issued to banks or bankers, upon satisfactory evidence that gold has been placed upon special deposit in the Bank of England, by their correspondents in London, to the credit of the United States, to be used solely in purchasing commercial bills of exchange.

"*Second.* That the President of the United States and the Secretary of the Treasury are respectfully requested to order the immediate prepayment of the outstanding loan of the United States due January 1, 1874."

While the Government is desirous of doing all in its power to relieve the present unsettled condition of business affairs—as has already been announced by the President—it is constrained, in all its acts, to keep within the letter and spirit of the laws, which the officers of the Government are sworn to support, and they cannot go beyond the authority which Congress has conferred upon them. Your first resolution presents difficulties which cannot be overcome. It is not supposed that you desire to exchange coin in England for United States notes in New York at par. If your proposition is for the Government to purchase gold in England, to be paid for in United States notes at the current market rate in New York, it would involve the Government in the

business of importing and speculating in gold, since the Treasury has no use for coin beyond its ordinary receipts, and would be obliged to sell the coin so purchased at a price greater or less than was paid for it. If your object is to induce the Treasury Department to loan United States notes to banks in New York upon the pledge and deposit in London of gold, it is asking the Secretary of the Treasury to loan the money of the United States upon collateral security for which there is no authority in law. If the Secretary of the Treasury can loan notes upon a pledge of coin he can loan them upon a pledge of other property in his discretion, as he has recently been requested to do, which would be an extraordinary power as well as a most dangerous business to engage in, and which my judgment would deter me from undertaking, as the Secretary of the Treasury, even if by any stretch of construction I might not find it absolutely prohibited by law. The objections already mentioned to your first resolution are so insuperable and conclusive that it is unnecessary for me to refer to the many practical difficulties which would arise if an attempt should be made to comply with your request. Your second resolution calls for the payment at once of the loan of 1858, or the bonds commonly called "Fives of 1874." Upon a thorough investigation I am of opinion that Congress has not conferred upon the Secretary of the Treasury power to comply with your request in that particular, and in this opinion the law officers of the Government concur. Under these circumstances you will perceive that, while I have great respect for the gentlemen comprising the New York Produce Exchange, I am compelled, by my views of the law and of my duty, to respectfully decline to adopt the measure which your resolutions propose.

I have the honor to be, very respectfully,

WM. A. RICHARDSON,
Secretary of the Treasury.

The Chamber of Commerce of Charleston, South Carolina, petitioned for the transfer of currency to that city, and the purchase with it, at that point, of exchange on New York, to aid those engaged in forwarding the cotton crop to the market. The following letter was sent in answer to this petition:

TREASURY DEPARTMENT,
October 3, 1873.

SAMUEL Y. TUPPER, Esq.,
President Chamber of Commerce, Charleston, S.C.:

I have the honor to acknowledge the receipt of the memorial of the Charleston, South Carolina, Chamber of Commerce, addressed to the President of the United States, and referred to this Department, which, after reciting the present stringency in the money market and the difficulty of obtaining currency, requests "that the sum of five hundred thousand dollars be placed and maintained on deposit with the assistant treasurer at Charleston, to be used by him in the purchase of New York exchange from the banks."

To comply with the request it would be necessary for the Treasury Department to send currency by express to Charleston from time to time, and to buy with it exchange on New York in competition with private bankers.

Should this request be granted a hundred other places in the country might, with equal propriety, ask for the same relief, and if all such requests were impartially granted, the Department would find itself engaged in an extensive exchange business, fixing and regulating the rate of exchange between different places in the country, and the public money, raised by taxation only for the purpose of carrying on the Government, would be employed to a very large amount in a business which Congress has not given the Secretary of the Treasury any authority to engage in.

With a due regard to the proper management of the Treasury Department, within the provisions of law, I have felt it to be my duty to decline all similar propositions from other places, and your request must, therefore, receive the same response.

I have the honor to be, very respectfully, yours,

WM. A. RICHARDSON,
Secretary of the Treasury.

The Executive Department of the Government was anxious to do everything in its power, under the law, and with due regard to the protection of the Treasury and the maintenance of public credit, to allay the panic and to prevent disaster to the legitimate commercial and industrial interests of the country; but it was found impossible to afford the relief in any of the many forms in which that relief was asked. It was decided, therefore, to adopt the only practicable course which seemed to be open to it, the purchase of bonds for the sinking fund to such an extent as the condition of the Treasury would allow, and thus release a considerable amount of currency from its vaults. Purchases of bonds were commenced on the morning of the 20th of September, and were continued until the 24th, when it became evident that the amount offering for purchase was increasing to an extent beyond the power of the Treasury to accept, and the purchasing was closed after bonds to the amount of about thirteen million dollars had been bought, and without the use of any part of the forty-four millions of United States notes, generally known as the reserve.

It should be stated that in the excitement there were many persons in the city of New York who insisted with great earnestness that it was the duty of the Executive to disregard any and all laws which stood in the way of affording the relief suggested by them—a proposition which indicates the state of feeling and the excitement under which applications were made to the Secretary of the Treasury to use the public money, and which, it is scarcely necessary to add, could not be entertained by the officers of the Government to whom it was addressed.

These facts are recited in order to lay before Congress, and place on record in a concise form, exactly what the Treasury Department was asked to do, and what it did, in the late financial crisis.

The currency paid out of the Treasury for bonds did much to strengthen many savings banks, and to prevent a panic among their numerous depositors, who began to be alarmed, and had there developed an extended run upon those useful institutions, it would inevitably have caused widespread disaster and distress. It also fortified other banks, and checked the general alarm to some extent. But the loss of confidence in the value of a great amount of corporate prop-

erty which immediately followed the failure of banking houses connected with largely-indebted corporations, the distrust of the solvency of many other institutions, the doubt as to the credit of firms and individuals whose business was supposed to be greatly extended, and the legitimate effect thereof in disturbing the business of the country, could not be avoided by any amount of currency which might be added to the circulation already existing.

Confidence was to be entirely restored only by the slow and cautious process of gaining a better knowledge of true values and making investments accordingly, and by conducting business on a firmer basis, with less inflation and more regard to real soundness and intrinsic values.

There can be no doubt that the practice by banks of allowing interest on deposits payable on demand is pernicious, and fraught with danger and embarrassment to borrower and lender, as well as to the general business interests.

Deposits payable on demand should be limited to that surplus which individuals require over and above their investments, and no part of that from which they expect an income. Such deposits are comparatively stable in average amount, and constitute a healthy basis for banking purposes within proper limits, which prudent bankers know how to determine.

But if deposit accounts are employed as temporary investments, the interest attracts a large amount of money to those cities where such interest is paid, and where speculation is most active, at seasons when as much profit thereon cannot be secured elsewhere. With the first return of activity in legitimate business these temporary investments are called in, and jeopardize in their sudden withdrawal the whole business of the banks, both affecting the legitimate depositors on the one hand by excitement and distrust, and on the other creating a condition of things in which the borrowers on call are also unable to respond. The banks have borrowed their money of depositors on call. They have loaned it on call to speculators, who by its use have contributed to inflate the prices of the stocks or merchandise which have been the subject of their speculations. The speculator wants it to carry the stocks till he can dispose of them without a loss. This he is unable to do in a stringent money market. The banks, their depositors, and the borrowers, all want it at the same time, and of course a stringency is developed which spreads distress throughout the country.

The system creates immense amount of debts payable on demand, all of which thus suddenly and unexpectedly mature at the first shock of financial or commercial embarrassment in the country, and at the very time when most needed by debtors and when they are least able to respond.

There is no safety for corporations or individuals whose capital employed is wholly or mostly borrowed on call. Many savings banks were protected from ruin in the recent financial excitement by availing themselves of provisions in their rules requiring sixty days or other periods of notice before paying depositors, thus making all their deposits payable on time. Every cautious and well-managed savings institution has such a rule among its by-laws.

Without attributing the stringency in the money market, which is experienced every autumn and occasionally at other seasons of the year, solely to this practice of paying interest upon deposits in the large cities, it is evident that, when money is less needed in legitimate business, the practice encourages overtrading and speculation, always detrimental to the best interests of the country, and the bad effects of which upon those interests become more apparent, and the disaster more widespread, when the necessary contraction begins to be felt.

I recommend that national banks be prevented from paying interest on deposits, or that they be restricted and limited therein, either by direct prohibition, by discriminating taxation, or otherwise.

While legislation by Congress cannot prevent State banks and private bankers from continuing the practice, it can prevent national banks from becoming involved in, and instrumental in producing, the embarrassments and difficulties to which it necessarily leads.

The national banks, organized by law of Congress and having relations with the Government in the issue of circulating notes, ought to be the most cautious and safe banking institutions of the country, and should be kept aloof from all hazardous business which it is not possible to prevent sanguine, venturesome, and speculative individuals from engaging in, at the risk of their capital and their credit.

With a fixed amount of circulation of bank notes and of United States legal-tender notes not redeemable in coin, and with gold above par in currency, there must be each year times of redundancy and times of scarcity of currency, depending wholly on the demand, no method existing for increasing the supply.

With a circulating medium redeemable in coin, a redundancy is corrected by the export, and a scarcity by the import of specie from other countries.

There is a prevailing sentiment that more elasticity should be given to the volume of the currency, so that the amount in circulation might increase and diminish according to the necessities of the business of the country. But the difference of opinion on this subject is so great, and the real difficulties attending its solution are so numerous, that, without discussing any of the multitude of plans which have been presented to the public through the press and otherwise, I earnestly commend to the wisdom of Congress a careful and thorough consideration of this important subject, rendered more obviously important by the present embarrassed condition of large business interests which have suffered by the recent financial crisis; and that, in such inquiry, avoiding further inflation of the issue of irredeemable legal-tender notes, the most desirable of all financial results to be attained, namely, a permanent return to the sound basis of specie payments, and a gold standard to which all our paper issues shall be made of equal value, shall be the aim.

To allow national banks to use part of their reserves at seasons of the greatest pressure, under proper restrictions and regulations, would afford some flexibility.

Rigid statute laws applied to all banks, at all seasons, and in all places alike, often prove an embarrassment and injury when they conflict with economic principles and the laws of trade and business, which are stronger than legislative enactments, and cannot be overthrown thereby. Associated banks at the several redemption cities

named in the banking law, which are the great controlling centres of business, might do much to give steadiness and safety, if they were authorized, through properly constituted boards or committees of their own officers, to exercise a large discretion in the use of their reserves, in the rate of interest to be charged at different seasons and under different circumstances, and in other matters, within limits prescribed by law.

Should it be deemed necessary or expedient to temporarily enlarge the paper-money circulation in cases of great emergency, provision may be made to permit the national banks, under certain circumstances and to a limited extent, to increase their note circulation by a pledge of United States bonds, bearing no interest while so pledged, or subjecting the banks to special taxation upon the circulating notes obtained thereon, or upon such other terms that it would be for their interest to recall the notes and redeem the bonds at the earliest possible day after the pressure and their necessities should have ceased.

* * * * *

Annual Report, Comptroller of Currency (John Jay Knox)

[Forty-fourth Congress, 2d Session, December 2, 1876, Pages 5-15]

* * * * *

OTHER SYSTEMS OF BANKING

The Comptroller receives frequent applications for public documents containing statements of the resources and liabilities of the banks authorized by the legislatures of the several States previous to the establishment of the national banking system; and similar inquiries are also made in reference to the two Banks of the United States authorized by Congress, the first by act of February 25, 1791, and the second by act of April 10, 1816. A resolution of the House of Representatives of July 10, 1832, directed the Secretary of the Treasury to procure and publish such statements of the banks organized in the various States as could be obtained from State officials; and in 1873 it was made the duty of the Comptroller of the Currency to present annually to Congress similar information from official and other reliable sources.

In compliance with the resolution of 1832, a compilation of statistics, more or less complete, showing the condition of the banks in the several States, was, with the exception of a few years, published annually until 1863. Many of these reports are out of print, and when comparative statistical information is desired in reference to particular States it cannot be obtained without consulting a series of volumes. Information in reference to the two Banks of the United States is alike inconvenient of access. The Comptroller, therefore, deeming the present time and circumstances especially appropriate, devotes a portion of his report for 1876 to the presentation, in a concise and convenient form, of the more valuable of the statistics contained in these various reports, together with such additional information as he has been able to collect from other official sources.

As preliminary to these statistics, a brief sketch is herewith given of the history of the Bank of North America and of the two Banks of the United States, the only banking institutions authorized by Congress previous to the establishment of the national banking system. It is not proposed here to trace the history of banking in this country, nor to sketch in detail its progress in the several States. The execution of such a purpose would require a volume, instead of the space usually allotted to an annual report. A glance at the history of banking in Massachusetts and New York, and in a few of the older Western and Southern States, exhibits the general outlines of the bank legislation of the country previous to 1863. This review presents to us in a favorable light the operations of the charter system of banks in two of the most prosperous States of the Union, while it also exposes many of the imperfections of that system as it existed in some of the other States of the Union during the period when circulation was issued by State authority.

BANK OF NORTH AMERICA.

The first organized bank in the United States, and "the first one which had any direct relation to the Government of the United States," commenced operations on January 7, 1782. The institution had its origin,* as a banking company without charter, in a meeting of citizens of Philadelphia on June 17, 1780, at which it was resolved to open a "security subscription to the amount of three hundred thousand pounds, Pennsylvania currency, in real money," the intention being to supply the Army, at the time reported by Washington to be destitute of the common necessaries of life and on the verge of mutiny. Thomas Paine, then clerk of the Pennsylvania Assembly, suggested a subscription, in a letter to Mr. Blair McClenaghan, in which he inclosed a contribution of five hundred dollars to the fund, the latter gentleman and Robert Morris each subscribing two hundred pounds in hard money.

The first proceedings in the Congress of the United States in reference to the establishment of a bank were on June 21, 1780, at which time a committee of three was appointed to confer with the inspectors and directors of this proposed association. The committee reported a series of resolutions, which were unanimously adopted, accepting the offerings of the associators as a distinguished proof of their patriotism, and pledging the faith of the Government for the effectual re-imbusement of the amount advanced. The resolution was accompanied by the following preamble:

Whereas a number of patriotic citizens of Pennsylvania have communicated to Congress a liberal offer, on their own credit, and by their own exertions, to supply and transport 3,000,000 rations, and 300 hogsheads of rum, for the use of the Army, and have established a bank for the sole purpose of obtaining and transporting the said supplies with the greater facility and dispatch; and whereas, on the one hand, the associators, animated to this laudable exertion by a desire to relieve the public necessities, mean not to derive from it the least pecuniary advantage, so, on the other, it is just and reasonable that they should be fully re-imbursed and indemnified.

*Paine's *Dissertations on Government*, 1786.

In the spring of 1781, Robert Morris, then holding the office of Superintendent of Finance, under appointment of Congress, arranged the system of the Bank of North America. On the 26th of May, 1781, Congress adopted a resolution approving the plan submitted by Morris, and promising it a cordial support; and on December 31 following, it granted the bank a perpetual charter, with capital limited to ten million Spanish silver milled dollars. The amount of capital paid in by the individual stockholders did not, however, exceed \$85,000. The Superintendent of Finance, to encourage the undertaking, subscribed \$250,000 to the stock on behalf of the Government, but the national finances were so far exhausted that the bank was subsequently obliged to release \$200,000 of the subscription, and its remaining stock paid in was sold to persons in Holland. The bank was opened for business on January 7, 1782. Before the month of July following, it had loaned to the Government \$400,000 and to the State of Pennsylvania \$80,000.

The legislature of Pennsylvania granted the company an act of incorporation of perpetual duration on April 1, 1782, which was repealed in 1785, but the bank continued its business under the act of Congress. A change of parties in 1787 brought with it a renewal of the charter by the State of Pennsylvania, limited, however, to the term of fourteen years, with a capital of two million dollars. In 1790 Hamilton, in his report, refers to the "ambiguous situation in which the Bank of North America has placed itself by the acceptance of its last State charter," and concludes that, as this has rendered it a bank of an individual State, with a capital of but two millions, liable to dissolution at the expiration of its charter in fourteen years, it would not be expedient to accept it as an equivalent for a Bank of the United States. The State charter of the bank was renewed from time to time until December 3, 1864, when it became a national bank, retaining its original name, with a capital of \$1,000,000, and a surplus of nearly the same amount.

The annual dividends of this bank from 1792 to 1875—eighty-four years—have averaged within a small fraction of eleven per cent. The amount of its outstanding State-bank circulation in 1862 was \$687,000. The amount unredeemed is estimated at \$40,000.

THE FIRST BANK OF THE UNITED STATES

The first Bank of the United States was proposed by Alexander Hamilton, Secretary of the Treasury, in his report on a national bank made December 13, 1790. In that report he acknowledges the essential service rendered by the Bank of North America, as a fiscal agent of the general Government, from the commencement of its operations, January 7, 1782, to the close of the revolutionary war, which bank at that time (1790) was operating under the charter obtained from the State of Pennsylvania in 1787. In an elaborate report, he gives at length his reasons for the necessity of the organization of the proposed bank, and disapproves of the proposition to issue United States notes. On this point he says:

The emitting of paper money by the authority of Government is wisely prohibited to the individual States by the National Constitution, and the spirit of that prohibition ought not to be disregarded by the Government of the United

States. Though paper emissions, under a general authority, might have some advantages not applicable, and be free from some disadvantages which are applicable to the like emissions by the States separately, yet they are of a nature so liable to abuse, and, it may even be affirmed, so certain of being abused, that the wisdom of the Government will be shown in never trusting itself with the use of so seducing and dangerous an expedient.*

The capital of the proposed bank was fixed at ten millions; and one-fourth of all the private and corporate subscriptions was to be paid in gold and silver, and three-fourths in United States stock bearing six per cent. interest. Two millions were to be subscribed by the United States, and paid in ten equal annual installments by loans from the bank, or, as Mr. Hamilton describes the operation, by "borrowing with one hand what is lent with the other." The board of directors of the bank was to consist of twenty-five persons, not more than three-fourths of them to be eligible for re-election in the next succeeding year. The bank had authority to loan on real estate security, but could only hold such real estate as was requisite for the erection of suitable banking-houses, or should be conveyed to it in satisfaction of mortgages or judgments. No stockholder, unless a citizen of the United States, could be a director, and the directors were to give their services without compensation. The bills and notes of the bank were made receivable in payment of all debts to the United States.

The act of incorporation was opposed in the House of Representatives by James Madison and eighteen others, all of whom, with one exception, were members from the States of Virginia, Maryland, and North and South Carolina. It was also opposed by Thomas Jefferson, Secretary of State, and Edmund Randolph, Attorney-General, in opinions requested by the President. The grounds taken by the opponents of the charter were, a denial of the general utility of banking systems, and opposition to the special provisions of the bill; but the main force of their objections was directed against the constitutional authority of Congress to pass an act for the incorporation of a national bank. The supporters of the bill in the House of Representatives numbered thirty-nine—a majority of twenty; all of them, except four, being representatives of Northern States, among whom were Fisher Ames, Elbridge Gerry and Theodore Sedgwick, of Massachusetts; Roger Sherman and Jonathan Trumbull, of Connecticut; Elias Boudinot, of New Jersey; and Peter Muhlenberg, of Pennsylvania. Hamilton, Secretary of the Treasury, and Knox, Secretary of War, in official opinions rendered to the President, maintained the constitutionality and the policy of the act. †

Hamilton's plan, substantially unchanged, was adopted by Congress, and the act was approved by Washington on February 25, 1791. The average dividends of the bank, from its organization to March, 1809, were at the rate of 8½ per centum per annum. The 5,000 shares of four hundred dollars each, owned by the United States, were disposed of in the years 1796 to 1802, at a considerable profit, 2,220 shares having been sold in the last mentioned year at a premium of 45 per cent. Accord-

*Financial Report, vol. 1, page 64. [Editor's note: See p. 18 above.]

† Editor's note: Inquiry early in 1963 to the Library of Congress and the National Archives failed to disclose any such opinion by Secretary Knox.

ing to the Treasury records the Government subscription, with the addition of the interest which was paid by the United States on the stock issued for it, amounted to \$2,636,427.71, while there was received by the Treasury in dividends, and from the sale of the bank stock at various times, \$3,773,580, the profit realized by the Government being \$1,137,152.29, or nearly fifty-seven per cent. on the original investment.

The act provided that a report of the condition of the bank should be furnished to the Secretary whenever required by him, but not oftener than once a week. The Treasury records do not show that any formal reports were ever made to the Department, and the only balanced statements to be found, showing the condition of the bank are two, which are contained in letters* of Albert Gallatin, Secretary of the Treasury, communicated to Congress on March 2, 1809, and January 24, 1811. These reports are follows:

	January, 1809.	January, 1811.
RESOURCES.		
Loans and discounts.....	\$15,000,000	\$14,578,294
United States six per cent. stock.....	2,230,000	2,750,000
Other United States indebtedness.....		57,046
Due from other banks.....	800,000	894,145
Real estate.....	480,000	500,653
Notes of other banks on hand.....		393,341
Specie.....	5,000,000	5,009,567
Totals.....	23,510,000	24,183,046
LIABILITIES.		
Capital stock.....	10,000,000	10,000,000
Undivided surplus.....	510,000	509,678
Circulating notes outstanding.....	4,500,000	5,037,125
Individual deposits.....	8,500,000	5,900,423
United States deposits.....		1,929,999
Due to other banks.....		634,348
Unpaid drafts outstanding.....		171,473
Totals.....	23,510,000	24,183,046

Renewal of charter.

The charter of the bank expired by limitation on the 4th of March, 1811, and application for its renewal was made in April, 1808. In 1810 the subject underwent investigation and discussion in Congress. Albert Gallatin, then Secretary of the Treasury, favored the renewal, with some minor changes. Of the conduct of the bank under its first charter he said: "The affairs of the bank, considered as a moneyed institution, have been wisely and skillfully managed." On the final vote in the Senate, on February 20, 1811, the parties stood 17 to 17, and the bill was defeated by the casting vote of the Vice-President, George Clinton. Mr. Clay voted against its passage, and Mr. Crawford and Mr. Pickering in its favor, the latter voting against instructions of the Massachusetts legislature. The legislatures of Pennsylvania and Virginia instructed their representatives to oppose the renewal of the charter on the ground of its unconstitutionality. The bill was lost in the House by a minority of one vote, as it had previously been in the Senate by the casting vote of the Vice-President.

*American State Papers—Finance, vol. 2, pp. 352 and 470.

The State banks, which the opponents of the recharter believed adequate to the fiscal requirements of the Government and to the monetary necessities of trade and industry, failed in the trial to which the exigencies of the war of 1812 subjected them. In September, 1814, all of them which were south of New England suspended specie payments. Nearly one hundred of them, in different sections of the country, had been, of necessity, in the absence of a national bank, selected as depositories of Government funds. The check of the redemption of their notes being removed, an expansion of their issues followed; its amount, which was estimated in 1811 at \$28,100,000, being in succeeding years, according to Mr. Crawford, as follows:* In 1813, from \$62,000,000 to \$70,000,000; in 1815, from \$99,000,000 to \$110,000,000; and in 1819, from \$45,000,000 to \$53,000,000. During the year 1816 the banks continued to issue largely, and that, in addition to this, floods of unchartered currency were poured out, in notes of all denominations, from six cents upward. Great distress resulted to the country from the depreciation of the currency, and from the failures of banks in 1818, '19, and '20. The root of the evil lay in the attempt of the Government to carry on an expensive war by means of bank-loans, and the notes of State corporations over which it had no control, thereby converting an irredeemable paper, issued by irresponsible institutions, into a national currency, assisting in its circulation and encouraging its expansion. In 1814, Treasury funds to the amount of nearly nine millions of dollars were in the suspended banks; and the correspondence of Secretary Crawford with the deposit-banks, from January 1, 1817, to May 8, 1822, fills two volumes, comprising 1237 pages.† The loans of the Government in 1815 amounted to \$35,220,671. Treasury notes were not redeemed, and general distrust prevailed.

On October 6, 1814, Mr. Dallas was appointed Secretary of the Treasury, and on the 14th of the same month, in response to a communication from the Committee of Ways and Means, he transmitted a report‡ strongly recommending the organization of a national bank. In that report he says:

The multiplication of State banks in the several States has so increased the quantity of paper currency that it would be difficult to calculate its amount, and still more difficult to ascertain its value. * * * There exists, at this time, no adequate circulating medium common to the citizens of the United States. The moneyed transactions of private life are at a stand, and the fiscal operations of the Government labor with extreme inconvenience. * * * Under favorable circumstances, and to a limited extent, an emission of treasury-notes would probably afford relief; but treasury-notes are an expensive and precarious substitute either for coin or bank-notes, charged as they are with a growing interest, productive of no countervailing profit or emolument, and exposed to every breath of popular prejudice or alarm. The establishment of a national institution, operating upon credit, combined with capital, and regulated by prudence and good faith, is, after all, the only efficient remedy for the dis-

*Finance Report, vol. 12, page 59.

†18 Cong., 1 sess., No. 140.

‡American State Papers—Finance, vol. 2, p. 866.

ordered condition of our circulating medium. The establishment of a national bank will not only be useful in promoting the general welfare, but it is necessary and proper for carrying into execution some of the most important powers constitutionally vested in the Government.

At this time, in place of one United States bank acting as its fiscal agent, the Government accounts were distributed among a large number of State banks, scattered all over the Union. Such was the state of the public credit in 1813-'14, that in those two years \$42,269,776 of six per cent. stocks, issued by the Government, and running for twelve years, were sold at a discount of nearly fifteen per cent., the Government realizing from their sale but \$35,987,762. On February 24, 1815, a loan of \$8,856,960, running for nine years, but with interest increased to seven per cent., was negotiated at par; and on March 3, following, another loan of \$9,745,745, for nine months, at six per cent. interest, brought into the Treasury but \$9,284,044, the discount in this instance being nearly five per cent.† In addition to these losses, the money received for the loans was at a heavy discount for specie—the depreciation in the local currency at the close of the war ranging to twenty and even twenty-five per cent., and the Government supplies being obtained only at a proportionate rise in price. Such were some of the results of a State-bank system during the period that followed the expiration of the charter of the bank on March 4, 1811, and until its re-establishment on January 7, 1817.

The effect of this experience was to revolutionize the opinions of Congress, insomuch that on January 20, 1815, and in accordance with the recommendation of Secretary Dallas, a bill was passed re-organizing the bank, many prominent members of both houses who had previously voted against a renewal of the charter now voting in its favor. The bill was vetoed by President Madison,* in his message of January 30, in which, "waiving the question of the constitutional authority of the legislature to establish an incorporated bank," he says: "The proposed bank does not appear to be calculated to answer the purposes of reviving the public credit, of providing a national medium of circulation, of aiding the Treasury by facilitating the indispensable anticipations of the revenue, and by affording to the public more durable loans." These objections the President supported with copious arguments, concluding with the suggestion, that if they did not meet with the approval of Congress they could be constitutionally overruled, but that in a contrary event "a more commensurate and certain provision for the public exigencies" could be substituted.

SECOND BANK OF THE UNITED STATES.

On the 10th of April, 1816, a bill was approved by President Madison, which was the second and last charter of the bank granted by the general Government. The plan proposed by Mr. Dallas was modeled upon the charter of the first United States Bank, and the act of incorporation, as finally passed, did not differ materially from the plan

†Elliott's Funding System, pp. 567, 572, and 584.

*American State Papers—Finance, vol. 2, p. 891.

proposed by him. The charter was limited to twenty years, expiring on March 3, 1836. The capital was fixed at \$35,000,000, seven millions of which was to be subscribed by the Government, payable in coin, or in stock of the United States bearing interest at five per cent., and redeemable at the pleasure of the Government. The remaining stock was to be subscribed for by individuals and corporations, one-fourth being payable in coin, and three-fourths in coin or in the funded debt of the United States. Five of the directors were to be appointed by the President, and all of them were required to be resident citizens of the United States, and to serve without compensation. The amount of indebtedness, exclusive of deposits, was not to exceed the capital of the bank. The directors were empowered to establish branches, and the notes of the bank, payable on demand, were receivable in all payments to the United States. The penalty for refusing to pay its notes or deposits in coin, on demand, was twelve per cent. per annum until fully paid. The bank was required to give the necessary facilities, without charge, for transferring the funds of the Government to different portions of the Union, and for negotiating public loans. The moneys of the Government were to be deposited in the bank and its branches, unless the Secretary of the Treasury should otherwise direct. No notes were to be issued of a less denomination than five dollars, and all notes smaller than one hundred dollars were to be made payable on demand. The bank was not, directly nor indirectly, to deal in anything except bills of exchange, gold or silver bullion, goods pledged for money lent, or in the sale of goods really and truly pledged for loans, or of the proceeds of its lands. No other bank was to be established by authority of Congress during the continuance of the corporation, except such as might be organized in the District of Columbia with an aggregate capital not exceeding six millions of dollars; and, in consideration of all the grants of the charter, the bank was to pay to the United States a bonus of \$1,500,000, in three annual installments.

The bank went into operation on January 7, 1817. This was at the worst stage of the monetary troubles, which began with the suspension of specie payments in 1814, and continued till the general crash of 1819-'20. At this time lands and agricultural products had fallen to one-half the prices which were readily obtainable in 1808-'10, and to one-third of the value they possessed when the excessive indebtedness of the people was incurred—namely, during the inflation years of the State banks. The contraction of the circulation and the general failures of the State banks began in 1818. The second United States Bank, therefore, came into existence on the very verge of a great monetary crisis. A committee of investigation was appointed by the House on November 30, 1818, which reported that the charter had been violated in four instances; and a resolution was introduced on February 9, 1819, instructing the Committee on the Judiciary to report a bill repealing the act incorporating the bank. This resolution failed of adoption.

In 1819, the financial affairs of the country were in a wretched condition. The currency was greatly depreciated; very many failures of State banks, corporations, and individuals had occurred, and the country had not yet recovered from the exhausting effects of its late war. In this emergency the bank attempted, by the importation of more than seven millions of dollars from Europe, at a cost of half

a million, to restore soundness to the currency; but it became itself embarrassed, largely through the mismanagement of the branch at Baltimore, and was in danger of absolute failure. Its losses were reported to exceed three millions of dollars; but the bank, as well as the business of the country, eventually recovered.

The industries of the people and the finances of the Government prospered from 1820 to 1835. In this interval the national debt was paid, and the stock of the bank rose in the market until it commanded a premium of twenty per cent. "Long before the election of General Jackson," says Mr. Parton,* "the bank appeared to have lived down all opposition. In the presidential campaign of 1824 it was not as much as mentioned, nor was it mentioned in that of 1828. In all the political pamphlets, volumes, newspapers, campaign papers, burlesques and caricatures of those years there is not the most distant illusion to the bank as a political issue." It was therefore a surprise to all parties when President Jackson, in his first message, in December, 1829, recommended that Congress should take into consideration the constitutional difficulties which might interfere to prevent a recharter of the bank. During the session of 1832-'33, the House of Representatives, by a vote of 110 to 46, passed a resolution declaring that the public moneys were safe in the bank of the United States. Mr. McLane, then Secretary of the Treasury, was, in 1833, appointed Secretary of State, and Mr. Duane succeeded him in the Treasury.

After the adjournment of Congress, Secretary Duane declined to remove the public deposits upon the request of the President, in consequence of which he was displaced and Attorney-General Taney appointed in his stead, by whom they were removed. On the re-assembling of Congress, in December, 1833, the Secretary gave his reasons for removing the deposits.† Resolutions of both houses followed upon this procedure of the Executive, and the memoranda of John Quincy Adams thus briefly presents the results:‡ "The Senate this day (March 28, 1834) took the question on two resolutions offered by Henry Clay: 1. Censuring the President of the United States for usurpation of power in his late measures; passed by a vote of 26 to 20. 2. That the reasons of the Secretary of the Treasury for removing the deposits are insufficient; by 28 to 18." And Mr. Adams adds that, in his opinion, the first of these resolutions should not have been passed. It was afterward (March 16, 1837) expunged from the Senate Journal. On April 4, 1834, he has the following entry:§ "The first resolution in the House of Representatives (that the Bank of the United States ought not to be rechartered) was carried, 134 to 82. The second resolution, that the public deposits ought not to be restored to the Bank of the United States, passed by a vote of 118 to 103. The third resolution, that the State banks should be continued as depositories, and that Congress should further regulate the subject by law, passed by 117 to 105. The fourth resolution, directing the appointment of a select committee for a bank investigation, with power to visit the bank and any of its branches, was adopted by a vote of 175 to 42."

*Life of Andrew Jackson, by James Parton, New York, vol. 3, p. 256.

†Finance Report, Vol. 3, p. 337.

‡Memoirs of John Quincy Adams, comprising portions of his diary from 1795 to 1848, Philadelphia, 1876, vol. 9, p. 116.

§Memoirs of John Quincy Adams, vol. 9, p. 122.

The Treasury records show that the Government realized a profit of \$6,093,167 upon its investment in the stock of the bank, as will appear by the following statement:

Bonus paid by the bank to the United States.....		\$1, 500, 000 00
Dividends paid by the bank to the United States.....		7, 118, 416 29
Proceeds of stocks sold and other moneys paid by the bank to the United States.....		9, 424, 750 78
Total.....		18, 043, 167 07
Five-per-cent. stock issued by the United States for its subscription to the stock of the bank.....	\$7, 000, 000	
Interest paid on the same from issue to redemption.....	4, 950, 000	
		11, 950, 000 00
Profit.....		6, 093, 167 07

The agitation of the United States Bank question, involving the general subject of the currency, which was awakened by President Jackson's first annual message, had become earnest in Congress as early as the session of 1829-'30; and it grew more and more intense until, as a subject of legislation, it was settled on July 10, 1832, by his veto of the bill for rechartering the bank. The interval of about six years from the time of the President's first intimations of hostility to the bank to the expiration of its charter, in March, 1836, is memorable for the persistence and violence of the warfare between the bank and its party, and the administration and its supporters, in and out of Congress. The most important event which marked the struggle was the removal of the deposits of the Government from the Bank of the United States to the State banks, under the order of Secretary Taney, executed on the 1st of October, 1833, which has already been noticed.

Removal of the public deposits.

"The Globe, of the 20th of September, 1833, announced that the public deposits would, 'after the 1st of October, be made in the State banks, but that it is contemplated not to remove at once the whole of the public money now on deposit in the Bank of the United States, but to suffer it to remain there until it shall be gradually withdrawn by the usual operations of the Government.' The bank thenceforward knew that if its own policy should be pacific, it had nothing to fear from any unusual call from the Government; yet with specie enough in its vaults to pay the entire public deposit at once, it maintained its stringency, under the pretext that it must be prepared for vindictive attacks from the Treasury Department."*

But other results followed, which were of much more consequence than the question of the fitness or unfitness of a particular fiscal agency of the Government. The State banks which were selected as depositories of the large revenues of the Treasury expanded their issues, and a multitude of other banks, old and new, went wild in a general inflation of the circulation. The aggregate of their circulating notes (exclusive of those of the Bank of the United States) rose from \$61,000,000 in 1830 to \$149,000,000 in 1837. In March, 1830, the Finance Committee of the Senate had said: "They are satisfied that the country is in the enjoyment of a uniform national currency, not

* Autobiography of Amos Kendall, Boston, 1872, p. 398.

only sound and uniform in itself, but perfectly adapted to all the purposes of the Government and the community, and more sound and uniform than that possessed by any other country." And yet, but seven years after this, on the 10th of May, 1837, all the banks then in operation, with the mammoth United States Bank of Pennsylvania among them, went into suspension, as if by common consent; or, as Colonel Benton has it, "with a concert and punctuality of action which announced arrangement and determination such as attend revolts and insurrections in other countries;" and he declares that "the prime mover and master manager of the suspension was the Bank of the United States, then rotten to the core and tottering to its fall, but strong enough to carry others with it, and seeking to hide its own downfall in the crash of a general catastrophe."* This allegation derives some support from the report of the committee of the stock holders, made in January, 1841, after the failure of the bank. They say: "The origin of the course of policy which has conducted to the present situation of the affairs of the institution dates beyond the period of the recharter by the State."

Favored by an excess of importations of specie, amounting to nearly twenty millions in the two years ending September 20, 1838, the banks of New York and New England resumed on May 10 of that year. The banks of Philadelphia made three resummptions and as many failures before February, 1841, and did not effectively resume until March of the following year; so that, from the time when the Senate committee had so highly commended them, a period of twelve years of vicious fluctuation and depreciation of the currency elapsed before the banks again settled into what was then called "a state of regularity." During this period they reduced their circulation from 149 millions in 1837 to 58 millions in 1843, which is three millions below the amount at which it stood thirteen years before.

The United States Bank did not wind up its affairs, nor even prepare to do so; on the contrary, it applied for and obtained a charter from the legislature of Pennsylvania, which was granted and approved by the Governor of the State on the 18th of February, 1836, just thirteen days before the expiration of its charter from the general Government. This charter differed in nothing essential from that just expiring, except in the term of the bank, which was extended to thirty years, and in the amount of the bonus paid and to be paid for it. It was in effect a renewal and extension of the charter, without change of conditions or purposes, and under the old corporate name. The title of the act of incorporation, however, is worthy of note. It is styled, "An act to repeal the State tax on real and personal property, and to continue and extend the improvements of the State by railroads and canals, and to charter a State bank, to be called the United States Bank." The bonus, or cost of the charter to the bank, if it had maintained its existence and solvency long enough to meet the charges imposed, would not have fallen short of five millions of dollars, assuming, which it is safe to do, that the long list of subscriptions required to be made to railroads, canals, navigation companies, and turnpike roads, scattered all over the State, should eventually prove to be unproductive.

Colonel Benton describes the Pennsylvania charter as "a transmigration of the Bank of the United States, * * changing itself from

*Benton's Thirty Years in United States Senate, vol. 2, p. 21.

an imperial to a provincial institution, retaining all the while its body and essence, its nature and attributes, its name and location;" and he does not hesitate to ascribe "every circumstance of its enactment to corruption, bribery in the members who passed the act, and an attempt to bribe the people by distributing the bonus among them."* The subsequent disastrous history of the bank would seem in some measure to justify these charges. This bank, as has been seen, suspended specie payments as often as other State institutions, and finally succumbed to trials which other banks, more prudently managed, survived. It made an assignment of certain securities on May 1, 1841, to secure five millions of post notes which other banks had taken in exchange for its demand-notes. The second assignment was made June 7, 1841, to secure its notes and deposits, "among which were notes and deposits of the late Bank of the United States, incorporated by Congress," so that it appears to have been, up to 1841, using its old issues. The third and final assignment, made on September 4, 1841, covered all its remaining property, "to provide for the payment of sundry persons and bodies corporate which the bank is at present unable to pay."

Nicholas Biddle had been the president of the bank from January, 1823, to March, 1839, when he resigned, leaving the institution, as he said, "prosperous." The shares, however, were sold at that time at 111, instead of 125, as in 1837, and were quoted in April, 1843, after its failure, at one and seven-eighths.

The final result of the liquidation of the bank is briefly stated in a letter to this Office from Thomas Robins, esq., president of the Philadelphia National Bank, who is believed to be the only survivor of its numerous assignees. He says: "All the circulating notes of the Bank of the United States, together with the deposits, were paid in full, principal and interest, and the accounts of the assignees were finally settled in 1856. There were no funds, and no dividend was paid to the stockholders of the bank; the whole twenty-eight millions of dollars were a total loss to them. The seven millions of stock held by the United States previous to the institution becoming a State bank was paid in full to the Government, so that the United States lost nothing by the bank." Elsewhere the profit made by the Government upon its shares in the bank is given from official sources.

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Annual Report, Comptroller of Currency (Henry W. Cannon)

[48th Congress, 2d Session, December 1, 1884, Pages xxxii-lix]

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THE FINANCIAL CRISIS OF MAY

Owing to the large number of mercantile failures which had occurred during 1883, considerable financial uneasiness was felt at the beginning of 1884, and the year opened inauspiciously, by the appointment on January 1 of a receiver for the New York and New England Railroad. Following closely upon this failure were the troubles of

*Benton's Thirty Years in United States Senate, vol. 2, p. 24.

the Oregon and Transcontinental Company, and the appointment on January 12 of a receiver for the North River Construction Company. The months of February, March, and April were characterized by many commercial failures, rumors affecting the credit of various corporations, and a still further depreciation in the price of stocks and bonds, and in fact of all products and commodities.

This feeling of uneasiness and of uncertainty as to values culminated on May 6 with the failure of the Marine National Bank of New York whose president was a member of the firm of Grant & Ward. The failure of this firm immediately followed, and owing to the prominence of some of its members and its large liabilities, exceeding \$17,000,000, its failure caused great excitement, that had not subsided when on May 13 the president of the Second National Bank of New York was discovered to be a defaulter to the extent of \$3,185,000. Although this defalcation was immediately made good by the directors of the bank and did not result in its suspension or failure, such a shock was given to credit, and to the confidence of the public in all institutions and firms supposed to have loaned money upon such railroad and other securities as had greatly decreased in value or whose managers were supposed to be directly or indirectly interested in speculation in Wall street, was so shaken, that there was great pressure to sell stocks and securities and an active demand on the banks for deposits.

This condition of affairs culminated on May 14 in the suspension of the Metropolitan National Bank, the failures of Donnell, Lawson & Simpson, Hatch & Foote, and several other bankers and brokers. These failures were followed on May 15 by that of the Newark Savings Bank, and by the suspension of Fiske & Hatch and others. Failures and suspensions continued through the months of May and June, including those of the Wall Street Bank, the Philadelphia and Reading Railroad, the West Shore Railroad, of C. K. Garrison, M. Morgan's Sons, and of other bankers and brokers.

The suspension of the Metropolitan National Bank on May 14 caused great excitement. All stocks and securities called upon the New York Stock Exchange were greatly depreciated under the pressure to sell, and it was practically impossible for the banks to collect their call loans, as their borrowers could not obtain money by sale of their securities except at ruinous rates; neither could they borrow elsewhere; and it was impracticable and impolitic to throw the mass of securities held as collateral to the call loans of the associated banks upon the market. If it had been done it is probable that a suspension of gold and currency payments by the banks throughout the country would have followed the general panic that would have ensued. In this emergency the members of the New York Clearing-House Association, realizing that an immediate demand for deposits would be made by their country correspondents, called a meeting at the clearing house on the afternoon of May 14, and the following plan for settling balances at the clearing house was unanimous adopted: * * *

Resolved, That, in view of the present crisis, the banks in this association, for the purpose of sustaining each other and the business community, resolve:

That a committee of five be appointed by the chair, to receive from bank members of the association bills receivable

and other securities to be approved by said committee, who shall be authorized to issue therefor to such depositing banks certificates of deposit bearing interest at six per cent. per annum not in excess of 75 per cent. of the securities or bills receivable so deposited, except in case of United States bonds, and said certificates shall be received in settlement of balances at the clearing house.

After consultation with the officers and directors of the Metropolitan National Bank, a committee of examination was appointed to visit the bank and to ascertain if some plan could not be arranged to permit it to open again for business. The greater part of the securities of the bank were found to be of such a character that loan certificates could safely be issued upon them, and in this way the Metropolitan National was enabled to resume business on May 15 and settle its balances at the clearing house. The prompt action of the members of the associated banks and the resumption of the Metropolitan National Bank greatly assisted in allaying excitement and staying the panic, and although confidence was not immediately restored, and although the banks in the city of New York were largely drawn upon by their country correspondents reducing their reserve for a time below the 25 per cent. limit prescribed by law, and although on account of the great depreciation of values and the stringency of the money market occasioned by the want of confidence other failures of State banks, private bankers, and mercantile firms occurred in New York and throughout the country, there was no suspension of gold and currency payments at any point, and the issue of loan certificates was confined to the banks of New York City, which were soon enabled to collect their loans and make good their reserves.

The crisis of May, 1884, seems to have been even more unexpected to the country than that of September, 1873. Although many conservative people had predicted that the large increase in railroad and other securities, and the general inflation which had been going on for a number of years would bring financial troubles and disasters to the country, it was nevertheless generally believed that the depreciation of values and the liquidation which had already been going on for many months, and the further facts that the country was doing business upon a gold basis, that the prices of all commodities were already very low, that an increased area of territory was under cultivation, and that the prospects were excellent for good crops, together with the larger distribution of wealth throughout the Union, would prevent a repetition of the panic of 1873. This general belief was measurably correct, as the panic or crisis was confined principally to New York City, although its effects were more or less felt in all parts of the country, and the liquidation resulting therefrom has not yet been fully completed.

The most profound students of political economy have for many years endeavored to explain the causes which have led to financial troubles similar to those of 1857, 1873, and 1884, and it is not to be expected that the Comptroller can obtain sufficient data to enter into a complete and satisfactory explanation of the causes of the financial disturbances of the present year. The causes that lead to financial crises in a country so rich in agriculture, of which the manufacturing and mining interests are so varied and important, the imports and

exports so great, of so extensive an area of territory, and in which wealth is becoming so equally distributed, and the population of which is increasing so rapidly, are difficult to explain, and the issue of currency and creation of debt requires elaborate study to ascertain the reasons for the rise and fall in value of commodities and realty which cause a panic. It is scarcely possible at this time to explain why it should be necessary for the country to go through the liquidation and financial trouble which is now being experienced.

It is apparent, however, that a repetition of some of the same circumstances which brought about the monetary crisis of 1873 has been largely influential in causing the present crisis. Property of all kinds had been capitalized, as it is called; bonds and stocks had been issued for the purpose of building railroads, carrying on manufacturing and other business; municipal and other bonds had been issued for public improvements. These bonds and stocks were put upon the market, and commercial credit was extended until a point was reached where capitalists of this and other countries questioned the intrinsic value of these securities and the earning power of the property on which they were based, and also doubted the solvency of many firms in commercial business. This lack of confidence induced them to decline to make further advances or investments. A decrease in the earnings of railroads, manufacturing, and other enterprises followed, and the entire business of the country has consequently been restricted and deadened.

There is little doubt that one of the causes which led to the local disturbances among the banks, national and State, and private bankers of the city of New York, was their intimate relation in many instances to the New York Stock Exchange, and the fact that a large portion of the loans made by the banks and bankers of New York were based upon the security of stocks and bonds, often speculative in their character, which are dealt in and regularly called at the Stock Board.

It is no doubt correct in principle to advance money in aid of enterprises which are legitimate in their aims, and from which reasonable returns may be expected, and in order that the general business and commerce or the carrying trade of the country may be benefited. Due care should, however, be taken that loans so made should not exceed the amount which it would be safe to advance upon the intrinsic value of the property represented by the securities, and not upon a fictitious or unreal valuation. Lines should be closely drawn between legitimate business and speculation. The principles which underlie judicious and sound banking are the growth of an experience of many years. Banks not only loan their own capital but that of their depositors and creditors, and are therefore, to a certain extent, trustees, and should not encourage speculation or lend money for the furtherance of doubtful enterprises, even though the profits promise to be exorbitant. The proper relation of the New York Stock Exchange to the business of the United States is yet to be determined. The value of an exchange for the convenient sale and handling of stocks and securities is unquestioned; but when the members of this exchange, who have associated themselves together for the purpose of furthering the business and commerce of the country, use the machinery of this exchange to create speculative values and to increase or decrease prices of stocks and bonds for purposes of speculation solely, or, more properly, to encourage a form of gambling, it is a matter for serious consideration

whether legislation by the State of New York or by the Congress of the United States should not be had to regulate a business which appears at times to be carried on to the great detriment of the true business interests of the country.

Just what restrictions should be placed upon the business of the New York Stock Exchange, or what legislation should be had, is difficult to determine. Just how far the Federal or State law can interfere with the business of private citizens is a delicate and difficult matter to settle.

In considering the financial troubles of May, 1884, in the city of New York, the Comptroller desires to call attention to the fact that while many banks and private banking firms of excellent repute failed, but one association organized under the national-bank act failed, and but one suspended.

The liabilities of State banks and private bankers failing during the month of May in the city of New York it is estimated exceeded in the aggregate 32 million dollars, while the liabilities of the only national bank in the same category was about 4½ millions, no loss to the public occurring through the national bank which suspended.

Upon learning of the defalcation at the Second National Bank on May 14, and when it was apparent that a financial crisis was imminent in the city of New York, the Comptroller ordered expert and reliable examiners to the assistance of the national-bank examiner stationed at New York in order to protect the public. The examiners were instructed to exercise the utmost caution and vigilance, and to visit any of the national banks that appeared to be in trouble, or where violations of law or irregularities were suspected. They were especially instructed to report any criminal irregularities or violations of section 5209. Before permitting the Second National Bank, whose president had misappropriated over 3 millions of its funds, to open for business, the defalcation was made good under the supervision of the examiner. The plan of resumption for the Metropolitan National Bank, by obtaining loan certificates of the New York Clearing-House Association upon its securities, was also submitted by the examiner in charge of the bank to the Comptroller, the examiner remaining in charge until the plan was carried into effect and the bank permitted to resume.

During the crisis in New York, bank examiners throughout the country were directed to exercise the utmost vigilance in the districts to which they were assigned, to visit any of the national banks which appeared to be in trouble or which were suspected of irregularities. They were further instructed to report promptly by telegraph any matters of importance which might occur in their respective districts.

The Comptroller desires to call attention to the fact that only eleven national banks failed in the United States during the year ending November 1, 1884, although more than one hundred banks and bankers other than national failed during the same period. The records of this office show that many of the transactions of the national banks which failed, including the Marine and Metropolitan National Banks of New York City, were looked upon with disfavor, and that these associations as a rule had been frequently reprimanded for irregularities during the past few years. None of the disclosures made by the examiner's reports, however, gave the Department an adequate idea of the dangerous

character of the business which was being carried on by the Marine National Bank of New York, and this is not singular, as the directors of the bank, as will hereafter be seen, were equally deceived in regard to the situation.

Further information relating to this and other matters pertaining to the banks that have failed during 1884 will be found under the head of national bank failures in this report.

CLEARING-HOUSE LOAN CERTIFICATES.

As has been stated, a meeting of the members of the New York Clearing-House Association was held on May 14, 1884, to consider what measures could be adopted to protect the reserves of the associated banks and to prevent suspension of gold and currency payments in New York.

Resolutions were there adopted, which are given elsewhere, authorizing the issuance by the loan committee of the Clearing-House Association of what were termed clearing-house loan certificates, of which the following is a copy :

No. —.]

[\$10,000.

Loan committee of the New York Clearing-House Association.

New York, May 15, 1884.

This certifies that the ——— National Bank has deposited with the committee securities in accordance with the proceedings of a meeting of the association held May 14, 1884, upon which this certificate is issued. This certificate will be received in payment of balances at the clearing-house for the sum of ten thousand dollars from any member of the Clearing-House Association. On the surrender of the certificate by the depositing bank above named, the committee will indorse the amount as a payment on the obligation of said bank, held by them, and surrender a proportionate share of collateral securities held therefor.

_____	_____	}	<i>Committee.</i>
_____	_____		
_____	_____		
_____	_____		
_____	_____		

These certificates were to be issued to banks who were members of the association upon their securities or bills receivable, at the rate of 75 cents on the dollar. By the cooperation of all the members of the Clearing-House Association, the certificates were accepted in payment of balances at the clearing-house. Similar resolutions were adopted and certificates issued during the panic of 1873, but this measure of relief was not taken until after the panic had assumed such proportions that their use and the consequent relief to the banks in settling their balances at the clearing-house could not restore confidence. There is little doubt but that the prompt action of the associated banks in May last in issuing these loan certificates had a most excellent effect not only in the city of New York but throughout the country. The

greatest amount of these certificates outstanding on any one day was on May 24, 1884, when they amounted to \$21,885,000. After that date they were issued in limited amounts only, and on June 7 their further issue was discontinued.

Of the eighty-two banks, members of the Clearing-House Association, only twenty took out these certificates, and several of the banks so taking them out, did so simply as a precautionary measure and did not use them. The total amount issued was \$24,915,000, and about \$7,000,000 of these were issued to the Metropolitan National Bank. On and after June 10 balances at the clearing-house were paid in lawful money. The principal security on which these certificates were issued consisted of mercantile paper.

On July 1 all of the loan certificates, with the exception of a portion of those which had been issued by the loan committee to the Metropolitan National Bank, had been returned to the committee and canceled and the securities taken up. This bank had been compelled, owing to its suspension and the lack of confidence which was caused thereby, to liquidate almost its entire deposit account, having reduced its deposits from \$11,294,000, on May 15 to \$1,338,000 on September 30. Owing to this enormous liquidation of deposits, the Metropolitan National Bank was unable to collect its loans and realize upon its securities with sufficient promptness to cancel its loan certificates by July 1, and as these certificates bear interest at six per cent. and are secured by a deposit of ample collaterals, as heretofore stated, the associated banks were willing to carry them as loans, and on October 3, 1884, were still carrying \$5,290,000 of the certificates issued to the Metropolitan National Bank. Since that time this bank has gone into voluntary liquidation, and these certificates will be paid and canceled as rapidly as the collection of the securities upon which they are based can be made.

The following table shows the aggregate issuance and cancellation of clearing-house certificates from day to day from May 15, 1884, to October 3, 1884:

Date.	Issued.	Canceled.	Outstanding.
May 15.....	\$3,820,000		\$3,820,000
May 16.....	6,885,000		10,705,000
May 17.....	6,740,000		17,445,000
May 19.....	1,190,000	\$200,000	18,435,000
May 20.....	1,950,000		20,385,000
May 21.....	580,000	800,000	20,165,000
May 22.....	1,560,000		21,725,000
May 23.....	140,000		21,865,000
May 24.....	180,000		21,885,000
May 26.....		160,000	21,470,000
May 27.....		415,000	21,650,000
May 28.....	640,000	460,000	21,200,000
May 29.....		450,000	21,500,000
June 2.....	700,000	400,000	20,735,000
June 3.....	335,000	1,100,000	20,715,000
June 4.....	70,000	90,000	19,725,000
June 5.....	40,000	1,030,000	19,605,000
June 6.....		120,000	18,640,000
June 6 to July 1.....	85,000	1,050,000	9,570,000
July 1 to August 1.....		9,070,000	6,720,000
August 1 to September 1.....		2,850,000	5,500,000
September 1 to October 3.....		1,220,000	5,290,000
		210,000	
	24,915,000		

As has been stated, loan certificates were issued during the panic of 1873. On September 20 of that year resolutions* were adopted for the issuance of these certificates, as follows:

That in order to enable the banks of this association to afford such additional assistance to the business community, and also for the purpose of facilitating the settlement of the exchanges between the banks, it is proposed:

That any bank in the Clearing House Association may, at its option, deposit with a committee of five persons, to be appointed for that purpose, an amount of its bills receivable and other securities, to be approved by said committee, who shall be authorized to issue therefore to said depositing banks certificates of deposit, bearing interest at seven per cent. per annum, in denominations of five and ten thousand dollars, to an amount not in excess of seventy-five per cent. of the securities or bills receivable so deposited; except that when the securities deposited shall consist either of United States stocks or gold certificates, the certificates of deposit may be issued upon the par value of such certificates.

These certificates may be used in settlement of balances at the clearing-house for a period not to extend beyond the first of November proximo, and they shall be received by creditor banks during that period daily in the same proportion as they bear to the aggregate amount of debtor balances paid to the clearing-house. The interest which may accrue upon these certificates shall, on the first of November next, or sooner, should the certificates be all redeemed, be apportioned among the banks which shall have held them during that time.

The securities deposited with the committee above-named shall be held by them as a special deposit pledged for the redemption of the certificates issued thereon.

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The total amount of loan certificates issued under this resolution was \$26,565,000, and the following table shows the issue and cancellation of same:

Issued.		Canceled.	
September 22 to 29, 1873.....	\$22,080,000	October 3 to 31, 1873.....	\$5,370,000
October 1 to 29, 1873.....	3,205,000	November 3 to 29, 1873.....	8,235,000
November 1 to 20, 1873.....	1,280,000	December 1 to 31, 1873.....	12,020,000
		January 5 to 14, 1874.....	940,000
	\$26,565,000		26,565,000

Upon comparison it will be seen that the issue of loan certificates† during September, October, and November, 1873, exceeded the issue of May and June 1884 by only \$1,650,000.

*These resolutions were first printed in the Comptroller's report for the year 1873.

†The Comptroller is indebted to Mr. W. A. Camp, manager, and Mr. F. D. Tappen, chairman of the loan committee of the New York clearing-house, for valuable information regarding the issue of loan certificates.

NATIONAL BANK FAILURES

* * * * *

The failures of national banks during the year ending November 1, 1884, have been more numerous than for a number of preceding years, and this is not surprising considering the great depreciation in values and the consequent general liquidation, which has resulted in failures among traders and others having an aggregate indebtedness of about \$200,000,000, as nearly as can be estimated. These failures have entailed large losses upon the banks generally, and the national banks mentioned, as well as many State banks and private bankers, have been unable to meet the continued strain. It is, however, surprising that the occasional failure of a national bank, to whatever cause due, with comparatively small capital and liabilities, should give rise to so much comment and excitement, when the numerous failures of State banks and private banks, of mercantile and manufacturing firms, and of joint stock enterprises, causing losses vastly larger than those occasioned by the failures of national banks, attract comparatively little attention or criticism. As a rule, the jobber, manufacturer, or joint stock concern has obtained his or its capital in such a manner that the effects of their disasters are more widely distributed, and therefore less noticed. The failing State bank and private banker, however, equally with the national bank, inflict loss upon the immediate community in which they are located, and apparently the complaint should be as great of one class as of the other, which, however, is not the case.

It is also of interest to know that this is not the only country which has suffered from financial troubles, caused by the failure of banks and bankers. Banks of note have failed during the year in England and her provinces. The failure of the Oriental Bank was especially noticeable. This institution was represented by branches in India, Australia, and elsewhere throughout the British empire. It owed its depositors about six or seven million pounds sterling, equivalent to thirty to thirty-five millions of dollars. The liabilities of this one institution were therefore about equal to the aggregate liabilities of all the State and private bankers failing in the State of New York during the last year. The failure of the Oriental Bank was in some measure due to its giving its support to what in this country would be termed wildcat land speculations.

The most notable national-bank failure of the year in the United States was that of the Marine National Bank, of the city of New York, which closed its doors at about 11 a. m. on the 6th of May. The bank examiners of the city of New York immediately took possession of the bank and found that it had been indebted to the clearing-house that day in the sum of \$555,000. The examiner also found the account of one firm overdrawn on the books of the bank to the amount of \$766,570.14. Upon further examination it was found that this firm owed a total of about \$2,430,500, being more than six times the capital of the bank. A portion of this indebtedness was in the names of other parties—clerks in their office and relations of one of the firm. How far the officials of the bank are criminally responsible for these matters is a subject now under investigation in the courts. The Comptroller finds from the report of the examiner that this firm had three different accounts with the bank—a private account of a member of the firm,

a general account and a special account. It appears, from an examination of the transcript of these accounts, that on May 5 their special account was overdrawn by certified checks \$383,402.07, and that on the same day their general account was also overdrawn. It is apparent, therefore that the bank had violated the law in regard to certifications by permitting these overdrafts. It is claimed, however, by the officers of the bank that these certifications were made against securities which were subsequently obtained from the bank by one of the firm upon his representations that he had obtained a loan upon them elsewhere, and would make good his account. A further examination of the various accounts of the firm shows that while the certification of their checks was carried on to an enormous extent, they also made very heavy deposits from day to day, and it will, perhaps, be very difficult to furnish evidence proving conclusively that the checks were certified before the deposits were made.

An examination of the minutes of the board of directors of the bank shows that on the 11th day of April, 1884, twenty-five days before the failure of the bank, the committee of examination appointed by the board of directors reported that they had examined the securities, counted the bills and specie, and examined the balances on the ledgers of the bank, and found the recorded statement of the 7th of April, 1884, to be correct. The minutes further show that the directors were in session about an hour before the bank closed. They apparently had no suspicion of the state of its affairs, and voted to discount certain offerings of commercial paper; and within half an hour after the adjournment of this meeting the bank closed its doors. It would seem, therefore, that the board of directors was grossly deceived as to the true state of affairs.

In this connection I desire to state that the records of the Comptroller's office show that many of the transactions of the Marine National Bank of the city of New York have been looked upon with disfavor, and that the association had been frequently reprimanded for irregularities during the past few years. None of the reports of examinations of the bank made to this office, however, disclosed any violations of the law forbidding the overcertification of checks, or gave the Department any adequate idea of the dangerous character of its loans, and this is not surprising, the directors of the bank having been equally deceived in regard to the situation.

After reviewing the information in his possession, it seems to the Comptroller that the failure of the Marine National Bank is in consequence of the board of directors having chosen for their president a man who was willing to risk his own honor and the funds of the bank in speculation. He joined with himself another, who is now in Ludlow-street jail under indictment, and who was also a member of the board of directors of the bank. While it is true that the final failure has shown that there were overcertifications on the last day, the Comptroller judges, from the information which he has received, that the bank had been for a long time in the power of the firm to whom the certifications were granted, through the president's copartnership. This matter was carried to the extent of permitting one of the firm to have access to, and apparently free disposal of, the securities left as collateral to his loans, and, so far as actual results are concerned, he

might as well have had the combinations of the cash vaults of the bank and helped himself to their contents.

The Metropolitan National Bank suspended and closed its doors about noon on May 14, and opened again for business at 12 o'clock on the following day, the bank examiner remaining in charge of the bank during its suspension. He also remained at the bank during the first days of its resumption, and has frequently visited it since, and forwarded reports as to its liquidation of deposits. Before permitting the bank to resume business the Comptroller received assurances from the examiner that the bank was solvent, and also received telegrams from the president and chairman on loans of the New York Clearing-House, stating that in their opinion the bank was solvent and should be permitted to resume. The bank is now closing its affairs, having arranged to pay its depositors in full and gone into voluntary liquidation under sections 5220 and 5221 of the United States Revised Statutes.

It is difficult to determine, in the case of this bank, what brought about its suspension. From the information which the Comptroller has, however, it appears that the president of the Metropolitan National Bank had the credit, at least, of being a very large speculator. He was supposed to be a man of very large means and was interested in many enterprises which required the use of large sums of money. The general liquidation in railroad and other securities which has been going on for the past two years had no doubt affected the properties in which the president was interested, and the public having become suspicious and apparently believing that he was a large borrower from the bank, and had loaned money to parties who were interested with himself, all of whom were assumed to have lost largely by this depreciation of property, rumors were circulated which excited distrust and suspicion against his bank and caused the run upon it which resulted in its suspension. Reports of examinations do not disclose any overcertification of checks, and I cannot conclude that irregularities of this kind had anything to do with bringing about the suspension.

The Metropolitan National Bank was examined on April 28, 1884. The examination disclosed certain irregularities, and a letter was promptly written to the bank, requiring the correction of the irregularities, and forbidding the declaration of any further dividends until this had been done. While this letter was acknowledged, the matter was pending at the time of the suspension of the bank.

The trouble at the Second National Bank of the city of New York grew out of a defalcation amounting to \$3,185,000 by the president of the bank. The amount of this defalcation was immediately guaranteed and the money paid in by the directors. Owing to this prompt assistance the bank did not suspend, and is going on with its business in a solvent condition. As far as this office is advised, the president used the money in speculations in Wall street, and was able to conceal the fact of his misappropriation of the funds of the bank on account of the securities being kept in a vault located at some distance from the regular banking rooms, which are on the corner of Twenty-third street and Fifth avenue. It appears that the president had access to these securities without check or hindrance, and used them to obtain money for his own private speculations.

In the matter of the failure of the Marine National Bank of New York, and the defalcation at the Second National Bank of New York,

it appears from the information on file in this office that there have been not only irregularities, but violations of section 5209 United States Revised Statutes. The United States district attorney at the city of New York is in communication with the national bank examiner and the receiver of the Marine National Bank in regard to these matters, and the facts, which have been submitted to this office, the Comptroller has formally transmitted to the Attorney-General of the United States through the Secretary of the Treasury.

Since the commencement of the national banking system 100 banks have been placed in the hands of receivers, 474 banks have voluntarily closed their business, by the vote of shareholders owning two-thirds of their stock, under the provisions of sections 5220 and 5221 of the Revised Statutes of the United States, and the corporate existence of 15 banks has expired by limitation. Of the banks in the hands of receivers, 9 had been previously placed in voluntary liquidation by their stockholders, but failing to pay their depositors, receivers were afterwards appointed by the Comptroller to wind up their affairs. Of the 100 banks placed in the hands of receivers, 63 have been finally closed, leaving 37 still in process of settlement; 21 of which, as has been seen, are awaiting the results of pending litigation, leaving about 16 receiverships only in *active* operation.

The loss to creditors of national banks which have been placed in the hands of receivers during the twenty-one years that have elapsed since the passage of the act of February 25, 1863, as near as can be estimated, including dividends which will probably be hereafter paid, has been about \$8,266,000. The annual average loss has been, therefore, about \$400,000 in the business of corporations having an annual average capital of about \$450,000,000, and which have been responsible for the safe-keeping of deposits in their hands, averaging constantly over \$800,000,000, or about one-twentieth of 1 per cent. of annual loss to depositors.

The total amount paid to creditors of insolvent national banks amounts to \$23,499,522, upon proved claims amounting to \$38,489,810.

The dividends so far paid thus equal about 61 per cent. of the proved claims. The amount paid during the year was \$1,720,850.

Assessments amounting to \$8,901,750 have been made upon the stockholders of insolvent national banks for the purpose of enforcing their individual liability under section 5151 of the Revised Statutes, of which \$3,633,957 has been collected—\$282,678 during the past year.

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ILLEGAL CERTIFICATION OF CHECKS

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The reports to Congress of my predecessor, the Hon. John Jay Knox, for the years 1882 and 1883 contained full information in regard to the certification of checks, legal and illegal, and enumerated the numerous ways there were of evading a technical violation of the law. At the same time a history of the growth of the practice of certifying checks was given. Certification was in use as a method of business for more than thirty years previous to the organization of the national banking system, and at least twenty years previous to the establishment of the clearing-house. It is the province of the office of the Comptroller of the Currency to call the attention of the proper officers of the Government to evidence by which violations of law may

be punished. In regard to over-certification of checks, unless they result in loss, it is almost impossible to obtain evidence which will convict the offenders. The examiner cannot be in the bank at all times. He must depend for his knowledge of its business upon an examination of its books and accounts, and the general conduct of its business while he is making his examination. In any case of certification, where no loss is encountered, the books at the close of the day, as a rule, show deposits equal to or greater than the checks drawn. In the case of the Wall Street National Bank a loss occurred by which the violation of the law was made apparent, and proceedings were commenced. In the case of the Marine National Bank the Comptroller judges from the information on file that there is good evidence of over-certification, and, as has been seen, action has already been taken by the United States district attorney. It has been stated to the Comptroller that on the day of the suspension of the Metropolitan National Bank many of the brokers engaged in business on Wall street, in New York, were very indignant at the national banks because they would not overcertify their checks, and in this way lend their credit to afford the brokers relief in the emergency. It is the opinion of the Comptroller that since the passage of the act of July 12, 1882, the officers of the national banks of New York have given the matter of certification of checks their serious attention, and that they have endeavored to diminish the dangerous features of this method of doing business.

After the passage of the act of July 12, 1882, my predecessor suggested the establishment of a stock clearing-house to enable the brokers to make their settlements without calling upon the banks to certify their checks for the purpose of clearing their stocks. This matter has received careful consideration by the bankers and brokers of New York. No plan has yet been suggested, however, which has seemed to meet the peculiar requirements of the Stock Exchange business in New York. The Comptroller hopes that the recent troubles growing out of Wall street speculations will force the bankers and brokers of New York, for their own protection, to agree upon a stock clearing-house system, and he believes that the present is an excellent time for the conservative bankers in the city of New York to make a move in this matter.

The Comptroller believes, however, that overcertification of checks, viz, the certification of checks as "good" when no funds are to the credit of the drawer of the checks, is not only practiced for the accommodation of the brokers who deal in stocks, but is also done for the accommodation of the dealers in produce. These dealers often require large temporary accommodations of money to take up bills of lading for produce which has been shipped to them from the interior, and which they desire to take from cars and warehouses for shipment abroad, and some accommodation is necessary in the interim until the ocean bills of lading can be obtained and exchange drawn against the consignment. While this practice is reprehensible and is not legitimate as a banking transaction, business has been and is carried on in this manner, and the fact that the national banks of the city of New York are endeavoring to comply with the law in regard to illegal certification of checks has caused many dealers in produce to withdraw their accounts from the national banking associations and has largely

increased the business of certain of the State banks, which are under no restrictions of law in this matter. This is particularly noticeable in the case of the bank which was organized under the auspices of the New York Produce Exchange.

BANK EXAMINATIONS.

The recent financial disturbances throughout the country, and the consequent failures of national and State banks, have called the attention of the public to the official examination of banks as conducted under the authority of the national-bank act, and under various State laws.

The national-bank act provides for the issue and regulation of a national currency secured by United States bonds, and provides, also, for a banking system, in order to facilitate the issue of this circulation. It contains provisions bestowing certain privileges upon the banks organized under it, and provides many safeguards for the public by imposing on these banks such restrictions as the history of banking throughout the world has seemed to indicate were of a character to create a safe and permanent banking system. This law has been amended and improved from time to time, but it is not to be supposed that the national banking system is absolutely perfect, nor that imprudent banking under it can be altogether prevented.

In order to enable him to ascertain if the provisions of the law are followed, section 5240 Revised Statutes authorizes the Comptroller to appoint suitable persons to make an examination of the affairs of every national banking association. It has been customary from the establishment of the system to have a regularly appointed examiner visit each national bank at least once a year, in many cases twice a year, and when deemed necessary, even more frequently. The examination of national banks is conducted by the examiners in accordance with instructions issued from this office, which instructions, both general and specific, have grown with the growth of the system. The first general instructions to examiners were issued September 15, 1864, by the Hon. Hugh McCulloch, then Comptroller of the Currency, and as the bank act has been amended and revised these instructions have been altered as circumstances seemed to warrant. It has been the aim of the Comptroller to increase the efficiency of the examinations by carefully noting the causes that have in particular cases led to the suspension or failure of national banks, and calling the attention of the examiners to these causes, suggesting such methods of examination as seemed to be best calculated to prevent repetition of such disasters, and to expose violations of law which led to the same.

This official inquiry into the affairs of a national bank does not end with the mere inspection of the cash, bills receivable, books and accounts of the association, but the examiners are instructed to closely scrutinize the business of the bank, to investigate the standing and fitness for their positions of the persons to whom the management of the affairs of the association are intrusted, and the manner in which the business is usually conducted, whether prudently or otherwise; to ascertain as far as possible the character of the loans and discounts of the bank, and what losses, if any, have been or are likely to be sustained.

The examiner is also instructed to ascertain how frequently the board of directors meet together to consult in relation to the affairs of the bank, and to discover if possible any malfeasance in office or willful neglect of business on the part of the management; and is moreover particularly instructed to report to the Comptroller whether any excessive accommodations are granted in violation of section 5200 Revised Statutes, and to note if the officers of the banks are borrowing largely from the association; to ascertain the customary state of the lawful-money reserve by examining the daily statements for some time previous to the examination; whether or not the bank borrows money to loan again; and in short, to discover and report to this office all violations of law of whatever character.

Upon receipt of the report at this office all matters above mentioned, and such others as may be referred to therein, are carefully reviewed and considered, and the directors of the bank are immediately notified of all violations of the law, and they are required to have the same promptly corrected. The attention of the directory is also specially called to the reform of such matters as are deemed detrimental to the safety and welfare of the association.

The general public do not understand the amount of labor performed weekly, monthly, and yearly by the examiners of national banks, many of whom have for years rendered most excellent service. It can hardly be expected, however, with the limited compensation allowed by law for making these examinations, that the Comptroller can in all cases retain the services of the most expert accountants, although by systematic division of the labor he has endeavored to obtain the best results possible under the circumstances.*

For the purposes of bank examination the United States is apportioned into twenty-five districts, bank examiners being stationed in each district. Important reserve cities, such as New York and Boston, generally form a district of themselves, and the duties of the examiner stationed there are usually confined to that city and its immediate vicinity. Owing to the nature of the work, the position of a national-bank examiner is one of great responsibility. Notwithstanding their vigilance, the most competent examiners are liable to be deceived, and sometimes find it impossible to discover and remedy in time even gross mismanagement of the affairs of national banks.

No laws or system of examinations will prevent dishonest men from keeping false accounts and rendering untrue statements, and by means of these and other devices they can conceal from the examiner the fact that they are using the money intrusted to their charge in private speculations until final disaster makes longer disguise impossible. It is thus exceedingly difficult to detect violations of law or misuse of the funds of a bank.

The surest preventive is to have an honest, active, and competent board of directors. A rogue or a dishonest man, who acquires the confidence of his associates to such an extent that he can appropriate the

*It is submitted that the compensation allowed national-bank examiners by section 5240, Revised Statutes, is often insufficient. The assessments upon the banks, by which the law provides that the examiners' fees shall be paid, are based upon the capital of the national banks examined, and vary, according to capital, from \$20 to \$75. In many instances the capital is not the proper basis upon which to compute the compensation of national-bank examiners, as many banks with a comparatively small capital have large lines of deposits, and consequently do a much larger business and require more time and labor from the examiner than other associations with the same capital. The Comptroller is of the opinion that the fees paid to national-bank examiners should be based upon the capital and average deposits of the national-banking association.

funds of a bank for his own use without their knowledge or that of the board of directors, can have but little trouble in deceiving the examiner and hiding his peculations from him.

In times of financial disaster and of a stringent money market the acts of dishonest and corrupt officials in any bank or banking firm or private corporation are more liable to be discovered, and naturally during the last year the consequences of disastrous speculation, which had been for a long period carried on with impunity with the aid of misappropriated funds, have been brought to the surface. Men who were supposed to be worthy of the entire confidence of communities, whose character stood so high that they were intrusted not only with the management of corporations, but with the investment of private funds, have now been proven to have dishonestly betrayed their trust. Never were the instances of this kind more numerous than during the financial troubles of the present year.

Such practices and the resulting disasters, however, do not prove that the national banking laws are inefficient, or that the national bank examiners do not do their duty. They rather indicate that the shareholders of joint-stock corporations of all kinds, and particularly those of banks, should be more careful to elect men as directors and trustees who are competent and who will exercise proper care and supervision over the management of the affairs intrusted to them, who will select competent and honest officers, provide suitable rules and regulations for the conduct of the bank, keeping its accounts, &c., and appoint regular committees of examination, whose duty it shall be not only to verify the accounts, but to keep a watchful eye over the affairs of the association and the officers who immediately carry them on.

The public frequently draw wrong deductions as to the responsibility of the Government and the bank examiners in particular cases. For instance, in many cases where failures occur the principal cause is found in the character of the loans made, which are either excessive or made on improper security. There are 2,671 national banks in the country. The loans and discounts of the banks at the close of business September 30, aggregated more than \$1,240,000,000, and it is of course not the province of the bank examiners to supervise the making of these loans. Section 5200, Revised Statutes, provides that no loans shall be made to any one individual, firm, or corporation in amount exceeding one-tenth of the paid-in capital of a bank, but there are many ways of evading this law, and it is a physical impossibility for the Government to maintain the constant espionage over the affairs of the national banks which alone would prevent the violation of this statute. Any attempt to direct the making of loans and to dictate to the directors and managers of the national banks throughout the country as to what use they shall make of their funds would, of course, be impracticable.

Many instances occur daily, which are not seen or known to the general public, where the banks are notified of violations of law, and where their condition is improved by action upon the reports of the examiner. When, however, some unexpected failure occurs, brought about by injudicious banking, bad management, or adventurous speculation, or by dishonesty and fraud on the part of the officers or directors, who are the very men to whom the examiner must more or less look for information, the Government and the national banking laws are unjustly criticised. The fault is not with the law and not with the

examiner, on whose reports the directors have very likely been notified and warned to exercise more care in the management of their affairs and to hold their officers in check.

A national bank being a joint-stock association, its aggregation of capital having been brought together by bankers or other persons for the purpose of utilizing more effectually the resources of the locality in which it is doing business, it is not the intention of the bank act to interfere with the business of said association so long as it is conducted in accordance with the law. The exact line at which the Government shall interfere and the point at which Government discipline shall commence is a matter of some delicacy to determine. It is exceedingly difficult to add materially to the restrictions of the national-bank act without such an interference with the business of the banks as would be practically prohibitory, for it is well known that banking can be carried on under the laws of most of the States of the Union with but very little interference and scarcely any espionage on the part of the officials of the State government. It is because the national banking system has raised the standard of banking, and because it is generally understood that money deposited with a national bank is as a rule much safer than in institutions not under similar restrictions, that bankers and capitalists avail themselves of the national-bank act in order to gain the confidence and thereby the deposits and business of the public.

The act appears to contain ample provisions for the punishment of criminal offenders, and the Comptroller is of the opinion that it is not so much the lack of law, as it is the difficulty of detection of offenders and of obtaining sufficient evidence to convict, that has prevented the punishment of officers and others connected with national banks who have violated the criminal sections of this act. In some cases the directors and shareholders of banks have apparently suppressed information and evidence, and in many instances it has been with great difficulty that the Comptroller was able to present the necessary facts to the Department of Justice to make a case. For obvious reasons, the number of instances in which this office has endeavored to secure the arrest and conviction of offenders by reporting to the proper officers of the law facts that came to the knowledge of the Comptroller, which seemed to indicate certain violations of law, cannot be presented, but it is believed that the records of the various States and United States courts show a larger number of indictments and of convictions for violations of the national-bank act than is generally known to the public.

It is possible that the provisions of the act relating to the punishment of offenders in the matter of false oaths of officers of banks with intention of deceiving the Comptroller as to the correctness of reports might be profitably amended. The Comptroller is of the opinion that if the criminal provisions of the bank act are to be amended, the Department of Justice of the United States should be consulted for suggestions as to any weakness or defect in the existing law.

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INTEREST ON DEPOSITS.

The practice of paying interest on deposits by the national banks has been the subject of discussion for some time past. It is the custom of the country banks to pay interest on current accounts, and also to issue certificates of deposit bearing interest, which latter usually state upon their face that no interest will be paid upon the same unless the deposit remains with the bank for three, six, nine, or twelve months, as the case may be.

Banks located in the cities, where a portion of the lawful money reserve of country banks may legally be kept, have been for many years in the habit of paying interest upon the daily balances of the accounts of their country depositors. Owing to the fact that the banks in the reserve cities other than New York keep large current accounts with their correspondents in that city, who in turn pay interest on the average daily balances of their correspondents, the result is that in times of easy money large sums accumulate in the city of New York subject to interest on current account. It is believed that this accumulation of money in the New York banks occasioned by this custom has a tendency to encourage speculation in stocks, as these banks are compelled to find some use for the money deposited with them on which they are in turn compelled to pay interest, and as this money is liable to be called for at any time, it is necessary to make loans payable on demand, and dealers in stocks called on the stock exchange, which theoretically can be readily sold at any time, are in consequence enabled to obtain money for speculation by pledging these securities as collateral and agreeing to repay the sum advanced on demand. The panic of 1873 and the financial troubles of May, 1884, have shown that these so-called demand loans are of such a character that the banks are not always able to realize upon them in case of emergency. The members of the New York Clearing-House Association, after the panic of 1873, discussed the abolition of the payment of interest upon current accounts. Again, upon the 4th of June, 1884, the association endeavored to have its members agree to discontinue the payment of interest on daily balances, but owing to the persistent dissent of a few members the association was unable to make the arrangement.

While the united action of the Clearing-House Association in favor of the abolition of the payment of interest on deposits would doubtless have great effect, yet so long as it is the almost universal custom of banks, State and national, and of private bankers throughout the country, to pay such interest, it is probable that if the associated banks should discontinue the practice, they would do so to their own great detriment and loss of business. Many of the accounts of country banks and out-of-town correspondents would be transferred to the trust companies, State banks, and private bankers who are not members of the association, and who would not be bound by its regulations, and for this and other reasons it seems very difficult to bring about an absolute cessation of the practice. Until all the bankers in the principal cities of the country agree to discontinue the payment of interest, it is probable that it will continue to be paid upon current accounts.

It has been held by the courts that the conferring of special powers upon national banking associations prohibited them from the exercise of certain other powers not specifically conferred, and the decisions of the United States courts seem to indicate that it is unlawful for a

national bank to borrow money to lend again or to receive deposits payable at fixed future dates with interest thereon.

Notwithstanding the fact that it has been held that national banks could not receive deposits payable otherwise than on demand, it is possible that, in view of the fact that the custom of purchasing deposits by the payment of interest is so universal, the courts might hold that national banks would have the same rights as other bankers to receive deposits subject to repayment upon a notice of from five to thirty days, and if this should be the case it is submitted that they should pay interest only upon deposits of this character, for there can be no doubt that it is extremely injudicious to receive current accounts payable *on demand* subject to interest. It would appear that if this course was adopted two classes of accounts would have to be maintained with most of the country correspondents of national banks in reserve cities, as it would be impracticable for a national bank in the interior to have any portion of its reserve deposited in such a manner that it could not be drawn upon demand. In view of the facts as stated, it is doubtful if any legislation upon this matter should be had which would discriminate against the national banks.

It is a question if in the business of banking it is not a correct principle to use every legitimate means to bring together an aggregation of funds for the purpose of carrying on large commercial transactions incident to the business of handling produce and carrying on the jobbing and other trades, which would otherwise be impossible. It is believed by many that the financial supremacy of London has been partially brought about by the custom of the bankers of that city of purchasing deposits and stimulating the accumulation of funds by the payment of interest. While the London joint-stock banks do not pay interest on their customers' accounts as a rule, they do pay interest on deposits on demand at a low rate, and at a higher rate where the money is left on seven days' and other longer notice, and enormous sums are constantly on deposit in London subject to interest in this manner.*

In some instances the money must be left for a month. These deposits are received from the general public, and also very largely from country correspondents. It is the custom, however, for the London banks to charge a commission, generally a fixed sum, but sometimes varying with the transactions, upon the business done with their correspondents in the country. The private bankers of London also pay interest in the same manner, and in many instances allow interest upon their customers' accounts, payable on demand. The rate of interest allowed on deposits in the city of London is usually but from one to one and a half per cent. per annum below the Bank of England rate for the time being on discounts. The country banks throughout the United Kingdom are in the habit of allowing interest on deposits and current accounts, to offset which, to a certain extent, they usually charge a commission on the transactions of their customers.

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*For information relating to customs of London bankers in regard to paying interest on deposits, the Comptroller is indebted to Mr. W. Talbot Agar, secretary of the Institute of Bankers, London, England.

Act of March 3, 1887

[24 Statutes at Large 559, Forty-Ninth Congress, Chapter 378,
2nd Session, Approved March 3, 1887, by Grover Cleveland]

AN ACT TO AMEND SECTIONS FIVE THOUSAND ONE HUNDRED
AND NINETY-ONE AND FIVE THOUSAND ONE HUNDRED AND
NINETY-TWO OF THE REVISED STATUTES OF THE UNITED
STATES, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever three-fourths in number of the national banks located in any city of the United States having a population of fifty thousand people shall make application to the Comptroller of the Currency, in writing, asking that the name of the city in which such banks are located shall be added to the cities named in sections, fifty-one hundred and ninety-one and fifty-one hundred and ninety-two of the Revised Statutes, the Comptroller shall have authority to grant such request, and every bank located in such city shall at all times thereafter have on hand, in lawful money of the United States, an amount equal to at least twenty-five per centum of its deposits, as provided in sections fifty-one hundred and ninety-one and fifty-one hundred and ninety-five of the Revised Statutes.

Cities having 50,000 population may be added to "reserve" cities.

SEC. 2. That whenever three-fourths in number of the national banks located in any city of the United States having a population of two hundred thousand people shall make application to the Comptroller of the Currency, in writing, asking that such city may be a central reserve city, like the city of New York, in which one-half of the lawful-money reserve of the national banks located in other reserve cities may be deposited, as provided in section fifty-one hundred and ninety-five of the Revised Statutes, the Comptroller shall have authority, with the approval of the Secretary of the Treasury, to grant such request, and every bank located in such city shall at all times thereafter have on hand, in lawful money of the United States, twenty-five per centum of its deposits, as provided in section fifty-one hundred and ninety-one of the Revised Statutes.

Cities having 200,000 population may be made "central reserve" cities.

SEC. 3. That section three of the act of January fourteenth, eighteen hundred and seventy-five, entitled "An act to provide for the resumption of specie payments, be, and the same is, hereby amended by adding after the words "New York" the words "and the city of San Francisco, California."

Legal-tender notes may be redeemed at San Francisco.

Approved, March 3, 1887.

Annual Report, Comptroller of Currency (Edward S. Lacey)

[Fifty-Second Congress, 1st Session, December 7, 1891, Pages 9-15]

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MONETARY STRINGENCY OF 1890

The previous report year, which ended November 1, 1890, showed a comparatively small number of failures of national banking associations. Up to Midsummer of 1890 that year had been one of more than average business activity. It was, however, apparent in the early Spring, to those who were most observant of passing events, that unfavorable conditions existed, the evil effects of which would appear in the near future. This arose from consideration of the fact that agricultural interests were in an unsatisfactory condition, and also that overtrading and unhealthful expansion were everywhere apparent. During the year the building of railroads had been prosecuted with unusual vigor, making necessary the placing of unusually large lines of securities.

Immense sums heretofore available as loanable capital in the New England and Middle States had taken a fixed form by reason of investments in the Mississippi Valley and upon the Pacific coast in city and suburban property, in loans represented by farm mortgages, and in the stocks and bonds of unnumbered corporations organized for the purpose of conducting various kinds of manufacturing operations, and supplying water, light, and rapid transit to the inhabitants of the many rapidly growing cities and villages in the regions named. Not only did these enterprises attract capital from the Atlantic States, but English investors brought to this country vast sums for the purpose of grouping together and recapitalizing corporations engaged in manufacturing, industrial, and commercial pursuits.

This unexampled movement of capital toward the West not only divested the Atlantic States in a large degree of the loanable funds heretofore available for the relief of those engaged there in manufacturing and in business in its various forms, but it also had its effect upon the West in unduly stimulating speculative operations in real estate and laying the groundwork for the future collapse in prices which it was apparent must follow whenever the flow of money toward the field of these operations should for any cause be greatly diminished or entirely arrested.

The various banking institutions located in the region of country affected by the speculative spirit thus incited became necessarily more or less involved in the operations of their local customers. They found themselves early in the Summer of 1890 carrying large lines of loans representing investments in various forms of corporate enterprises, which were in a large degree in untried fields and dependent for success upon the rapid growth of towns and cities, yet unrealized. The banks of the country were therefore in an unduly extended condition upon the approach of Midsummer, and dependent in many cases upon rediscunts with their correspondents in the reserve cities in order to enable them to carry the heavy lines with which they were burdened. While in this condition the transfer of funds to this country from England and the Continent became at first greatly reduced in volume, and finally ceased. Not only was the supply of fresh funds from this source

cut off, but it was discovered that during the late Spring and early Summer months, as well as later on, vast amounts of American securities held abroad were forced upon the New York market by European holders for the purpose of preparing for a collapse which was expected to result from similar conditions of undue expansion existing abroad. The Continental countries had already passed through a period of liquidation and loss consequent upon the failure of the Panama Canal Company and the French Copper Syndicate. England, by reason of unusually large investments in all parts of the world, and especially in the Argentine Republic, was gradually but surely approaching an exceptionally severe monetary stringency.

As an evidence of this and the consequent disposition to increase the stock of gold there held, in order to strengthen their cash resources, it is noted that during the months of June, July, and August of last year the net exportation from the United States of gold coin and bullion exceeded \$14,000,000, and for the period extending from January 1, 1890, to August 31, 1891, the net exportations of gold amounted to \$75,405,613. While these causes were operating to prevent the necessary relief from reaching us from Europe, the demands upon the banks in New York and other large reserve cities rapidly increased, producing a reduction in the amount of deposits and an increase in the amounts loaned to and rediscounted for the interior banks.

The gross deposits of forty-six national banks in the city of New York show a falling off of \$44,831,356 between the 28th of February and 17th of May, 1890; \$13,519,527 of this representing a reduction in balances due to interior banks and those located in other reserve cities, while the reduction in loans and discounts was less than \$10,000,000. The New York banks, however, were enabled to so strengthen their positions during the months of June and July that the marked stringency was delayed until August. It culminated about the middle of November, when the failure of a leading firm of brokers, the embarrassment of one large State bank, and the failure of another occurred in New York. These events were simultaneous with the announcement of the embarrassment of the Baring Brothers, of London, and the fact that a syndicate had been formed, headed by the Bank of England, through whose agency Baring Brothers' obligations were guaranteed to the extent of about \$75,000,000.

The unsatisfactory condition of monetary affairs in England, and the desire to be prepared for the effect of the announcement of the embarrassment of the Baring Brothers, induced the Bank of England to borrow £3,000,000 in gold from the Bank of France, in addition to \$1,500,000 received from Russia upon sale of treasury bonds. This extraordinary transaction is an evidence of the serious character of the monetary stringency in England, aggravated by the unsatisfactory conditions apparent in almost every civilized country where English capital has heretofore found investment.

Among the unfavorable conditions existing in our own country, in addition to the undue expansion and resulting speculative investments which have been heretofore noted, should be mentioned the greatly reduced yield last year of wheat, oats, and corn, and the low prices which prevailed for the same. It is also to be observed that the importation of foreign commodities in 1890 exceeded in value that of any previous year. This was due, to some extent, to the passage of the new tariff act, which was made to take effect on the 6th of October, 1890. This

undoubtedly greatly stimulated importations, in order that their arrival prior to the date mentioned might enable them to escape the higher rate of duty supposed to be imposed by the new act.

To relieve this severe monetary stringency the Secretary of the Treasury increased his purchase of United States bonds to such an extent as to almost entirely exhaust the available surplus in the Treasury. During the three and one-third months from July 19 to November 1, 1890, over \$99,000,000 were disbursed in payment for United States bonds and interest thereon. It is apparent, however, that while the relief afforded was timely and the sums disbursed very large, the unfavorable and threatening conditions were caused to a greater degree by want of confidence and a curtailment of credits than by lack of circulating medium. That this large disbursement had the effect of allaying excitement and promoting a return of confidence on the part of the general public is no doubt true.

As has been noted, the monetary stringency culminated on the 15th of November, 1890, and its effects within thirty days thereafter had to a considerable extent passed away, so far as could be observed in the larger cities. Its effect upon the country at large, however, still continued. Inability to place securities and to borrow money had arrested the operations of a great multitude of corporations scattered all over the country, and insolvency and failure had in a large number of cases ensued. Where failure did not take place new work was stopped, all credits were curtailed, and business in its different forms became greatly depressed. The growth of cities and villages was in many cases arrested, and the prices of city property, especially of a suburban character, became greatly reduced.

Corporations newly organized, with insufficient capital and inexperienced management, generally became insolvent, and speculative operations of every kind and character were prostrated. Liquidation took place in all branches of business, resulting in the failure and extinction of a large number of business enterprises which were never entitled to credit and in the curtailment of the operations of many possessing ample capital and skillful management.

The process of liquidation above referred to did not end with the monetary stringency in December, 1890, but has continued since that date, and its influences are still felt and its effects observed. The subject is here discussed because of its intimate connection with the bank failures of 1891.

CLEARING-HOUSE LOAN CERTIFICATES.

The effect of a general monetary stringency is felt first and most seriously by banks located in the larger of the reserve cities. Whenever financial affairs are in a normal condition the surplus funds of the local banks find their way to the vaults of their correspondent banks located in the great centers of business activity. This is undoubtedly due in part to the fact that these deposits may be made available for lawful money reserve and that a small rate of interest is, as a rule, paid upon bank balances by associations in the larger cities, and to the further fact that the maintenance of a good balance with their city correspondents strengthens the claim of the interior banks upon the former for rediscounts when the temporary condition of redundancy passes away and the increased demand for money is

greater than the interior banks from their resources can conveniently supply.

Thus it results that the wants of a continent in case of general depression are at last brought through various channels of business activity, by way of withdrawals or loans, to the bankers of the great metropolitan cities for relief, and they are presented in such a form, in many cases, as to preclude the possibility of refusal, if general bankruptcy is to be avoided.

During the period of the stringency above discussed the cities of New York, Philadelphia, and Boston were subjected to the most pressing demands, and after very careful consideration it was decided by the associated banks that the exigency made necessary a resort to the issuing of clearing-house loan certificates, for the purpose of settling clearing-house balances. This expedient had been successfully resorted to during the panics of 1873 and 1884.

At a meeting of the New York Clearing-House Association on the 11th day of November, 1890, the following resolution was unanimously adopted:

Resolved, That a committee of five be appointed by the chair, of which the chairman shall be one, to receive from banks members of the association bills receivable and other securities, to be approved by said committee, who shall be authorized to issue therefor, to such depositing banks, loan certificates bearing interest at 6 percent per annum, and in addition thereto a commission of one-quarter of 1 cent for every thirty days such certificates shall remain unpaid, and such loan certificates shall not be in excess of 75 per cent of the market value of the securities of bills receivable so deposited, and such certificates shall be received and paid in settlement of balances at the clearing house.

Under this resolution a committee of five was appointed, and they proceeded, upon deposit of proper securities, to issue to applying banks loan certificates in the following form:

No. ----- \$20,000
Loan committee of the New York Clearing House Association, New York, -----, 1890.

This certifies that the ----- has deposited with this committee securities in accordance with the proceedings of a meeting of the association held November 11, 1890, upon which this certificate is issued. This certificate will be received in payment of balances at the clearing house for the sum of twenty thousand dollars from any member of the Clearing-House Association.

On the surrender of this certificate by the depositing bank above named the committee will indorse the amount as a payment on the obligation of said bank held by them, and surrender a proportionate share of the collateral securities held therefor.
\$20,000.

-----,
-----,
Committee.

These certificates were, by unanimous agreement upon the part of the clearing-house banks, accepted in lieu of money in the settlement of clearing-house balances.

In order to provide for the retirement of these securities in case the collaterals pledged were found insufficient, the several boards of directors of the associated banks were requested to, and did, pass a resolution in the following form:

Resolved, That any loss resulting from the issue of loan certificates shall be borne by the banks comprising the Clearing-House Association pro rata of capital and surplus, and this resolution shall be ratified by the boards of the respective banks, members of the association, and a certified copy of such consent delivered to the chairman of the loan committee.

This committee, acting under the authority granted by the above resolution, issued to the associated banks loan certificates aggregating \$16,645,000. The first issue was made November 12, 1890, and the entire issue was retired on February 7, 1891. The largest amount outstanding at any one time was \$15,205,000, on the 13th of December, 1890.

On the 17th of November, 1890, similar proceedings were had by the Boston Clearing-House Association.

* * * * *

Under the operation of the resolution of authority granted by the clearing-house committee, as above noted, loan certificates were first issued on November 19, 1890, and the last were issued on December 6, 1890. On the latter date the issue reached its maximum of \$5,065,000. The last of the issue was retired on January 6, 1891.

The Clearing-House Association of Philadelphia took action on November 18, 1890 . . .

* * * * *

It will be observed that the original agreement under which the committee proceeded in this case was adopted during the panic of 1873 and after that subsided no further action was had under it until November, 1890, but the machinery was kept standing during the whole intervening period ready for immediate use whenever required.

The clearing-house committee having, by the agreement aforesaid, been authorized to issue loan certificates resolved, on November 5, 1890, to exercise this power, whereupon the banks desiring to take out loan certificates were required to adopt a resolution empowering the hypothecation of securities, under which the issue of loan certificates, signed by not less than three members of the committee, was commenced on November 19, 1890, and ceased on May 22, 1891, the total issue being \$9,655,000. The maximum issue, \$8,870,000, was reached on January 9. The certificates have all been retired excepting \$170,000 issued to the Keystone and Spring Garden National Banks.

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Annual Report, Comptroller of Currency (James H. Eckels)

[Fifty-third Congress, 2d Session, December 4, 1893, pages 10-25]

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SUSPENSIONS OF NATIONAL BANKS

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It does not seem essential, nor would it be possible to enter into a minute statement of all the circumstances attendant upon the closing of the banks during the past year. It is sufficient to say that the cause which brought about the large proportion of such suspensions was the action of depositors who, becoming doubtful of the solvency of the banking institutions of the country, withdrew their deposits. The result was that many banks after paying out on the one hand all the money in their vaults and failing to collect their loans on the other, suspended and passed into the hands of the Comptroller. With a full knowledge of the general solvency of these institutions and the cause which brought about their suspension, the policy was inaugurated of giving all banks, which, under ordinary circumstances would not have closed, and whose management had been honest, an opportunity to resume business. This policy was one which seemed to commend itself to the Comptroller as proper to pursue under the circumstances, and it is believed the results have justified the experiment of its adoption.

In no instance has any bank been permitted to resume on money borrowed or for which as an association it has become liable. Whenever those active in the management of the banks resuming, either as executive officers or directors, have been debtors to such banks, their indebtedness has been paid or secured, and whenever impairment of capital stock has been found, such impairment has been made good, either by voluntary or enforced assessment on the shareholders. In a number of instances changes have been made in the directory and official corps of resuming banks. The criticism to be made upon the management of these banks was the improper distribution of their loans, a circumstance which greatly retarded the conversion of such loans into money at a time when it was needed to avoid suspension.

Of the banks which failed to resume many had long been under the continual criticism of this Bureau for violations of law and imprudent methods of banking, and the closing of them was only hastened by the general condition of financial affairs. Some failed because of criminal acts on the part of the officials in charge, and others because of a lack of proper appreciation of the purposes of a bank.

* * * * *

The fright among depositors of the present year appears to have affected all classes of banking institutions alike. The shrinkage of deposits of national banks from May 1 to July 12 last exceeded \$190,000,000. In order to ascertain the extent of the shrinkage in banks other than national, the Comptroller requested each State officer charged with the supervision of banks organized under State authority to submit a statement showing similar information with respect to that class of banks. Replies were received from the officers of 23 States and 2 Territories indicating that the loss to banks of this

character corresponded with that shown by the returns from national banks. Generally no information was given with respect to savings banks and much less regarding private banks.

CLEARING-HOUSE LOAN CERTIFICATES.

The unprecedented condition of the money market from June to September called for extraordinary remedies, not only to avert general disaster to the banks but to prevent commercial ruin. This remedy was the issuing of clearing-house loan certificates, which were brought into use as in 1873, 1884, 1890-'91, by the associated banks of New York, Boston, Philadelphia, Baltimore, and other cities where needed. The service rendered by them was invaluable, and to their timely issuance by the associated banks of the cities named is due the fact that the year's record of suspensions and failures is not greatly augmented.

The form of these certificates, with the conditions under which they were issued in 1890-'91 (the form and conditions being the same during the late issuance of them as then), is described at length in the Comptroller's Annual Report for 1891. The subject is alluded to again only because it constitutes a very important part of the year's banking history, and for the additional reason that here and there are to be found those who entertain an entirely erroneous idea of the purpose for which these certificates were issued and what was accomplished by their issuance. Briefly stated, they were temporary loans made by the banks associated together as a clearing-house association, to the members of such association, and were available to such banks only for the purpose of settling balances due from and to each other, these balances under normal conditions of business being always settled in coin or currency. Each clearing-house association selected a committee charged with the issuing of the certificates to each bank desiring the same, such bank being required before receiving them to deposit with the committee its bills receivable, or other securities, as collateral for the loan. The amount of certificates issued to each bank was limited to 75 per cent of the value of the securities deposited. They bore interest at rates varying from 6 to $7\frac{3}{10}$ per cent. Immediately upon their surrender to the committee they were canceled and the securities held as collateral were returned to the bank depositing the same.

At a time when vast sums of coin and currency were being withdrawn from the banks, to be hoarded, these loan certificates, by performing the functions of the currency or coin customarily required for settling daily balances at the clearing house, released so much currency or coin to the legitimate and current demands of business and unquestionably placed it within the power of the banks in the cities named to extend to outside banks the aid needed on the one hand and liberally granted on the other. In no instance were these certificates designed to nor did they circulate as money. They were but due-bills and their sole function consisted in discharging the single obligation at the clearing house. An attempt on the part of a bank in any of the associations issuing these certificates to use them otherwise would have incurred a fine and other penalties provided in the rules governing such associations. Their issuance at so early a date in the financial derangement of the country was most opportune in not only preventing an acute panic, but in tending to restore public confidence, such

action demonstrating that by mutual agreement of all, the weak banks of the association would be, so far as depositors and other creditors were concerned, as strong as the strongest.

In inaugurating the issuing of certificates so promptly and in issuing them to so large an amount the Clearing-house Association of New York, in particular, rendered the country great service, and the associated banks of that city are entitled to the credit which the public generally accords them.

The following figures, showing the movement and amount of the issue of loan certificates in 1893 in the cities named, will indicate the measure of relief afforded by them :

	Date of issue of first certificate.	Date of largest amount outstanding.	Largest amount outstanding.	Date of surrender of last certificate.	Amount outstanding Oct. 31.
New York.....	June 21	Aug. 29 to Sept. 6.	\$38,280,000	Nov. 1
Philadelphia.....	June 16	Aug. 15.....	10,965,000		\$3,835,000
Boston.....	June 27	Aug. 23 to Sept. 1.	11,445,000	Oct. 20
Baltimore.....	do.	Aug. 24 to Sept. 9.	1,475,000		845,000
Pittsburgh.....	Aug. 11	Sept. 15.....	987,000		332,000
Total.....			63,152,000		

The issue of loan certificates in 1893 greatly exceeded that of previous years. In 1873 and 1884 they were issued only by the New York Clearing House Association, the total amount issued in 1873 being \$26,565,000 and in 1884 \$24,915,000.

In 1890-'91 they were issued in New York, Boston, and Philadelphia, the largest amounts outstanding at any time being as follows :

	Date of first issue.	Largest amount outstanding at any one time and date of same.
New York.....	Nov. 12, 1890	\$15,205,000, Dec. 13, 1890.
Boston.....	Nov. 19, 1890	5,065,000, Dec. 6, 1890.
Philadelphia.....	Nov. 19, 1890	29,140,000, Jan. 9, 1891.
Total.....		49,410,000

LAWFUL MONEY RESERVE.

Not less attention has been attracted during the present year, and particularly during the closing months of the year, to the subject of lawful-money reserve to be held by the banks, than to that of clearing-house loan certificates, and the discussion provoked has been quite as widespread.

As the law now stands all national banks, outside of certain designated "reserve cities," are required to maintain a reserve fund equal to 15 per cent of the net deposits made with such banks by individuals and by other banks and bankers. They are permitted by law to deposit not over three-fifths of this 15 per cent (or 9 per cent) with such national banks located in the "reserve cities" as the outside banks may with the Comptroller's approval select. The remaining two-fifths (or 6 per cent) must be kept in bank in lawful money, or more, if less

than three-fifths is kept with reserve agents. The national banks located in reserve cities are divided into two classes: (1) Those in the "central" reserve cities of New York, Chicago, and St. Louis being required to keep 25 per cent of their net deposits in bank in *lawful money*, with the privilege of acting as the reserve agents of any national banks located outside of these three cities. (2) Those located in the reserve cities, other than New York, Chicago, and St. Louis, being required to keep 25 per cent of their net deposits on hand, not over one-half of which may be deposited with any national bank or banks located in any of the three central reserve cities, while the remainder must be actually on hand in lawful money. The banks in the reserve cities of this class have the privilege of holding a part of the reserve of any bank or banks located outside of all reserve cities, viz, banks of the 15 per cent class.

In effect these requirements are not as onerous as they appear, for a national bank in New York City holding \$100,000 of the reserve of any other bank or banks on deposit must keep only \$25,000 of the amount on hand in money, while it is at liberty to lend or otherwise invest the remaining \$75,000. So a bank in a reserve city of the second class holding \$100,000 on deposit for other national banks may loan out or invest \$75,000 of the amount, and of the remaining \$25,000 must keep \$12,500 in bank in money and may deposit \$12,500 with its reserve agents, receiving a low rate of interest (usually 2 per cent) on the same. A bank of the 15 per cent class must keep only 6 per cent of its depositors' money actually on hand in bank, and is at liberty to deposit not over 9 per cent with its reserve agents, on which it usually receives a low rate of interest. To illustrate the operation of the law it will be found that with normal conditions of business the banks in reserve cities (not central) held on December 9, 1892, net deposits amounting to \$495,196,952, against which they held \$77,869,593 cash in bank, or about 16 per cent, and the 15 per cent banks held net deposits of \$975,622,088, and against these \$108,012,546 cash in bank, or about 11 per cent. Again, a large portion of the reserve actually held by the banks can not be considered as taken out of circulation, or as hoarded through operation of the law, for much of it is paid out during each business day, other money coming in through deposits to take the place of that paid out.

In any view of the matter, however, the intent of the law is to compel a bank to retain always on hand a very moderate proportion of the money deposited with it for safe keeping by the depositor, who practically makes a loan to the bank payable on demand, for the use of which he ordinarily receives no interest. The entire effect is to exercise a wholesome restraint upon a tendency to an undue extension of business by a bank, and that this intent is recognized as an underlying principle of safe and conservative commercial banking is evidenced by the fact that those banks which are compelled by law to maintain but 15 per cent reserve have voluntarily for years past held an average of over 25 per cent, the proportion required for banks located in reserve cities.

The evident theory of the law is that a bank shall always have on hand such an amount of lawful money as will enable it under normal conditions of business to meet the current demands of its depositors. A careful examination of section 5191, United States Revised Statutes, as amended, will show that it is expected that emergencies will arise un-

der which this fund will fall below the legal requirements. This contingency is distinctly recognized by the plain provisions contained in the section named, prescribing what shall be done "whenever the lawful money reserve of any association shall be below the amount" of the required percentage of its deposits. The provisions referred to are that the bank shall make no new loans or discounts, except the discount of bills of exchange payable at sight, nor make any dividend of its profits until the required amount of reserve has been again accumulated. The reason for this is obvious. The depletion of a bank's reserve occurs either because the bank has loaned out or otherwise invested too great a proportion of the funds it has received on deposit, or that its depositors have withdrawn their money to an extent which produces a similar result. In either case the only safe and prudent course for the bank to pursue is to cease paying out money in any direction except to depositors until either through the collection of demand or maturing loans on the one hand, or the receipt of deposits on the other, the required proportion has been restored. The discount of sight bills of exchange is excepted because money invested in this way will be repaid immediately, and in this branch of its business the bank's customers will be caused no inconvenience and the commercial interests of the country be thus protected from loss which otherwise might ensue.

The provision of law governing the time allowed a bank to make good a depleted reserve is most lenient. It provides that the Comptroller *may* notify the bank to make good its reserve, and further that if it fails for thirty days thereafter to do this the Comptroller, with the concurrence of the Secretary of the Treasury, *may* appoint a receiver for the bank. However, before the Comptroller can send notice to any bank he must have reliable information that its reserve is deficient, and as the source of such information is either the report of its examination heretofore made once a year, but hereafter to be made twice, or its sworn report of condition made five times a year, some time may intervene before such condition becomes known to him. Again, when he is officially informed, the use of the word *may* both as to his sending notice and as to his appointing a receiver in a case of noncompliance with such notice, plainly leaves the enforcement of the law to the discretion of the Comptroller in either or both of these particulars. This power thus conferred upon the Comptroller is one that ought to be used with great prudence and caution. It would be not only unwise but would work great injury to the business interests of individual communities and the general public to exercise the authority thus vested in him at a time when arbitrary action must necessarily result in general disaster, and therefore in the interest of the public the discretion given to the Comptroller has always been used with moderation. It is this moderation which in an emergency has in numerous instances contributed in no small degree to averting widespread financial ruin. In this view there can be no question as to the legality and propriety of a bank's exhausting its entire reserve, if necessary, in an emergency, to pay its depositors, but for no other purpose, except to discount or buy sight bills of exchange, and where the withdrawal of deposits continues or is likely to continue no careful bank manager needs to be informed that not only must he cease to make new loans and discounts, but must replenish his exhausted stock

of lawful money by converting his resources into cash through collections of loans and discounts or selling securities, or where this is not possible by using these assets to borrow the money needed to enable him to meet his liabilities.

* * * * *

CURRENCY LEGISLATION.

The Comptroller has been urged to make some specific recommendation with respect to a revision of the law so far as it pertains to the issuing of currency. After a careful consideration of the question the Comptroller is of the opinion that, aside from the amendments heretofore suggested, allowing banks to issue circulating notes to an amount equal to the par value of the bonds held to secure circulation, and abolishing a portion of the tax on national-bank circulation, the public good will be best subserved at this time by making no radical change in the provisions of the law.

The financial situation of the past months was not the result of either a lack in the volume of currency, of which there is now a plethora, or a want of elasticity in the present system of issuing it, but arose from a loss of confidence on the part of the people in the solvency of the distinctively monetary institutions of the country. It is worthy of note and of serious consideration that at the very time the scarcity of currency for business purposes was at its height, the country's volume of currency was increasing the most rapidly, and the amount per capita was much larger than in any recent years. Under the same peculiar condition of affairs which marked the monetary situation from May to September, no system, no matter how elastic, or volume of currency however large, could afford relief. As long as confidence is destroyed and credit wanting, money hoarding will go on and additional issues but add to the hoardings and give but little, if any, actual relief. On the other hand, when confidence and credit abound there exists little need for an abundant circulating medium, because under such a condition of affairs the amount of actual money required to transact the daily business affairs of life is reduced to a minimum.

The statistics show that the volume of business carried on through cash transactions is on an average but 8.7 per cent, and as the monetary conditions of the country become more fixed and confidence in them established, cash transactions will decrease and credit transactions correspondingly increase. This fact is to be considered in connection with all plans having as their sole object an increase of the volume of banknote or other paper currency, and coupled with this is the further fact that no issue is so dangerous to a people's prosperity as a large paper issue, unless such paper rests upon a proper foundation, is absolutely redeemable and convertible into coin upon the demand of the noteholder, and surrounded with every safeguard as to supervision of issue and redemption.

In view of the fact that there is now a very great abundance of unemployed currency in the country, as shown by the daily money returns from the commercial centers, it would seem that whatever need appeared some months since for enlarging to any marked extent the circulating medium has now ceased to exist; and therefore Congress is afforded an opportunity of giving to the whole subject that

careful research and investigation which its importance in all of its bearings demands. It will not do to place upon the statute books any experimental legislation upon this subject, but whenever a new law governing bank issues is enacted it must be one that immediately upon going into operation shall command in every respect the confidence of the whole people and insure to them a currency as safe in every respect as the present one, but with none of its defects.

In the meantime it is respectfully suggested that Congress, either through a monetary commission created for such purpose or through the appropriate committees, obtain detailed information of the various systems of banks of issue now in operation, and also such information as is to be ascertained from skilled students of finance and practical financiers, that it may be able to formulate a system complete and harmonious.

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Annual Report, Comptroller of Currency (William B. Ridgely)

[Sixtieth Congress, 1st Session, December 2, 1907, Pages 69-79]

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THE CRISIS OF 1907

Certainly since as long ago as the date of the San Francisco catastrophe there has been no lack of warning indications of financial troubles and possible business disaster. For at least ten or twelve years there has been an era of advancing prices and great industrial, commercial, and speculative activity in all the countries of the world. Credits have increased and multiplied until the limit has been reached in the amount of reserve money on which they must be based.

For at least two or three years, however, it has been becoming more and more evident that there must soon be a slackening of pace if we were to avoid a general and universal crisis in financial and commercial affairs. These conditions have been world-wide and not by any means confined to the United States. Crises of more or less severity have arisen in several important countries. As is always the case when there is a demand for liquidation, it first manifested itself in the stock market. For months there has been a more or less steady decline in stock-market quotations. Not only stocks, but the very best bonds, have dropped lower and lower in price. The difficulty in selling bonds has become so great that for several years many of the railways have had to raise money for their necessary expenditures and improvements with so-called short time notes, instead of regular bond issues, the rates of interest on such issues rising higher and higher and each issue being harder to place. Merchants and manufacturers of the highest standing and credit have found it more and more difficult to secure or renew loans and the rates have risen steadily for months past.

With such conditions existing we approached the autumn crop-moving period, when there is always more or less disturbance of credits on account of currency shipments and withdrawals of balances from the reserve cities. For a time it seemed as if there were good reason to hope that there might be no more than a gradual liquidation

which might be conducted in detail, one interest or line at a time, beginning with the stock market, and that while there might be a general decline in the volume of trade and the gradual liquidation of credits, it would not develop into a bank or commercial crisis. But during the month of October the collapse of a highly speculative corner in stocks, dealt in on the "curb" in New York—not even listed on any regular exchange—brought suspicion upon an old, well-established national bank in the city of New York. Although examinations by the national-bank examiners and the New York clearing house committee showed this bank to be entirely solvent, with its large capital and a considerable surplus still beyond question intact, public interest had been aroused to such an extent that runs developed in New York City on a number of other banks and trust companies and some national banks between which and the bank first under attack there was known to be community of ownership and management. The national banks of New York City were all found to be solvent by the clearing house committee, and being supported by the clearing house banks none failed.

But, unfortunately, a few other banks and trust companies were not in such good condition, and many of them, not being members of the clearing house or any similar association, they were not so well prepared for cooperation and support of each other. The Knickerbocker Trust Company, with \$1,200,000 of capital and \$48,387,000 of deposits, closed its doors on October 22, and this was followed by a large number of failures among smaller banks and trust companies. During the months of October and November ten State banks and trust companies, two of which have since resumed, closed their doors in New York City and vicinity. There were long and serious runs on two large trust companies, which were only kept from failure by the support of the other trust companies and the clearing-house banks. One national bank, the First National Bank of Brooklyn, which was clearing-house agent for two large trust companies in Brooklyn which had failed, was compelled to close its doors on October 25 in order to avoid the responsibility for the clearings of these trust companies, and is now in the hands of a receiver.

On October 26 the New York clearing-house banks decided to issue clearing-house certificates for use in the payment of balances, and to limit, if not suspend, the shipment of currency to out-of-town banks. In this the New York banks were followed by those of the other central reserve and most of the reserve cities. The result was to at once precipitate a most serious bank crisis and a famine of currency for pay rolls and other necessary cash transactions. All domestic exchanges were at once thrown into disorder and the means of remittance and collection were almost entirely suspended. Money has been withdrawn and hoarded by individuals, corporations, and even more, perhaps, by the banks themselves, all of whom at once drew and held all the money of any kind they could obtain, often really in larger sums than needed.

It has been one of the peculiar features of the situation that there has actually been more of a panic among the banks themselves than there has been among the people. The banks have been fearful as to what might develop, and finding their usual reserve deposits only partially available, if available at all, they have been compelled in

self-protection to gather from every source all the money they could possibly reach and to hold on to it by refusing payment wherever it is possible and satisfying their customers with the smallest possible amount of cash. It has been remarkable how patiently and with what forbearance the people in the business community generally have borne with the situation and helped the banks to deal with the emergency. With the exception of the first excitement in New York and some smaller runs in other places, there has really been surprisingly little excitement or uneasiness among the people.

The greatest hardship to business generally has been the derangement of the machinery for making collections and remittances. As can readily be seen, this has interfered with every kind and class of business and led to great curtailment of business operations of every kind. Factories have suspended, workmen have been thrown out of employment, orders have been canceled, the moving of crops has been greatly retarded and interfered with and exports have fallen off at a time of the year when they should be at their highest. Another result has been a reduction of the volume of the foreign credits available just at the time they are most needed to offset the large imports of gold which have been made.

CENTRAL BANK OF ISSUE AND RESERVE

The conditions which led to the panic of October and November, 1907, were not due to the failure of a few individual banks. They were not due to the lack of confidence of the people in the banks, but more to a lack of confidence of the banks in themselves and their reserves. Banks have been fearful that the reserve system would break down, and in consequence it has broken down, and the reserve deposits have been only partially available. They were also fearful that not sufficient currency could be supplied to meet the demand, and as they all made the demand at once, there has not been sufficient currency. The result has been a currency famine.

The remedy for this state of affairs is to improve the reserve system so that the reserve deposits of the banks can be kept in a bank where they are surely and certainly available. We must impart to our currency system some element of elasticity, so that when there comes a sudden demand for currency it can be supplied in bank notes, without depleting the supply of reserve money.

These two most desirable changes can be best accomplished—in fact, they can only be satisfactorily accomplished—through the establishment by the Government of a central bank of issue and reserve. This is the system which has been adopted and found to work most satisfactorily in the great commercial countries of Europe and is the one that gives the surest promise of satisfactory operation in this country.

Such a bank would not only solve the two great problems of our banking system, but it would also provide the machinery for conducting the Treasury operations in their relations to the banks with the least disturbance.

The chief weakness of our present national banking system is the provision in regard to reserve deposits, which piles reserve on reserve, in reserve cities and central reserve cities, without requiring a sufficient amount of actual cash reserve on hand. As we have seen in the

present crisis, when a real emergency arises these reserves are not reserves at all, because they may in a day become unavailable.

It will be an improvement to add to the proportion of reserve to be held in cash by the country banks and the reserve city banks, but the proper solution of the difficulty is to increase the amount to be held in cash by all the banks and require all the reserve deposits to be kept with a central bank organized for that purpose. The increase in cash reserves from 6 or 10 or even 15 per cent in the country banks would not help a bank very much when it had any large demand for its deposits. What such a bank needs is a safe reserve in cash and a further reserve with a bank where it is surely available, at any time, in currency. This would be the case with reserve deposits in a central bank. Further than this, the depositing bank could be sure that at any time, as long as it was solvent, it could go to the central bank and get any amount of cash needed on the notes of its customers, or other good security. With such a bank to depend on, no solvent bank need ever have any fear of its ability to meet all demands.

The present banking law prescribes a minimum reserve on deposits in central reserve cities—New York, Chicago, and St. Louis—of 25 per cent, all of which must be in the vaults of the bank, in lawful money. The reserve cities are required to keep 25 per cent reserve, one-half of which may be on deposit in the central reserve cities. Banks in all other cities are required to keep 15 per cent of reserve, of which three-fifths may be on deposit with reserve or central reserve cities, all three classes of banks being given credit for their 5 per cent redemption fund as reserve. Whenever there is a disturbance among the banks and any impairment of confidence, this system is always a source of weakness instead of strength. This is what may make a panic among the banks before there is even any decided uneasiness among their depositors. The banks realize upon what a small margin they depend, and each one, in self-defense, is compelled not only to collect its loans, but withdraw its deposit reserves.

Under this reserve system, deposits of \$10,000,000 in country, or nonreserve city banks, would call for a cash reserve to be kept in their vaults of but \$600,000. They could carry and count as reserve \$900,000, on deposit with reserve city banks. These reserve city banks would be required to have in their vaults cash to the amount of only \$112,500, and might deposit \$112,500 in central reserve cities, who, in turn, would have to have on hand 25 per cent, or but \$28,125 in cash.

To recapitulate this in the form of a table:

CASH RESERVE ON DEPOSITS OF \$10,000,000.

	Amount of deposits.	Cash reserve in vaults.	Deposited with reserve agents.	Possible loans.
Country banks.....				\$8,500,000
Reserve city banks (amount above deposited by country banks).....	\$10,000,000	\$600,000	\$900,000	675,000
Central reserve city banks (amount as above deposited by reserve city banks).....	900,000	112,500	112,500	84,375
Total.....	112,500	28,125	-----	-----
	11,012,500	740,625	1,012,500	9,259,375
Percent of total deposits.....		6 $\frac{3}{4}$	9 $\frac{3}{8}$	84
Percent of original deposit.....		7 $\frac{3}{8}$	10 $\frac{1}{8}$	92 $\frac{1}{2}$

Amount of cash outside original country banks, \$140,625, or 1.4 per cent.

It will thus be seen that the country bank keeps but 6 per cent on hand in cash, and of the country bank's reserve deposits the city banks keep but 1.4 per cent on hand in cash. There is therefore but 7.4 per cent of cash, or \$740,625, kept unloaned anywhere against this deposit of \$10,000,000 in the country banks. Of this but \$140,625 is outside the country bank's own vaults. If, therefore, there is a reduction in the deposits of the country banks of \$150,000 out of \$10,000,000, or only $1\frac{1}{2}$ per cent, it calls for more cash or reserve money than has been kept on hand for the whole \$10,000,000 in the reserve banks.

Is it any wonder, then, that the demand in the fall for about \$200,000,000 in currency for crop moving always makes a disturbance and that when this demand was accompanied by withdrawal of deposits and a curtailment of credits, caused by uneasiness and distrust, that the banks were forced in self-defense to partially suspend payments, adopt clearing house certificates, and various other expedients to furnish currency to meet such an emergency? The surprising thing is not that there has been such a disturbance of credit and business, but that the situation has been met as well as it has. It speaks volumes for the credit of the banks that they have done as well as they have, and shows the confidence of the people in their ultimate solvency and strength. It is the greatest possible evidence of the wisdom, patience, forbearance, and sound, conservative sense of our business men.

It does not, however, speak well for our political wisdom that this condition has been allowed to stand unchanged without any attempt to improve our laws. This situation is nothing new, but has been known to all students of our banking and currency system and written and talked about for many years. It has produced disturbance and stringency every autumn for forty years, and panic after panic.

It is directly and immediately due to this that the crisis of October, 1907, assumed the phase of a bank panic and spread all over the country, instead of being confined to the comparatively few people and concerns who were first involved, and it undoubtedly added to and spread the business reaction in all directions.

The people of all the world have been overtrading for years, especially in the United States, and the reaction was inevitable and doubtless desirable, but it might and should have been more gradual and should not have had its greatest effect on our banks. Many firms might have failed and probably some banks which were badly extended or loaded up with speculative loans and securities. We should have had a gradual, though considerable, reduction in the volume of all kinds of business and a wholesome period of economy and more normal living and trading. This would have been, in the end, beneficial, and with the wonderful recuperative resources and wealth of the United States any business properly managed and based on right conditions would soon have improved and have been as prosperous as ever. There is no reason at all that our banks, as a whole, should have become involved as they have and not only their business, but that of all their customers, have been so disturbed as it is to-day. All that is needed to have prevented this is a proper system of credit bank-note currency and bank reserves, both of which could have been supplied by the central bank of issue and reserve.

If the banks had known that there were facilities for exchanging any reasonable amount of deposit credits to note credits without de-

pleting cash reserves, and, further, that the reserves that they had were on deposit where they would be immediately and surely available in currency, there need have been no alarm among them. There would have been no scarcity of currency; no derangement of the domestic exchange; and there would have been no panic among the banks nor among the people.

The only way in which bank deposit credits can be properly protected from sudden and unexpected calls, when all may be involved at the same time, is by a system of note credits which can be at any time immediately exchanged for the deposit credits. They are essentially the same thing, and should be, daily and hourly if necessary, convertible from one to the other, at the option of the creditor who is the depositor or note holder. The bank of issue should be required, and must in self-defense, keep the same reserves against notes as against deposits. If this is done, there is no expansion or inflation when a note is paid out to a depositor, and no contraction when a note is returned to the bank for deposit. With a given amount of reserve money, a given total of deposits and notes can be maintained, and it makes no difference to the bank or anyone else but the customer, who uses either, at his own option, whether the deposit remains in the bank as a credit to be checked against or is taken away in the shape of a circulating note. The only thing is to make the note, from the circumstances and conditions of its issue, perfectly secure to the holder, which can be done with absolute safety in a credit note.

Our bond-secured bank notes offer no help to a bank in any sudden call for deposits. From their very nature they are fixed currency, issued on the secured-currency principle, as distinguished from the credit or banking principle. When issued they stay out indefinitely, without redemption, merely being renewed on the average once in two years because they are worn out. They can not be issued or retired quickly, and the purchase of bonds for their security requires as much money as they furnish when issued. It is only when the bonds for security can be borrowed or there is some government deposit obtained that they are of any value in meeting an emergency calling for deposits. Nor will it help the situation any to increase the volume of bonds obtainable as security for notes or to accept as security for them other than United States Government bonds. That would only add to the volume of the rigid, inelastic notes, such as we now have, and they would be no more responsive to the demands of business. There would be some power of expansion until they were all issued; then they would stay out with no more tendency to contract when not needed than we have at present. They would tend to inflation, but having no tendency to contract there would be no expansion possible to offer relief in any emergency calling for current cash or the payment of deposits. What is needed in such a case is note circulation which can change quickly and automatically in response to the demand, and contractibility is quite as necessary as expansibility.

The issue of the so-called emergency credit notes, with a high tax to retire them when not needed, would be somewhat better than more bond-secured notes, but the high tax would prevent their use except when the situation had become acute and the emergency very grave. Their issue would at once be a confession of weakness and a danger signal that no bank would dare make until in desperate condition. They undoubtedly would be useful in emergencies, and would be a great aid in restoring confidence and quieting a panic after it might be

well under way, but they would not be an efficient means of preventing panics, except so far as there might be some moral effect from the knowledge that they would be available in case conditions became bad enough to justify their use.

The present bank-note circulation can be best improved and made elastic by permitting the banks to issue a fixed percentage of their note-secured circulation or capital in notes uncovered by bond deposits. If, against these notes, banks are required to carry the same reserve as against deposits, it will preserve the similarity which is necessary between note credits and deposit credits. These notes can be made perfectly safe by a guaranty fund of not over 5 per cent, which would be many times the amount of money required to redeem the notes of failed banks, based on the experiences of forty-four years. There should be a graduated rate of taxation on these notes, beginning with not over 2½ per cent, and reaching finally to 6 or 7. The addition of such notes to our system would do much to improve it, but still it is not believed that it would be as efficient or as satisfactory in any way as to have all the credit notes issued by a central bank of issue.

The use of clearing-house certificates by the banks has been found a very efficient means for their defense, and has, on many occasions, probably prevented a great number of bank failures during panics, and there is some merit in the suggestion that the clearing house should be recognized by law and authorized, under certain conditions, to issue clearing-house certificates for use as emergency circulation. The adoption of this idea might make a great improvement in our banking system, but this is only a half-way measure. The full development of the national clearing-house idea in the adoption of this principle should carry us further and to the inevitable and logical conclusion and lesson to be drawn from it, which is that we should have a national central bank of issue and reserve.

Instead of stopping at the issue of clearing-house certificates, which are really credit notes on a large scale, it would be far better to have these notes issued by a central bank under Government authority and under proper laws and regulations. This could be done far more systematically and efficiently; it would have none of the disadvantages of the other system, and would have all its advantages, and more besides.

It is useless to try to evade this question or dodge the issue. The need is far more for something that will prevent emergencies and panics than for devices to be used in stopping one after it has occurred. The only way to make our system what it should be is through the agency of a national governmental bank. The experience of all other countries has demonstrated this. Every important commercial country in Europe has adopted this general plan. If we had had such a bank in operation in 1907, no such bank panic as we have had would have been possible. Unless we do something of this kind we shall always be in danger of a recurrence of the same thing, and we shall have panic after panic until we learn the plain lesson from experience and adopt the only efficient, scientific, and proper means to protect our people in business from such disasters. This is a matter that is of even greater interest and importance to business men, and the people generally, than it is to the banks themselves.

When a panic occurs the banks are able, as they have been in the last few weeks, to stand together, and through their clearing-house

associations and other means, cooperate for their own protection. They issue clearing-house certificates and other temporary currency, and by partial or more or less complete suspension of payments tide things over and avoid failure. They call for and very properly receive all the aid that can be given them by the Treasury Department, and the National Government, and the net result is that while a few banks that are badly expanded or improperly managed fail, the great majority of them are able to take care of themselves.

While such a condition prevails among the banks, the other business of the country is almost in a state of chaos. All the machinery of domestic exchange suddenly stops. Collections are almost impossible to make, and it is almost equally difficult to make remittances. When a business man has obligations coming due, not only his bank account is unavailable, but the people who are indebted to him, and who may want to pay, are entirely unable to send him remittances, in any shape, which he can make available. Manufacturers are forced to suspend; workmen are thrown out of employment; business men are forced to fail, through no fault of their own, but simply for the reason that suddenly, and without warning to them, all the banking machinery and facilities of the country break down and cease to perform their proper functions. There is no citizen of the United States who is free from the dangers, losses, and embarrassments produced by such a situation, and probably the worst feature about it all is that after such a panic there is always a long period of depression, bringing suffering and privation to those who are the least to blame.

There can be no higher duty of government than the passing of the necessary laws and the adoption of a system to prevent occurrences which produce such widespread financial injury and disaster. The thing absolutely essential for banking is a system of thoroughly safe bank notes, which will be responsive to the demands of business and as readily contract as expand; and, in addition to this, a system of bank reserves, which will be real reserves when needed and always immediately available.

There have been many plans suggested by which some elasticity may be introduced into our national bank-note currency. All of them have more or less merit, and all of them have some serious objection. The best way, and in fact the only thoroughly efficient and good way, to issue these notes is through a central Government bank. That is the way it is done in France, where they have had, for more than a century, a central bank which is the admiration of the world. It is the method adopted after several experiments in Germany, and it has worked with great satisfaction and benefit to all the German people. Business is very much the same all over the world, and our problem is so similar to theirs that we should take profit from their experience and learn from them how to perfect our system.

The installation of a proper central bank would not only be a great benefit to all the business of the country and a great protection to our people, but it would solve the problem of the relations of our Treasury Department to the business of the country. It would give us not only a reliable and efficient system in handling our Government finances, but add stability and safety to our banking system. It would shield and protect the citizen in all the relations which are so vital to him for the conduct of his business or the support of his

family. From the very necessity of the case our Treasury Department must have vast transactions in the collection and disbursements of its revenues, which vitally affect the business of the country every day of the year. In its relations with the banks and financial institutions, not only through the funded debt and deposits made with them, but in the collection of revenues and disbursements, the operations of the Treasury are so vast and their ramifications so infinite that it is of vital importance that they be conducted by the most systematic and efficient means which can be devised.

For several years past the revenues of the Government have been largely in excess of expenditures, and there has been a constant problem presented to each successive Secretary of the Treasury as to the best means of replacing in circulation the money which the Government is forced to collect. The method of replacing it by deposit with the banks is probably the only one available and, although it has been handled with unusual skill and ability, is most unsatisfactory, unsystematic, and inefficient. It always is a matter which provokes criticism and complaint. It could be handled with far better results if the Government had under its control a central bank to which all revenues could be paid and through which all disbursements could be made. It would be better for the Government and would result in far better service to the people.

Many plans have been suggested for the organization and control of a central Government bank. An essential feature of it should be that it must be under Government control, so that it could be never be monopolized or used by any man or set of men. It should be kept out of politics. The men chosen for its managers and directors should be men of the highest character and ability, whose duties and interest would be for the undivided advantage and interest of the bank. It would not be difficult to accomplish this end by having the control divided between certain directors elected by the shareholders and a certain number chosen by the Government.

The bank should not be allowed to do a general or commercial business, but should be confined to the transactions of the Government business, the issue of credit notes, receiving reserve deposits from other banks, the discount of their paper on approved security, or rediscounting notes of their customers for other banks. It should also have the right to deal in United States Government bonds, and probably the bonds of States and municipalities, but not in stocks. It should have such authority for dealing in foreign exchange as will enable it to accumulate gold credits abroad and import gold and bullion when needed for its reserves. The main office of the central bank should be in the city of Washington, and such branches established in the reserve cities and sub-treasury cities as are found necessary. Its note issues should be credit notes, the same as in Germany and France, and they should have the same protection in the way of a very large gold reserve, the balance to be covered by bonds of the Government or other approved issues or by the notes discounted by it for other banks. The central bank, if given the exclusive right to issue credit bank notes, as it should have, could regulate the issue of notes in accordance with the demand, which could be determined automatically and with precision, through its relations with the other banks of the country. This should not make any change in the present bond-secured notes of the national banks, and would therefore not disturb the present volume of the currency or make any change in the demand

for United States Government bonds as a basis for circulation. Such a bank as is described, if established, would be a very great aid in the establishment of the postal savings bank system and make that a real practical question. One of the hardest problems in connection with the postal savings bank is to determine how the deposits should be handled and invested, or how deposited with the banks, in order to prevent the postal savings bank only adding to the amount of money the Government now takes out of circulation. The postal savings bank funds could be deposited with the central bank of issue and reserve, and thus be made available for the business of the banks, which would lead to their distribution wherever needed.

Undoubtedly the most practicable plan which has been suggested would be to have the stock of the central bank subscribed by the other banks in a fixed proportion to their capital. In addition to this, there might also be some shares sold by public subscription, with a limit as to the amount or number of shares which could be held by any individual. If it should be deemed advisable, there could be no objection to the Government owning a certain proportion of the shares, which might be paid in in cash or in Government bonds, but as there would be no trouble in getting all the capital needed this would seem to be unnecessary. The better plan would be to have the stock subscribed by the banks of the country in a fixed percentage of their capital; have the stock nontransferable, and require its surrender at its par value when any bank failed or went out of business. The national banks should be compelled to subscribe for this stock in proportion to their capital on entering the system. The capital would thus expand as the number of banks increased and there would be more business for it to do. The directors of the bank should be chosen, two-thirds by the shareholders and one-third by the United States Government. Some of the Government directors, if necessary, could be given the right to veto certain transactions, and the interests of the Government, and of the people generally, could be protected in this way. The profits of the bank should be limited, and the bank be conducted for the general welfare, not with a view of making profits. After providing for the accumulation of a moderate surplus there should be a return to the shareholders of, say, 3 or 4 per cent, and the remainder of the profits should be divided as in Germany—a small proportion to the shareholders and the balance to the United States Government.

A national central bank organized in this way, with its profits limited and its ownership widely distributed, mainly among the banks who were to be its customers, which would not be permitted to do a commercial business, but be limited to transaction of business with the Government and with other banks, would not be open to the objection urged against the former United States banks, that they were really private institutions engaged in a general banking business.

Such a bank would be little more than a department of the Government. It would greatly improve the efficiency and value of the Treasury Department, and make it a means of assistance and benefit to business, instead of a menace and a danger, and would make our currency and banking system a source of impregnable strength in times of financial stress. By the wise use of its great powers and facilities it would be able to absolutely prevent the recurrence in the United States of a widespread bank panic. It would add to the stability of our business in every line and give us a banking and a financial system equal to any in the world.

The central bank of issue and reserve is urged mainly in the interest of people engaged in general business outside of the banks as a protection to them. The banks would have no interest in it except as it aided the general welfare. In fact it would rather tend to reduce the profits of the banks, and would interfere with the business of some banks holding large reserve deposits. The advantage to the banks would be in the protection afforded them in the reliability and mobility of their reserves and the steadiness and safety it would insure to business transactions of all kinds. If a satisfactory plan for the mutual guarantee of deposits by the banks can be worked out, it could be done through the means of the central bank better than through the Treasury Department. Some of the objections to the guarantee of deposits by the General Government would not hold in the case of its being done by a central bank which might be given power to do that in its charter.

If the experience of the country in the bank panics from 1857 to 1893 needed any further confirmation, the panic of 1907 has demonstrated beyond the possibility of denial that perfectly solvent banks—if independent, isolated units with no power of cooperation except through such voluntary association as their clearing houses—can not protect themselves in a panic and save themselves from failure without such a suspension of payments as to produce disorder and demoralization in all the business of their customers.

Well managed, sound, and solvent banks have been dishonored by having to refuse payment, and all our commercial, industrial, and financial affairs have been thrown into confusion because the Government fails to provide the necessary financial machinery to protect them in times of excitement and peril. No single bank or group of banks can do this for themselves. They must depend on the Government of the United States. For this reason this question is submitted for your consideration.

The solution of such a vast problem as this presents is not to be hoped for in any short time. Opinions are still too diverse to bring about quickly any such agreement as is necessary to accomplish a definite and final result.

In the meantime, we have a real emergency to face. Confidence is only in a measure restored and, while there is real progress being made, it is from necessity very slow. The banks are resuming as fast as they dare, and this is increasing daily, but it could be done more quickly and with much greater benefit to business if some aid could be given by legislation.

If a bill should be passed by Congress providing for some emergency issue of currency, through the clearing-house associations or other machinery now organized and existing, so that the action might promise to be very prompt and effective, it would doubtless be very helpful.

If the action taken should meet with such approval and indorsement as to convince bankers and business men that it would meet the emergency, it might operate as the suspension of the bank act has done in England on several occasions and give the relief needed before the provisions of the act ever were really in operation.

Any measure of this kind, however, to be of any assistance in this emergency must be adopted very promptly.

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Annual Report, Secretary of Treasury (George B. Cortelyou)

[Sixtieth Congress, 1st Session, December 2, 1907, Pages 54-55]

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CURRENCY LEGISLATION NEEDED.

The Secretary of the Treasury is given wide discretion in many matters wherein he is rarely called upon to exercise it, and little, if any, in others where it is needed, daily, particularly as to certain of those having to do with the vitally important subject of our currency. In times of emergency his hands are virtually tied. If in such periods of stress, in an effort to avert calamity and serve the interests of all the people, he is obliged to resort to unusual measures, criticism is unfortunately in many instances directed not to the inadequacy of the system, but solely to the effort to give relief, even though it be successful in accomplishing that purpose. It should not be forgotten that he has to deal with the practical rather than the theoretical side of the currency question. The failure of the adherents of the various suggested plans of currency reform to cooperate or to agree upon a practical measure would hardly appear to be a sufficient reason for holding him responsible for their indecision and inaction. The laws under which he administers his office should be made to meet the daily needs of the people, and his duties, sufficiently onerous as they are, should not be made more burdensome by restrictions which leave him with the responsibility, but with no adequate means at his disposal to meet it.

What has happened not only this year, but many times before, should serve as an admonition to enact wise laws for the prevention in the future of disasters due in part at least to the imperfect organization of our monetary system. Admittedly it has been of great service to our people, but with changing conditions there has become more apparent each year the need for improvement of a substantial and permanent character. If no action is thought advisable at this time fully to meet this need, I deem it important that something be done as speedily as may be consistent with thorough consideration to provide under Government guaranty a greater elasticity to the currency—something which shall be automatic in its operation and which shall tend to equalize rates of interest not only in different sections of the country, but at different periods of the year. Provision should be made either for such elasticity without the necessity of intervention on the part of the Secretary of the Treasury or he should be granted the authority to supply it by properly safeguarded measures. I believe that simplicity of plan and promptness of action are what the people need and will demand. What particular form this proposed legislation should take must be left to the action of the Congress. I have no pride of opinion as to the method, but I have the deepest concern that the result shall be adequately beneficial.

The only specific recommendation I would make at present is that it be given prompt attention, and that it be not laid aside until some definite means of relief shall have been enacted into law.

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Act of May 30, 1908 (the Aldrich-Vreeland Act)

[35 Statutes at Large 546, Public Law 169, Sixtieth Congress, Chapter 229, 1st Session, Approved May 30, 1908, by Theodore Roosevelt]

AN ACT TO AMEND THE NATIONAL BANKING LAWS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That national banking associations, each having an unimpaired capital and a surplus of not less than twenty per centum, not less than ten in number, having an aggregate capital and surplus of at least five millions of dollars, may form voluntary associations to be designated as national currency associations. The banks uniting to form such association shall, by their presidents or vice-presidents, acting under authority from the board of directors, make and file with the Secretary of the Treasury a certificate setting forth the names of the banks composing the association, the principal place of business of the association, and the name of the association, which name shall be subject to the approval of the Secretary of the Treasury. Upon the filing of such certificate the associated banks therein named shall become a body corporate, and by the name so designated and approved may sue and be sued and exercise the powers of a body corporate for the purposes hereinafter mentioned: *Provided*, That not more than one such national currency association shall be formed in any city: *Provided further*, That the several members of such national currency association shall be taken, as nearly as conveniently may be, from a territory composed of a State or part of a State, or contiguous parts of one or more States: *And provided further*, That any national bank in such city or territory, having the qualifications herein prescribed for membership in such national currency association, shall, upon its application to and upon the approval of the Secretary of the Treasury, be admitted to membership in a national currency association for that city or territory, and upon such admission shall be deemed and held a part of the body corporate, and as such entitled to all the rights and privileges and subject to all the liabilities of an original member: *And provided further*, That each national currency association shall be composed exclusively of banks not members of any other national currency association.

The dissolution, voluntary or otherwise, of any bank in such association shall not affect the corporate existence of the association unless there shall then remain less than the minimum number of ten banks: *Provided, however*, That the reduction of the number of said banks below the minimum of ten shall not affect the existence of the corpo-

National bank circulation.
National currency associations.
Formation by national banks.

Applications.

Corporate powers.

Provisos.
Limit.
Members to be of contiguous territory.

Subsequent admissions.

Banks restricted to one association.

Existence not affected by dissolution of a member.

Proviso.
Reduction below minimum.

Management. ration with respect to the assertion of all rights in favor of or against such association. The affairs of the association shall be managed by a board consisting of one representative from each bank. By-laws for the government of the association shall be made by the board, subject to the approval of the Secretary of the Treasury.

Officers. A president, vice-president, secretary, treasurer, and an executive committee of not less than five members, shall be elected by the board. The powers of such board, except in the election of officers and making of by-laws, may be exercised through its executive committee.

Executive committee.

Powers. The national currency association herein provided for shall have and exercise any and all powers necessary to carry out the purposes of this section, namely, to render available, under the direction and control of the Secretary of the Treasury, as a basis for additional circulation any securities, including commercial paper, held by a national banking association. For the purpose of obtaining such additional circulation, any bank belonging to any national currency association, having circulating notes outstanding secured by the deposit of bonds of the United States to an amount not less than forty per centum of its capital stock, and which has its capital unimpaired and a surplus of not less than twenty per centum, may deposit with and transfer to the association, in trust for the United States, for the purpose hereinafter provided, such of the securities above mentioned as may be satisfactory to the board of the association. The officers of the association may thereupon, in behalf of such bank, make application to the Comptroller of the Currency for an issue of additional circulating notes to an amount not exceeding seventy-five per centum of the cash value of the securities or commercial paper so deposited. The Comptroller of the Currency shall immediately transmit such application to the Secretary of the Treasury with such recommendation as he thinks proper, and if, in the judgment of the Secretary of the Treasury, business conditions in the locality demand additional circulation, and if he be satisfied with the character and value of the securities proposed and that a lien in favor of the United States on the securities so deposited and on the assets of the banks composing the association will be amply sufficient for the protection of the United States, he may direct an issue of additional circulating notes to the association, on behalf of such bank, to an amount in his discretion, not, however, exceeding seventy-five per centum of the cash value of the securities so deposited: *Provided*, That upon the deposit of any of the State, city, town, county, or other municipal bonds, of a character described in section three of this Act, circulating notes may be issued to the extent of not exceeding ninety per centum of the market value of such bonds so deposited: *And provided further*, That no national banking association shall be authorized in any event to

Additional bank circulation.

Securities for, to be deposited with association.

Application to Comptroller of the Currency.

Secretary of the Treasury may direct issue.

Provisos. Amount on State, etc., bonds.

Limit as to commercial paper.

issue circulating notes based on commercial paper in excess of thirty per centum of its unimpaired capital and surplus. The term "commercial paper" shall be held to include only notes representing actual commercial transactions, which when accepted by the association shall bear the names of at least two responsible parties and have not exceeding four months to run.

The banks and the assets of all banks belonging to the association shall be jointly and severally liable to the United States for the redemption of such additional circulation; and to secure such liability the lien created by section fifty-two hundred and thirty of the Revised Statutes shall extend to and cover the assets of all banks belonging to the association, and to the securities deposited by the banks with the association pursuant to the provisions of this Act; but as between the several banks composing such association each bank shall be liable only in the proportion that its capital and surplus bears to the aggregate capital and surplus of all such banks. The association may, at any time, require of any of its constituent banks a deposit of additional securities or commercial paper, or an exchange of the securities already on deposit, to secure such additional circulation; and in case of the failure of such bank to make such deposit or exchange the association may, after ten days' notice to the bank, sell the securities and paper already in its hands at public sale, and deposit the proceeds with the Treasurer of the United States as a fund for the redemption of such additional circulation. If such fund be insufficient for that purpose the association may recover from the bank the amount of the deficiency by suit in the circuit court of the United States, and shall have the benefit of the lien hereinbefore provided for in favor of the United States upon the assets of such bank. The association or the Secretary of the Treasury may permit or require the withdrawal of any such securities or commercial paper and the substitution of other securities or commercial paper of equal value therefor.

SEC. 2. That whenever any bank belonging to a national currency association shall fail to preserve or make good its redemption fund in the Treasury of the United States, required by section three of the Act of June twentieth, eighteen hundred and seventy-four, chapter three hundred and forty-three, and the provisions of this Act, the Treasurer of the United States shall notify such national currency association to make good such redemption fund, and upon the failure of such national currency association to make good such fund, the Treasurer of the United States may, in his discretion, apply so much of the redemption fund belonging to the other banks composing such national currency association as may be

"Commercial paper" designated.

Liability of association for redemption.

Lien created.

Liability between members.

Additional, or exchange of securities.

Sale of securities held, on failure.

Deposit of proceeds.

Suit if sum insufficient to redeem notes.

Withdrawal and substitution permitted.

Action if members fail to maintain redemption fund.

Use of fund of other members.

Association to sell securities of defaulting bank.

Deposits of proceeds for redemption of notes.

Additional circulation by banks, on other than United States bonds.

Application to Comptroller.

Approval by Secretary of the Treasury.

Issue on deposit of bonds with Treasurer.

Not to exceed 90 per cent of market value.

Bonds of States, cities, etc., acceptable.

Conditions as to city, etc., bonds.

Discretion of Treasurer.

necessary for that purpose; and such national currency association may, after five days' notice to such bank, proceed to sell at public sale the securities deposited by such bank with the association pursuant to the provisions of section one of this Act, and deposit the proceeds with the Treasurer of the United States as a fund for the redemption of the additional circulation taken out by such bank under this Act.

SEC. 3. That any national banking association which has circulating notes outstanding, secured by the deposit of United States bonds to an amount of not less than forty per centum of its capital stock, and which has a surplus of not less than twenty per centum, may make application to the Comptroller of the Currency for authority to issue additional circulating notes to be secured by the deposit of bonds other than bonds of the United States. The Comptroller of the Currency shall transmit immediately the application, with his recommendation, to the Secretary of the Treasury, who shall, if in his judgment business conditions in the locality demand additional circulation, approve the same, and shall determine the time of issue and fix the amount, within the limitations herein imposed, of the additional circulating notes to be issued. Whenever after receiving notice of such approval any such association shall deposit with the Treasurer or any assistant treasurer of the United States such of the bonds described in this section as shall be approved in character and amount by the Treasurer of the United States and the Secretary of the Treasury, it shall be entitled to receive, upon the order of the Comptroller of the Currency, circulating notes in blank, registered and countersigned as provided by law, not exceeding in amount ninety per centum of the market value, but not in excess of the par value of any bonds so deposited, such market value to be ascertained and determined under the direction of the Secretary of the Treasury.

The Treasurer of the United States, with the approval of the Secretary of the Treasury, shall accept as security for the additional circulating notes provided for in this section, bonds or other interest-bearing obligations of any State of the United States, or any legally authorized bonds issued by any city, town, county, or other legally constituted municipality or district in the United States which has been in existence for a period of ten years, and which for a period of ten years previous to such deposit has not defaulted in the payment of any part of either principal or interest of any funded debt authorized to be contracted by it, and whose net funded indebtedness does not exceed ten per centum of the valuation of its taxable property, to be ascertained by the last preceding valuation of property for the assessment of taxes. The Treasurer of the United States, with the approval of the Secretary of the Treasury, shall accept, for the purposes

of this section, securities herein enumerated in such proportions as he may from time to time determine, and he may with such approval at any time require the deposit of additional securities, or require any association to change the character of the securities already on deposit.

SEC. 4. That the legal title of all bonds, whether coupon or registered, deposited to secure circulating notes issued in accordance with the terms of section three of this Act shall be transferred to the Treasurer of the United States in trust for the association depositing them, under regulations to be prescribed by the Secretary of the Treasury. A receipt shall be given to the association by the Treasurer or any assistant treasurer of the United States, stating that such bond is held in trust for the association on whose behalf the transfer is made, and as security for the redemption and payment of any circulating notes that have been or may be delivered to such association. No assignment or transfer of any such bond by the Treasurer shall be deemed valid unless countersigned by the Comptroller of the Currency. The provisions of sections fifty-one hundred and sixty-three, fifty-one hundred and sixty-four, fifty-one hundred and sixty-five, fifty-one hundred and sixty-six, and fifty-one hundred and sixty-seven and sections fifty-two hundred and twenty-four to fifty-two hundred and thirty-four, inclusive, of the Revised Statutes respecting United States bonds deposited to secure circulating notes shall, except as herein modified, be applicable to all bonds deposited under the terms of section three of this Act.

SEC. 5. That the additional circulating notes issued under this Act shall be used, held, and treated in the same way as circulating notes of national banking associations heretofore issued and secured by a deposit of United States bonds, and shall be subject to all the provisions of law affecting such notes except as herein expressly modified: *Provided*, That the total amount of circulating notes outstanding of any national banking association, including notes secured by United States bonds as now provided by law, and notes secured otherwise than by deposit of such bonds, shall not at any time exceed the amount of its unimpaired capital and surplus: *And provided further*, That there shall not be outstanding at any time circulating notes issued under the provisions of this Act to an amount of more than five hundred millions of dollars.

SEC. 6. That whenever and so long as any national banking association has outstanding any of the additional circulating notes authorized to be issued by the provisions of this Act it shall keep on deposit in the Treasury of the United States, in addition to the redemption fund required by section three of the Act of June twentieth, eighteen hundred and seventy-four, an additional sum equal to five per centum of such additional circula-

Transfer of title in trust.

Receipts from Treasurer.

Assignments. Custody, etc., of bonds.

Status of additional circulating notes.

Provisos. Limit of issue of notes by banks.

Maximum of additional notes.

Redemption fund. Special requirement for additional circulation.

tion at any time outstanding, such additional five per centum to be treated, held, and used in all respects in the same manner as the original redemption fund provided for by said section three of the Act of June twentieth, eighteen hundred and seventy-four.

Proportional assignment of additional circulation to States.

SEC. 7. In order that the distribution of notes to be issued under the provisions of this act shall be made as equitable as practicable between the various sections of the country, the Secretary of the Treasury shall not approve applications from associations in any State in excess of the amount to which such State would be entitled if the additional notes herein authorized on the basis of the proportion which the unimpaired capital and surplus of the national banking associations in such State bears to the total amount of unimpaired capital and surplus of the national banking associations of the United States: *Provided, however,* That in case the applications from associations in any State shall not be equal to the amount which the associations of such State would be entitled to under this method of distribution, the Secretary of the Treasury may, in his discretion, to meet an emergency, assign the amount not thus applied for to any applying association or associations in States in the same section of the country.

Proviso. Emergency assignments.

Information, etc., as to acceptable securities.

SEC. 8. That it shall be the duty of the Secretary of the Treasury to obtain information with reference to the value and character of the securities authorized to be accepted under the provisions of this act, and he shall from time to time furnish information to national banking associations as to such securities as would be acceptable under the provisions of this act.

Tax on circulation.

SEC. 9. That section fifty-two hundred and fourteen of the Revised Statutes, as amended, be further amended to read as follows:

Secured by two per cent bonds.

“SEC. 5214. National banking associations having on deposit bonds of the United States, bearing interest at the rate of two per centum per annum, including the bonds issued for the construction of the Panama Canal, under the provisions of section eight of ‘An Act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans,’ approved June twenty-eighth, nineteen hundred and two, to secure its circulating notes, shall pay to the Treasurer of the United States, in the months of January and July, a tax of one-fourth of one per centum each half year upon the average amount of such of its notes in circulation as are based upon the deposit of such bonds; and such associations having on deposit bonds of the United States bearing interest at a rate higher than two per centum per annum shall pay a tax of one-half of one per centum each half year upon the average amount of such of its notes in circulation as are based upon the deposit of such bonds.

By bonds of higher interest.

National banking associations having circulating notes secured otherwise than by bonds of the United States shall pay for the first month a tax at the rate of five per centum per annum upon the average amount of such of their notes in circulation as are based upon the deposit of such securities, and afterwards an additional tax of one per centum per annum for each month until a tax of ten per centum per annum is reached, and thereafter such tax of ten per centum per annum, upon the average amount of such notes. Every national banking association having outstanding circulating notes secured by a deposit of other securities than United States bonds shall make monthly returns, under oath of its president or cashier, to the Treasurer of the United States, in such form as the Treasurer may prescribe, of the average monthly amount of its notes so secured in circulation; and it shall be the duty of the Comptroller of the Currency to cause such reports of notes in circulation to be verified by examination of the banks' records. The taxes received on circulating notes secured otherwise than by bonds of the United States shall be paid into the Division of Redemption of the Treasury and credited and added to the reserve fund held for the redemption of United States and other notes."

By other securities.

Monthly returns of circulation on other than United States bonds.

Use of taxes on notes secured by other than United States bonds.

Retiring circulation.

SEC. 10. That section nine of the Act approved July twelfth, eighteen hundred and eighty-two, as amended by the Act approved March fourth, nineteen hundred and seven, be further amended to read as follows:

"SEC. 9. That any national banking association desiring to withdraw its circulating notes, secured by deposit of United States bonds in the manner provided in section four of the Act approved June twentieth, eighteen hundred and seventy-four, is hereby authorized for that purpose to deposit lawful money with the Treasurer of the United States and, with the consent of the Comptroller of the Currency and the approval of the Secretary of the Treasury, to withdraw a proportionate amount of bonds held as security for its circulating notes in the order of such deposits: *Provided*, That not more than nine millions of dollars of lawful money shall be so deposited during any calendar month for this purpose.

Withdrawal of notes secured by United States bonds.

Deposits of lawful money.

Proviso. Monthly limit.

"Any national banking association desiring to withdraw any of its circulating notes, secured by the deposit of securities other than bonds of the United States, may make such withdrawal at any time in like manner and effect by the deposit of lawful money or national bank notes with the Treasurer of the United States, and upon such deposit a proportionate share of the securities so deposited may be withdrawn: *Provided*, That the deposits under this section to retire notes secured by the deposit of securities other than bonds of the United States shall not be covered into the Treasury, as required by section six of an Act entitled 'An Act directing the purchase

Notes secured by other securities.

Deposits.

Proviso. Retention of deposits to redeem notes.

of silver bullion and the issue of Treasury notes thereon, and for other purposes,' approved July fourteenth, eighteen hundred and ninety, but shall be retained in the Treasury for the purpose of redeeming the notes of the bank making such deposit."

Issue of notes.

SEC. 11. That section fifty-one hundred and seventy-two of the Revised Statutes be, and the same is hereby, amended to read as follows:

Engraving and printing.

"SEC. 5172. In order to furnish suitable notes for circulation, the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, cause plates and dies to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and shall have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, one thousand dollars, and ten thousand dollars, as may be required to supply the associations entitled to receive the same. Such notes shall state upon their face that they are secured by United States bonds or other securities, certified by the written or engraved signatures of the Treasurer and Register and by the imprint of the seal of the Treasury. They shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the signature of the president or vice-president and cashier. The Comptroller of the Currency, acting under the direction of the Secretary of the Treasury, shall as soon as practicable cause to be prepared circulating notes in blank, registered and countersigned, as provided by law, to an amount equal to fifty per centum of the capital stock of each national banking association; such notes to be deposited in the Treasury or in the subtreasury of the United States nearest the place of business of each association, and to be held for such association, subject to the order of the Comptroller of the Currency, for their delivery as provided by law: *Provided*, That the Comptroller of the Currency may issue national bank notes of the present form until plates can be prepared and circulating notes issued as above provided: *Provided, however*, That is no event shall bank notes of the present form be issued to any bank as additional circulation provided for by this Act."

Denomination.

Character of security.

Additional notes to be prepared.

Amount.

Deposit for delivery subject to order.

Provisos
Use of present form.

Present form not for additional circulation.

Redemption in lawful money.

Authority of Secretary of the Treasury.

SEC. 12. That circulating notes of national banking associations, when presented to the Treasury for redemption, as provided in section three of the Act approved June twentieth, eighteen hundred and seventy-four, shall be redeemed in lawful money of the United States.

SEC. 13. That all acts and orders of the Comptroller of the Currency and the Treasurer of the United States authorized by this Act shall have the approval of the Secretary of the Treasury who shall have power, also, to make any such rules and regulations and exercise such control

over the organization and management of national currency associations as may be necessary to carry out the purposes of this Act.

SEC. 14. That the provisions of section fifty-one hundred and ninety-one of the Revised Statutes, with reference to the reserves of national banking associations, shall not apply to deposits of public moneys by the United States in designated depositories.

Designated depositories reserve not to include public deposits.

SEC. 15. That all national banking associations designated as regular depositories of public money shall pay upon all special and additional deposits made by the Secretary of the Treasury in such depositories, and all such associations designated as temporary depositories of public money shall pay upon all sums of public money deposited in such associations interest at such rate as the Secretary of the Treasury may prescribe, not less, however, than one per centum per annum upon the average monthly amount of such deposits: *Provided, however,* That nothing contained in this Act shall be construed to change or modify the obligation of any association or any of its officers for the safe-keeping of public money: *Provided further,* That the rate of interest charged upon such deposits shall be equal and uniform throughout the United States.

Interest payable on special deposits of public moneys.

Proviso. Safe-keeping not modified.

Uniform interest.

SEC. 16. That a sum sufficient to carry out the purposes of the preceding sections of this Act is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Appropriation.

SEC. 17. That a Commission is hereby created, to be called the "National Monetary Commission," to be composed of nine members of the Senate, to be appointed by the Presiding Officer thereof, and nine members of the House of Representatives, to be appointed by the Speaker thereof; and any vacancy on the Commission shall be filled in the same manner as the original appointment.

National Monetary Commission created. Appointment.

SEC. 18. That it shall be the duty of this Commission to inquire into and report to Congress at the earliest date practicable, what changes are necessary or desirable in the monetary system of the United States or in the laws relating to banking and currency, and for this purpose they are authorized to sit during the sessions or recess of Congress, at such times and places as they may deem desirable, to send for persons and papers, to administer oaths, to summons and compel the attendance of witnesses, and to employ a disbursing officer and such secretaries, experts, stenographers, messengers, and other assistants as shall be necessary to carry out the purposes for which said Commission was created. The Commission shall have the power, through subcommittee or otherwise, to examine witnesses and to make such investigations and examinations, in this or other countries, of the subjects committed to their charge as they shall deem necessary.

Inquiry as to changes in monetary system, etc.

Authority

Officials.

Powers.

SEC. 19. That a sum sufficient to carry out the purposes

Appropriation.

of sections seventeen and eighteen of this Act, and to pay the necessary expenses of the Commission and its members, is hereby appropriated, out of any money in the Treasury not otherwise appropriated. Said appropriation shall be immediately available and shall be paid out on the audit and order of the chairman or acting chairman of said Commission, which audit and order shall be conclusive and binding upon all Departments as to the correctness of the accounts of such Commission.

SEC. 20. That this Act shall expire by limitation on the thirtieth day of June, nineteen hundred and fourteen.

Approved, May 30, 1908.

Immediately
available.
Accounts.

Termination
of act.

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compel the attendance of witnesses, and to employ a disbursing officer and such secretaries, experts, stenographers, messengers, and other assistants as shall be necessary to carry out the purposes for which said Commission was created. The Commission shall have the power, through subcommittee or otherwise, to examine witnesses and to make such investigations and examinations, in this or other countries, of the subjects committed to their charge as they shall deem necessary.

SEC. 19. That a sum sufficient to carry out the purposes of sections seventeen and eighteen of this Act, and to pay the necessary expenses of the Commission and its members, is hereby appropriated, out of any money in the Treasury not otherwise appropriated. Said appropriation shall be immediately available and shall be paid out on the audit and order of the chairman or acting chairman of said Commission, which audit and order shall be conclusive and binding upon all Departments as to the correctness of the accounts of such Commission.

SEC. 20. That this Act shall expire by limitation on the thirtieth day of June, nineteen hundred and fourteen.

J. G. Cannon
 Speaker of the House of Representatives.

Charles W. Fairbanks
 Vice-President of the United States and
 President of the Senate.

Approved,
 May 30, 1908.

Theodore Roosevelt

Annual Report, Secretary of Treasury (Franklin MacVeagh)

[Sixty-First Congress, 2d Session, December 6, 1909, Page 14]

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BANKING AND CURRENCY REFORM

It is not necessary and not appropriate for the Secretary of the Treasury at this time to discuss the plan of banking and currency reform. The necessity for such reform is universally recognized, and when the time is ripe it will be the duty of the Treasury Department to express its judgment. Meanwhile the initiative in this important legislation was committed by the Congress to its Monetary Commission, and until that commission has reported it will be the policy of the department to preserve an open mind. The question has been and still is growing. The reform of our currency system has enlarged itself into the reform of our banking and currency systems, which brings into contemplation not merely the national banks, but the state banks in their three divisions—commercial banks, trust companies, and savings institutions. It is to be hoped that the extent and gravity of these broad readjustments will induce a public demand for calm and disinterested treatment of the issues and a public recognition of the profound importance of a rational, harmonious agreement. Neither political partisanship nor special interest nor pride of opinion should be allowed to obstruct a purely economic reform of such great significance to the nation in both its national and international relations. The change, when it comes, and whatever it may be, must be at any rate fundamentally right. It is better by far that there shall be no change whatever than that it shall be another makeshift. We must have at least the beginning of a permanent system. At present we have neither an adjustable currency nor trustworthy surplus reserves, two absolutely essential features of any banking system upon which the finances and the commerce of this great nation can securely rest. To secure these essentials—to speak of no others—the looked-for reform must deal with fundamentals.

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Annual Report, Secretary of Treasury (Franklin MacVeagh)

[Sixty-First Congress, 3d Session, December 5, 1910, Pages 4-5]

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BANKING AND CURRENCY

The reform of the banking and currency system is still in the future. It is very regrettable that circumstances have made earlier consideration of this great and pressing subject impracticable; and short as the present session of Congress is to be, it would be a great step forward if this subject could at least arrive at some form of definiteness and concentration before Congress adjourns. It is not like a new matter. It has received very great and very widespread consideration for years; and especially during the last two or three years the economic authorities under the lead of the National Monetary Commission have been greatly occupied with its problems and factors. No public question has in the last three years received so much competent study as this has; and it would be quite wrong to feel there is need of further hesitation in taking action.

The whole financial history of our country is a long series of troubles and agitations. And now that we have in sight the establishment of a real and permanent banking and currency system that will be both safe and sane it makes one impatient to see it accomplished.

It is of the first consequence that this great economic question—important to all the people of this country, rich and poor alike—shall escape the deadly consequences of a partisan treatment. It is, therefore, to be hoped that it can come into Congress detached from political or sectional considerations.

As long as we continue under our present system we are liable to panics; and the vast devastations of panics reach Republicans and Democrats and all parts of the country alike. Panics are no longer necessary and no longer respectable. They are avoidable; but not under our system. Our system can fairly be called a panic-breeding system; whereas, every other great national banking and currency system is panic-preventing. It is for the Government to say whether it will have panics in the future or whether it will not. It is a mere matter of choice. We can continue to have panics or we can stop having panics, exactly as we prefer. It will not cost a penny to prevent them; and it has cost us untold millions and untold suffering every time we have had one.

We have no system of reserves. Our banking system destroys our reserves. It concentrates in New York what are pretended to be reserves and then forces the New York banks to lend and abolish them. Now, a reserve is necessary to the very idea of banking; but our system instead of building up a reserve destroys it as fast as it inclines to accumulate.

We have no way to increase our currency when it is needed, except under the Aldrich-Vreeland law, which will soon expire and which is only intended for emergencies. We have a currency which is forced up, whether we need it or not, to a certain measure of our 2 per cent bonds. But it can not get up any further; and it practically can not come down.

Nor, under our system, can ordinary transactions of business go forward uninterrupted in a time of stress and strain. And yet the final test of a banking and currency system is that the ordinary banking facilities needed by business shall be provided at all times and under all circumstances.

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Annual Report, Secretary of Treasury (Franklin MacVeagh)

[Sixty-Second Congress, 2d Session, December 4, 1911, Pages 1-5]

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BANKING AND CURRENCY REFORM.

It is a matter for profound congratulation that it will now be feasible to realize without further postponement the long-awaited reform of the banking and currency system. The Congress has taken all the steps preliminary to final consideration and action.

The immediate impulse to the appointment of the Monetary Commission was the tremendous havoc created in all of the activities of the nation—public and private, large and small—by the gratuitous panic of 1907. But this action of the Congress was a definitive response to a long period of agitation upon the part of our business world and a long drawn out national expectancy of reform. The action of the Congress in appointing its commission, therefore, was a semifinal act in a movement many years old. And it would be a vast disappointment to the country if now, when all the preliminaries have been accomplished, anything should be permitted to obstruct or postpone prompt consideration and action.

The report of this commission will in all probability be so nearly complete in suggestions, and will furnish such ample facts and general material, that whether Congress shall adopt the recommendations of the commission as a whole or not, there need be no further postponement of legislation. The tentative plan of the commission, in its main features, has satisfied very much the larger part of the expert opinion of the nation; and it has generally the support of our business men. This has been made possible by the early and continuous action of the Monetary Commission in giving the widest scope to its investigations, and by calling into its work everybody it was able to reach who had experience or knowledge that could be useful to it. While this report is due to the Monetary Commission, it is also a product of the judgment of the people, so far, at least, as its fundamental features are concerned. The fact confronts us, that whereas our country has not before in many years even approached a consensus of opinion on monetary matters it has now largely and mainly agreed. And the Congress is meeting a situation immensely simplified. The persistent difficulties of monetary reform have almost entirely disappeared; and legislation traditionally complex and laborious presents itself with its chief problems so clearly solved, with its complexity so smoothed out and with its provisions so generally approved that the final work of the Congress can now go forward without delay.

The common indorsement of the reform and of its urgency marks in a peculiar manner the nonpartisan character of the present movement. There is no bit of party color left in the monetary question. The instinct of the nation has eradicated partisanship from this great business and social question. Congress set the example by forming a nonpartisan commission. It found no difficulty in rising out of the air of party to deal with this subject. And the example which the Congress set has dominated the whole consideration of this question by commission and people from that day to this. It was Congress which determined that this question should not become mixed up, hampered and possibly defeated by rivalries and strife. The Nation took Congress at its word; and in all its dealings with this question has been led by nonpartisan instincts and standards. The commission and the great numbers of the people who have participated have all understood, not only the importance but the fitness of keeping this economical question on the nonpartisan plane where it belongs, and where alone it can receive adequate treatment.

So far as the administration is concerned, it has heartily taken its cue from Congress; and has done, and will continue to do, its part in keeping this great issue wholly nonpartisan. The administration wants this legislation to come from the whole of Congress and from both parties; and to be for the whole of the people.

The principal requirements of a new banking and currency measure are that it shall provide a practical immunity from serious panics—such an immunity as is enjoyed by the other leading financial nations; that it shall abolish the habitually recurrent ordinary stringencies in the money market, which keep relations between the bankers and the business men of the country almost continuously at sixes and sevens; that it shall remove the defects of our domestic exchanges; that it shall enlarge and develop the facilities of our foreign exchange system; that it shall properly develop the discount market; that it shall wholesomely assist in regulating the interest rates and making them uniform throughout the country; that it shall put an end to the tendency which forces our bank balances into speculative channels, and save them for regular trade and commerce. To meet the case it is necessary to have an elastic currency, available reserves and every necessary provision and power both to permit and to check the expansion of loans.

The new banking system will also have to provide with distinctness and completeness ample banking facilities for our foreign commerce—a commerce that with the proper governmental encouragement will be world-wide and world-varied. It is idle to expect that we shall ever have a developed foreign commerce without a developed foreign banking system. Our present system grew up in a period of isolation.

We must provide, too, and without reservation, for a perfect equality of privilege and opportunity between national and state banks. State banks must have every advantage national banks have; and national banks must have every advantage state banks have. And this equality can not be attained unless national and state banks are on the same footing as to trust company banking and as to savings bank functions.

And it is indispensable that the new law shall deny with great precision to any bank included within its provisions, whether national or state, the right to own stock in any other independent bank. The law should not fail to conclusively forbid such ownership. There is no

immediate danger to be apprehended from such holdings; but now is the time to protect for the future the independence and individuality of the banks; and to forestall in their case the general tendency to the formation of undue combinations and trusts. The prohibition should be so explicit that its spirit as well as its letter could be enforced. We must prevent perpetually the concentration of the banking power in the hands of the few—a concentration which under our present system is inevitable by the mere operation of financial evolution.

The disabilities under which our country labors are due not to the faults or failings of the individual banks, but to the fact that these banks are not organized into a cooperative and protective system; and it follows that the fundamental and essential feature of any reform is that the banks shall be thus organized. And organization means the establishment of a central institution representative of the banks. But this institution need not be and should not be a central bank. It must be purely and only a central agency of the banks. It was natural to think, at first, of a central bank; but it was early discovered that a central bank could have no place in our system—and that if the approved and fortunate features of our present system were to be preserved, as everybody determined they should be, some other central institution than the central bank must be devised. A central bank could not perform the functions waiting to be performed. It could not fill the need. The thing required as a central institution must be something new, but also something normally evolved from our present system. The idea of a national reserve association has therefore grown up; and it has grown up just as the idea of the clearing house grew up; and it follows the clearing house as a sequence on a far larger and more important scale.

Until lately it was not as clearly seen as it is now, that the interests involved in this great question are not confined to the bankers and the large business community. The interests of every order of society are involved, especially in the prevention of the barbarous disaster and havoc of our wholly unnecessary panics; and scarcely less in the habitual interruption of the even flow of business caused by the inconstancy of banking facilities. Farmers, working men, people of the smaller business interests and people at large are enmeshed in the imperfections of our banking and currency system. It is very fortunate, therefore, that the question will be presented to Congress this year in such shape and with such information that its committees and its whole body can readily act upon the question with perfect intelligence. The present Congress will be confronted with several other cardinal matters; but none will be more urgent and pressing than this, and none will have been waiting longer.

NATIONAL CURRENCY ASSOCIATIONS.

Seven new national currency associations have been organized since my last report at the following places: Albany, N.Y., Kansas City, Mo., Baltimore, Md., Cincinnati, Ohio, Dallas, Tex., Montgomery, Ala., and Denver, Colo.; and thus the needed organizations under the Aldrich-Vreeland Act are practically complete. The Aldrich-Vreeland law expires, however, on June 30, 1914; so that these organizations will only be available for times of storm and stress for about

two and a half years. The value of these organizations, however, will pass out, as intended, as soon as an adequate reform of the banking and currency system is enacted by the Congress. Should the Congress not inaugurate a new banking and currency system by the date assigned for the expiration of the Aldrich-Vreeland Act, then it will be well to have that act extended; though, of course, it affords a very limited protection to the business interests of the country compared with what would be contemplated in new legislation.

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Report of National Monetary Commission

[Sen. Doc. 243, Sixty-Second Congress, 2d Session, January 9, 1912]

To the Congress:

The National Monetary Commission, created by sections 17, 18, and 19 of "An act to amend the national banking laws," approved May 30, 1908, submits the following report:

Section 18 of the act gave authority and instructions to the commission as follows:

It shall be the duty of this commission to inquire into and report to Congress, at the earliest date practicable, what changes are necessary or desirable in the monetary system of the United States or in the laws relating to banking and currency and for this purpose they are authorized to sit during the sessions or recess of Congress, at such times and places as they may deem desirable, to send for persons and papers, to administer oaths, to summons and compel the attendance of witnesses. * * * The commission shall have the power, through subcommittee or otherwise, to examine witnesses and to make such investigations and examinations, in this or other countries, of the subjects committed to their charge as they shall deem necessary.

In accordance with these instructions we have undertaken in a thorough and scientific a manner as possible to investigate banking and currency conditions in this and other countries. These investigations have been pursued through hearings and examinations in this country and abroad by members and representatives of the commission, and through the preparation of papers and monographs by expert authorities. The commission has through the Comptroller of the Currency collected statistical and other information from National and State banks and trust companies, national-bank examiners, and State bank supervisors.

In the summer of 1908 members of the commission visited England, France, and Germany, the three countries of Europe in which conditions most closely resemble our own, examining their banking arrangements, methods, and practices by personal interviews with the officers of the leading institutions. Representatives of the commission have also visited the banks of Canada, Scotland, Switzerland, Italy, and Sweden, conferring with their officers and examining at first hand their methods of organization and their arrangements for dealing with reserves, note issue, commercial paper, and other banking factors. The questions and answers of the European and Canadian interviews have been published in two volumes, which we believe contain more accurate and concrete information in regard to the actual practice of banking in these countries than has ever been published before. The commission has conducted hearings and

made inquiries in different parts of this country for the purpose of obtaining opinions of people, representing different localities and occupations, as to desirable changes in our banking laws. Public hearings, after ample notice thereof, have been held in New York, Chicago, St. Paul, Minneapolis, San Francisco, Seattle, Portland, Los Angeles, Salt Lake City, Denver, Kansas City, St. Louis, and Washington, while meetings such as that of the Western Economic Society at Chicago and of the American Bankers Association and its affiliated organizations at New Orleans, which have been devoted exclusively to the discussion of monetary legislation, have been utilized by the commission as a means for securing opinions of political economists and of bankers, respectively.

In examining the printed literature of banking at the beginning of our investigations we were struck by the paucity, both in Europe and in America, of material dealing with other phases of the subject than the history of the circulation privilege. It was practically impossible to find, at least in English, any satisfactory account of the operations of European banks other than note-issuing banks, any penetrating examination of the great credit institutions or of the organization of credit in other countries, while the literature of banking in the United States was confined for the most part to accounts of the obsolete State banking systems which existed before the Civil War and to the history of national banking legislation. Until our banking authorities had analyzed the processes and functions of modern banking institutions and cut loose from the traditional methods of banking of half a century or more ago, it was not to be expected that the discussion of banking reform would be in other terms than those current in the earlier period. It is a singular fact that most bankers, economists, and legislators who had written upon banking had discussed banking questions in much the same language and from much the same point of view as English authorities who debated banking reform in England during the decades before the act of 1844. The commission, therefore, at the inception of its labors enlisted the services of the world's best experts in a fresh examination of banking in the leading countries as it is conducted to-day. Leading financial editors, bankers, Government officials, and university professors in Europe and America and in the Orient, were employed to prepare papers upon the actual operations of banks and upon their separate functions and mutual relations.

The commission has thus collected and published monographs upon banking in England, France, Germany, Canada, Switzerland, Italy, Sweden, Belgium, Mexico, Russia, Austria-Hungary, Holland, and Japan as well as the United States, which because of their scope and authority, possess, we believe, enduring scientific value.

By means of special statistical inquiries framed upon a uniform plan and directed to the leading banks of Great Britain, France, and Germany, we have collected more complete statistical information with regard to the banks of these countries than has ever been collected before, while, by a series of special reports from all national and State banks and trust companies in the United States, the commission has been able for the first time to present reports from all of the banks in the country upon a uniform basis.

The commission recognizes the value of the assistance which it has received in the prosecution of its various inquiries and in compiling its data, as well as in the drafting of its proposals. It would be impossible to enumerate all of the bankers, economists, editors, Government officials, business men, and banking and commercial organizations that have generously and patiently cooperated in the work, and it would seem invidious to attempt any selection for special thanks. The list of contributors to the publications of the commission speaks for itself, but we are glad to express our obligations to many others who have rendered equal service in other ways.

The act of May 30, 1908, providing for the appointment of the National Monetary Commission was a direct consequence of the panic of 1907. We shall not attempt to recount the severe losses and misfortunes suffered by the American people of all classes as the result of this and similar crises. To seek for means to prevent the recurrence or to mitigate the severity of grave disasters of this character was, however, one of the primary purposes of its creation.

We have made a thorough study of the defects of our banking system, which were largely responsible for these disasters and have sought to provide effective remedies for these and other defects, in the legislation we propose.

The principal defects in our banking system we believe may be summarized as follows:

1. We have no provision for the concentration of the cash reserves of the banks and for their mobilization and use wherever needed in times of trouble. Experience has shown that the scattered cash reserves of our banks are inadequate for purposes of assistance or defense at such times.

2. Antiquated Federal and State laws restrict the use of bank reserves and prohibit the lending power of banks at times when, in the presence of unusual demands, reserves should be freely used and credit liberally extended to all deserving customers.

3. Our banks also lack adequate means available for use at any time to replenish their reserves or increase their loaning powers when necessary to meet normal or unusual demands.

4. Of our various forms of currency the bank-note issue is the only one which we might expect to respond to the changing needs of business by automatic expansion and contraction, but this issue is deprived of all such qualities by the fact that its volume is largely dependent upon the amount and price of United States bonds.

5. We lack means to issue such effective cooperation on the part of banks as is necessary to protect their own and the public interests in times of stress or crisis. There is no cooperation of any kind among banks outside the clearing-house cities. While clearing-house organizations of banks have been able to render valuable services within a limited sphere for local communities, the lack of means to secure their cooperation or affiliation in broader fields makes it impossible to use these or similar local agencies to prevent panics or avert calamitous disturbances affecting the country at large. These organizations have, in fact, never been able to prevent the suspension of cash payments by financial institutions in their own localities in cases of emergency.

6. We have no effective agency covering the entire country which affords necessary facilities for making domestic exchanges between

different localities and sections, or which can prevent disastrous disruption of all such exchanges in times of serious trouble.

7. We have no instrumentality that can deal effectively with the broad questions which, from an international standpoint, affect the credit and status of the United States as one of the great financial powers of the world. In times of threatened trouble or of actual panic these questions, which involve the course of foreign exchange and the international movements of gold, are even more important to us from a national than from an international standpoint.

8. The lack of commercial paper of an established standard, issued for agricultural, industrial, and commercial purposes, available for investments by banks, leads to an unhealthy congestion of loanable funds in great centers and hinders the development of the productive forces of the country.

9. The narrow character of our discount market, with its limited range of safe and profitable investments for banks, results in sending the surplus money of all sections, in excess of reserves and local demand, to New York, where it is usually loaned out on call on Stock Exchange securities, tending to promote dangerous speculation and inevitably leading to injurious disturbances in reserves. This concentration of surplus money and available funds in New York imposes upon the managers of the banks of that city the vast responsibilities which are inherent in the control of a large proportion of the banking resources of the country.

10. The absence of a broad discount market in our system, taken together with the restrictive treatment of reserves, creates at times when serious financial disturbances are anticipated a condition of dependence on the part of individual banks throughout the country, and at the same time places the farmers and others engaged in productive industries at a great disadvantage in securing the credit they require for the growth, retention, and distribution of their products.

11. There is a marked lack of equality in credit facilities between different sections of the country, reflected in less favored communities, in retarded development, and great disparity in rates of discount.

12. Our system lacks an agency whose influence can be made effective in securing greater uniformity, steadiness, and reasonableness of rates of discount in all parts of the country.

13. We have no effective agency that can surely provide adequate banking facilities for different regions promptly and on reasonable terms to meet the ordinary or unusual demands for credit or currency necessary for moving crops or for other legitimate purposes.

14. We have no power to enforce the adoption of uniform standards with regard to capital, reserves, examinations, and the character and publicity of reports of all banks in the different sections of the country.

15. We have no American banking institutions in foreign countries. The organization of such banks is necessary for the development of our foreign trade.

16. The provision that national banks shall not make loans upon real estate restricts their power to serve farmers and other borrowers in rural communities.

17. The provision of law under which the Government acts as custodian of its own funds results in irregular withdrawals of money from circulation and bank reserves in periods of excessive Govern-

ment revenues, and in the return of these funds into circulation only in periods of deficient revenues. Recent efforts to modify the Independent Treasury system by a partial distribution of the public moneys among national banks have resulted, it is charged, in discrimination and favoritism in the treatment of different banks.

There is a general agreement among intelligent students of the subject that to remedy these and other defects it is necessary to provide a comprehensive reorganization of credit and a thorough reconstruction of our banking systems and methods. We submit herewith our recommendation providing for such reorganization in the form of a bill which, if enacted into law, will, we believe, accomplish these results.

It is proposed to incorporate the National Reserve Association of the United States with an authorized capital equal to 20 per cent of the capital of all subscribing banks, of which one-half shall be paid in and the remainder shall become a liability, subject to call under the provisions of section 3 of the bill. It is also provided that before the reserve association can commence business \$100,000,000 of capital must be paid in cash. All State banks and trust companies conforming to the provisions of the bill with reference to capitalization and reserves and all National banks are entitled to subscribe for stock and to become members of the association. Shares in the association are not transferable and can not be owned otherwise than by a subscribing bank or in any other than the proportion named.

It is proposed to group into local associations all subscribing banks located in contiguous territory. The local associations are to be organized into district associations, in each of which shall be located a branch of the National Reserve Association; and the district associations, which shall be so arranged as to include all the territory of the United States, are combined to form the National Reserve Association of the United States.

These several associations are analogous in their organization to our political divisions, into counties, States, and the United States. Each has distinctive functions quite unlike in their character and each has representative self-government. In the local association the individual bank is the voting unit. A majority of banks, without reference to their size or their holdings of stock in the reserve association, elect three-fifths of the directors, and a majority in stock interest elect two-fifths. This method of electing directors is, we believe, quite novel in corporate government. It is more democratic in form, with more liberal representation to minorities than any method in general use.

One of the principal functions of the local associations is to guarantee, upon application, the commercial paper of individual banks which may be offered to the branches for rediscount, as provided in section 27 of the bill. The local association may, in most cases would, require from the bank making the application satisfactory security for the guaranty. Local associations are authorized in serious emergencies to guarantee the direct obligations of subscribing banks with adequate security, in accordance with the provisions of section 28 of the bill. A local association may decline to give the guaranties provided for under either of these sections. Local associations may also, by vote of three-fourths of their board of directors and the approval of the National Reserve Association, assume and exercise the powers

and functions of clearing houses. They are required also to perform such services in facilitating domestic exchanges as, in the opinion of the National Reserve Association, the public interests may require.

The boards of directors, not less than 12 in number, of the district branches, are elected in the following manner: First, one-half by the local associations, each association acting as a unit without reference to its size or importance; second, one-third by the local associations, each association in this case casting a number of votes equal to the number of shares in the National Reserve Association held by the banks composing such association; third, one-sixth are chosen by the directors of the first and second class to represent other than banking interests. Thus a majority of the local associations, without reference to the amount of stock holdings which they represent, elect the larger group of the directors of the district branch.

Each branch is to have a manager, who shall be a resident of the district, appointed by the governor of the National Reserve Association, with the approval of the executive committee of the reserve association and the board of directors of the branch. The manager of the branch is to be *ex officio* a member of its board of directors and its chairman.

The functions of branch organizations are important. First, they hold the balances and a portion of the cash reserves of the banks of the district; second, they exercise the powers of rediscount and discount for banks located in their district; third, they are required to redeem upon presentation in gold or lawful money to circulating notes of the association and to distribute such notes to individual banks on application; fourth, they are required by transfers of balances through branches or local associations to facilitate domestic exchanges between different parts of the country.

The board of directors of the National Reserve Association is to be elected in the following manner:

The bill provides that the entire country shall be divided into 15 districts, with a branch in each district. Of the 46 directors of the National Reserve Association, 2 of the first class, who shall be residents of the district, are to be elected by the directors of each branch. One of the directors thus elected by each branch must fairly represent the agricultural, commercial, industrial, and other interests of the district, and can not be an officer, nor, while serving, a director of a bank, trust company, insurance company, or other financial institution. Second, nine directors in addition to the thirty of the first class are to be elected by the branch directors acting through voting representatives, each representative to cast a number of votes equal to the number of shares in the National Reserve Association held by the banks in the branch he represents. Not more than one director of this class may be chosen from one district, and this director must be a resident of the district from which he is elected. There are to be seven *ex officio* members of the board of directors, namely, the governor of the National Reserve Association, who is to be chairman of the board, two deputy governors, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce and Labor, and the Comptroller of the Currency.

The executive officers of the National Reserve Association are to consist of a governor, two deputy governors, a secretary, and such

subordinate officers as may be authorized. The governor, who is to serve ten years, is selected by the President of the United States from an eligible list including not less than three names furnished by the directors, and the deputy governors are elected by the board of directors. The governor and the deputy governors are removable for cause by the board of directors. The board is to choose from among its number an executive committee, consisting of nine members, of which the governor and the two deputy governors and the Comptroller of the Currency shall be ex officio members. Not more than one of the elected members of this committee can be chosen from one district. The board is also to elect from among its number a board of examination, of which the Secretary of the Treasury shall be ex officio chairman.

This distribution of power and control furnishes the assurance that the general interests of the country and of all communities will be conserved as well as the interests of the shareholders, as the National Reserve Association, through this form of organization, is brought into close relations of responsibility to the Government and the people. The provision that one-half of the directors elected by the branches shall fairly represent the agricultural, commercial, and other interests, and shall not be connected with banks or other financial institutions, insures the infusion of representative men into the governing board, who will have every motive to act in the public interest.

Further restraint upon the administration of the association on narrow or selfish lines is imposed by the provision that four of the highest officials of the Government are made ex officio members of the controlling board and by the requirement that the governor shall be selected by the President of the United States.

The fear has been expressed that the selection of the governor by the President and the provisions making the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce and Labor, and the Comptroller of the Currency ex officio members of the board of directors of the reserve association might lead to an attempt to control the organization for political purposes. We believe that the participation of these officials in the management of the institution to the limited extent prescribed is necessary to secure a proper recognition of the vital interest which the public has in the management of the association. It is a corporation with private stockholders, but it is proposed to make it the principal fiscal agent of the United States and the depository of its funds. The more important functions of the organization and its principal powers are of a public or semi-public character. It is not only the custodian of the Treasury balances, but the principal reason for its existence is found in its ability at all times to sustain the public credit.

As constituted under present proposals, however, neither the President nor any of the officials named could, from the inherent character of the organization, use any of its functions for personal or political purposes, but to give to the President the power to appoint all the directors of the reserve association, as has been suggested, would result in making the association a political machine, and appointments would be solicited and bestowed as a reward for political services.

In providing for the creation for specific purposes of this new representative organization it has been the aim of the Monetary Commis-

sion to follow in its distribution of powers and control our governmental structure, and to coordinate independent local and district organizations through an effective central agency for mutual cooperation. In this respect, as well as in its functions, the National Reserve Association differs radically from the First and Second Banks of the United States and from European central banks. Its sources of authority are democratic and not autocratic. Instead of overshadowing banks, it is their representative; its controlling forces, acting in the public interests, impose policies upon and grant powers to its managers.

In times of trouble it takes individual banks from a condition of helpless isolation and dependence and places them in a position where their integrity and independence is assured, through an unfailing source of support. It is outside of and supplemental to the existing system and not a competitor in any sense with existing banks. It provides for an equality of privileges and advantages to all banks, great and small, wherever located. Its dominating principle is cooperation and not centralization. Its organization is of a form and character that will effectually prevent the control of its operations by political or other interests, local or national.

The National Reserve Association is made the channel through which local banking institutions exercise their federated powers. It is in effect an evolution of the clearing-house idea, extended to include an effective central organization. It is not a bank but a cooperative union of all the banks of the country, with very limited and clearly defined functions. First, it holds a portion of the cash reserves of the banks of the United States with provision for their use only for specific purposes; second, it is granted the power to issue circulating notes, under strict governmental regulations; third, through the maintenance of its own reserves and the character and extent of its resources it is required to sustain the credit of the banks and of the country under all circumstances. All of its operations are confined to, or incidental to, these purposes, the only exception being the transaction of its business as the fiscal agent of the Government of the United States.

For obvious reasons the National Reserve Association is required to keep its assets in liquid form and its rediscounts, discounts, and investments are confined to short-time paper or Government securities.

The National Reserve Association is given ample power to protect its own reserves, in order that it may be able at all times to exercise its most important function—that of sustaining the commercial and public credit of the country. For the purpose of strengthening its own reserves it may, first, attract gold from other countries by an advance in its discount rate; second, purchase and borrow gold and give security for its loans, including the hypothecation of Government bonds; third, buy and sell foreign bills of exchange. Short-time foreign bills have been found elsewhere most effective as a means of replenishing a gold supply, and of preventing the exportation of gold at critical times.

That our present system of bank-note issues based upon Government bonds is defective and that a change in the manner and character of issues must take place at an early date is admitted on every hand. There are now outstanding less than two hundred million dollars of

United States bonds with the circulation privilege attached not owned by the banks and held for circulation purposes. These bonds are largely of a class which it would not usually be profitable for the banks to buy as a basis for circulation. Congress has inaugurated the policy of issuing bonds without the circulation privilege. It is evident from these facts that if we are to provide for any future demands of the country for currency the adoption of some other basis for note issues will be necessary. Our bond-secured currency has all the qualities of ultimate safety, and its prompt redemption is guaranteed by the United States, but it is not, as our experience has amply shown, responsive, either in expansion or contraction, to the ever-changing conditions and demands of business.

We propose that while the national banks shall have the right to retain their existing circulation all new issues shall be made by the National Reserve Association. We propose that the authority now exercised by seven or eight thousand national banks shall be vested in this cooperative association of all the banks. We propose to relieve the United States from the obligation to redeem the outstanding national-bank notes based on the bonds which are taken over by the reserve association. The association is required to redeem in gold or its equivalent, at any of its branches, upon presentation, such notes and all notes of its own issue.

All circulating notes of the association are required by section 41 of the bill, to be covered by gold reserves, or by United States bonds, or by commercial paper which must conform to the standards established in the bill. The reserve association is required to maintain a reserve of not less than 50 per cent against all of its demand liabilities, including all new issues of notes, as well as those issued in place of outstanding national-bank notes. The notes constitute a first lien upon all the assets of the reserve association, including its holdings of Government bonds.

We propose that the important privilege of note issue shall be accorded to the principal financial agent of the Government, to be exercised under Government control and supervision, with restrictions and limitations of such character as will, in our judgment, make undue inflation impossible. All profits which may arise from note issues will be paid into the Treasury of the United States. While it may be contended that the issue of money of any kind is a distinctive function of sovereign power, the exercise of this authority directly by Governments has, as shown by the experience of the world, inevitably led to disastrous results.

As safeguards against undue inflation of note issues it is proposed: First, that no notes shall be issued whenever and so long as the gold cover falls below 33½ per cent. Second, that a graduated tax shall be paid on the amount of deficiency whenever and so long as the reserve against all liabilities falls below 50 per cent. For each 2½ per cent of such deficiency of reserve a tax of 1½ per cent is levied. To illustrate, with the reserves at 40 per cent it would require the payment of a tax of 6 per cent on excess of note issues. Third, that whenever notes are issued in excess of \$900,000,000, and not in excess of \$1,200,000,000, and such excess issue is not fully covered by gold or other lawful money, a tax of 1½ per cent shall be levied on the excess. Notes issued in excess of \$1,200,000,000, not fully covered by gold or

lawful money, are taxed 5 per cent. We have assumed in fixing the terms of the limitation of \$900,000,000 that the normal amount of bank notes to meet business requirements is approximately the amount now outstanding—\$700,000,000—and we have allowed for the natural expansion of \$200,000,000 for seasonal or crop-moving demands. It will be seen that we propose three effective provisions to prevent undue inflation of note issues.

We have imposed upon the National Reserve Association the duty of maintaining at all times a parity in value of its notes with the gold standard established by the act of March 14, 1900. The imposition of this duty, accompanied as it is by ample authority to protect its gold reserves in the manner we have elsewhere explained, will, in our opinion, effectively remove the possibility of a suspension of gold payments by the association or by the Treasury.

It has been insisted in some quarters that we should provide that all notes should be redeemed and all reserves held in gold, and gold alone. We believe that no good reason exists for the adoption of this suggestion. The gold-standard act of 1900 settled finally the question of the standard of value in this country. Prior to that time we had made silver certificates available for the reserves of national banks. By the act of 1900 we made gold certificates available as reserve money. Standard silver dollars and United States notes are legal tender and can properly be used in reserves. Every dollar of currency which the United States has issued, or for which it is responsible, is to-day of equal value with the gold dollar. We are certain that the American people will not consent to any change in this respect. Practically all the silver certificates are now in circulation in the form of notes of small denominations and therefore not likely to be held to any considerable extent either in the reserves of banks or of the reserve association. Gold certificates are certainly equal to gold.

We have provided, by the system proposed, for the ultimate security of the notes through a pledge of bonds of the United States, gold, commercial paper, and the other assets of the National Reserve Association, and have insured immediate convertibility into gold or its equivalent upon presentation at any branch of the association. In fact, we have adopted every provision that the experience of the world has shown to be necessary for the security and convertibility of a paper currency. We have provided that the reserve association, through its branches, shall at once, upon application and without charge for transportation, forward the circulating notes of the association to any subscribing bank against its credit balance. We assume that there will be but few banks in the United States—certainly none in central communities—that will be more than 24 hours away from a positive source of supply of notes for use for crop moving or other purposes. This provision will remove all danger of a currency famine in any section of the country.

One of the most difficult problems with which the commission had to deal was the question of what provision should be made for the outstanding 2 per cent bonds owned by national banks held by the Treasury as a basis for their circulating notes. The recent sales of the 3 per cent bonds issued for Panama Canal construction and the market prices of these securities establish the fact that the credit of the United States, now approximately on a 3 per cent basis, is above that of any

of the other commercial nations. If the credit of the country is to be maintained at this point, as it seems likely that it may be, 2 per cent bonds, without the circulating privilege, would probably have a market value approximating 70, and any legislation preventing their further use as a basis for bank circulation would entail enormous losses upon the banks. When we consider that the refunding act providing for the issue of these 2 per cent bonds practically compelled the banks to purchase them, it would be manifestly unfair for the United States to impose upon the banks the severe losses which would follow their disuse for circulation purposes.

These equitable considerations will undoubtedly have weight with the Congress, but it is equally bound to guard against any loss of revenue or credit to the United States that would be involved in refunding these bonds into threes. We therefore propose that the National Reserve Association shall purchase, at not less than par and interest, the 2 per cent bonds held by national banks, and take over with the purchase the right to issue notes to an amount equal to the bank notes now outstanding, such new notes to be issued and redeemed in the manner elsewhere provided. It is proposed that the Secretary of the Treasury shall, upon application of the reserve association, exchange the 2 per cent bonds purchased for 3 per cent bonds of the United States payable after 50 years. The National Reserve Association is required to hold such bonds during the period of its corporate existence, subject, however, to a right to sell at the option of the Government not more than \$50,000,000 in any one year after five years. The reserve association is, however, required to pay an annual franchise tax equal to $1\frac{1}{2}$ per cent of the amount of the bonds so purchased and exchanged.

The effect of these provisions, taken together, is that the United States will be able to fund seven-ninths of the national debt at a net interest charge of $1\frac{1}{2}$ per cent, and the national banks will be enabled to avoid the risks of being obliged to sell their bonds at a great sacrifice. This plan seems to the commission to be equitable alike to the Government and to the national banks, and places upon the National Reserve Association the obligation to save both from the embarrassment and losses which would arise from any other disposition of this mass of Government securities.

Section 39 of the bill provides that the deposit balance of any subscribing bank in the National Reserve Association and any notes of the National Reserve Association which it holds may be counted as a part of its required reserves. In order to protect or replenish these reserves and thus increase the loaning power of individual banks the National Reserve Association is authorized, through its branches, to rediscount commercial paper for subscribing banks. Commercial paper which can be used for this purpose is defined in the bill as notes and bills of exchange issued or drawn for agricultural, industrial, or commercial purposes, and does not include notes or bills issued or drawn for the purpose of carrying stocks, bonds, or other investment securities. Commercial paper of this description having not more than 28 days to run may be discounted for individual banks. If having more than 28 days and not exceeding 90 days to run, the rediscount may be made for individual banks, with the guaranty of the local association. The National Reserve Association may discount the

direct obligations of individual banks, with the guaranty of the local association, amply secured by a pledge of collaterals of unquestioned value, whenever, in the opinion of the governor and executive committee of the reserve association, concurred in by the Secretary of the Treasury, a serious emergency exists and the public interests so require.

The bill provides that the National Reserve Association shall fix its rates of discount from time to time, which, when so fixed, shall be published, and shall be uniform throughout the United States. In view of the great disparity which now exists in discount rates on commercial loans in different sections of the country, serious doubts have been expressed as to whether this provision can be made effective. It can not be expected that an equality of commercial rates under all conditions and for all classes of business can be secured at once by such legislation. But with this provision adopted the tendency would be toward a gradual equalization of rates at all points. It is apparent to the commission that we must provide that all the advantages and benefits which may accrue from the organization of the National Reserve Association, including an absolute uniformity in its discount rates, should be extended alike to every bank in every section. The greater uniformity and steadiness of rates and better opportunities of employment of capital which should follow the adoption of the legislation we propose will prove, we believe, an advantage to the banks of the United States if we can judge by the experience of the joint-stock banks of other countries. These banks in France, England, and Germany, with bank rates much lower than current commercial rates in this country and an approximate equality of all other rates, are enabled, largely on account of the steadiness and uniformity to which we have referred, to pay dividends that are at least equal to those paid by the banks of the United States. If our bank managers could be assured of constant employment for their loanable funds at steady rates they would willingly accept lower discount rates in many cases than those which are now current. An approximate equalization of rates would be of great benefit to the people in sections of the country where productive forces are only partially developed. This process of equalization has already commenced, and we are becoming a homogeneous people in our industries and financial operations, and we may look forward to the time when, with the adoption of the provisions we have suggested, the farmer of the South or the farmer or miner of our intermountain States will be able, with the same class of credit or securities, to obtain the money requisite for his purposes at as low a rate as that current in other sections for similar loans.

Section 40 provides that national banks may loan not more than 30 percent of their time deposits upon improved and unencumbered real estate, such loans not to exceed 50 percent of the actual value of the property, which property shall be situated in the vicinity or in the territory directly tributary to the bank. This privilege is not extended to National banks which act as reserve agents for other banks or trust companies.

We have provided as far as possible for a uniformity of requirements with regard to capitalization, reserves, examinations, and reports of all banks and trust companies who shall be members of the

association. With reference to reserves, the bill provides that the same percentage of reserves shall be required of all subscribing banks in the same locality on demand deposits. Provision is made for a reserve on time deposits as defined in section 39, and all National and State banks and trust companies must keep the percentage of reserve on time deposits therein required.

Sections 45, 46, and 47 of the proposed bill contain requirements for examinations and reports which are applicable alike to all subscribing institutions, whether operating under National or State charters. The reports of National bank examiners for national banks and State bank examiners for State banks and trust companies are made available and acceptable whenever possible for the use of the National Reserve Association, provided that the standard of such examinations shall in all cases meet the requirements prescribed by the association. The association is also given the right, at any time, to examine or cause to be examined by its own representatives any subscribing bank. Through these provisions it will be possible to avoid numerous and expensive duplications of examination, which are not only troublesome but unnecessary. All subscribing banks are required, under regulations to be prescribed, to make reports of their condition monthly, or oftener, showing the principal items of their balance sheets. The publicity of conditions secured by the required examinations and reports will prove, as a basis of public confidence, a great advantage to all well-managed institutions. We are living in an age when publicity, with reference to the management and condition of public and quasi public institutions, is everywhere demanded. Publicity with reference to the condition of financial institutions has vital interest for the great mass of our people.

While the shares in the National Reserve Association are owned, and can only be owned, by the banks which furnish all of its capital, the fact that important privileges of a public character are granted to the association led the commission to provide that its net earnings, after the payment of a dividend not exceeding 5 percent to the shareholders and the accumulation of a surplus not exceeding 20 percent of the paid-in capital, shall be paid to the United States in the form of taxes upon its franchise.

The bill provides that the National Reserve Association shall become the principal fiscal agent of the United States, and as such shall serve through its branches as the custodian of the general funds of the Treasury, as the depository of its receipts, and the instrumentality through which its disbursements shall be effected. The system of storing surplus revenues in independent vaults, and of withdrawing the money from the channels of business into useless inactivity, has not been followed in other countries for centuries, and is contrary to the methods followed by our State and municipal governments, as well as by private corporations and individuals. It has proved peculiarly disturbing in this country on account of the large fluctuations in the Treasury balance, which within a single decade has fallen below \$100 million and risen above \$300 million, thus adding to or withdrawing from the country's circulating medium without any regard to the needs of trade. Of late the system has been largely modified by the transfer of a considerable portion of the surplus funds to selected national banks, but this policy inevitably involves unwarranted and unequal

distinctions and privileges for the banks so selected. The plan which we propose will do away with such discriminations, and will bring our Treasury policy into line with the business methods of modern times.

The adoption of these proposed changes in Treasury methods will make possible a considerable reduction in the expenses of the Treasury. Treasury officials estimate that these reductions, growing out of the elimination of the expenses connected with the Independent Treasury, will amount approximately to \$1,000,000 annually. The Government will also effect large savings through the transfer of the business of bank-note issue and redemption. During the present year the expenses of the Treasury, for which it is not reimbursable by the banks, in connection with the issue of bank notes, amounts to \$653,367, which could be saved in proportion as the national banks transfer their bonds to the National Reserve Association and retire their notes. The economies, therefore, resulting to the Treasury from the adoption of the proposed plan will probably amount to more than \$1,500,000 annually. It is difficult to estimate the probable revenues which will accrue to the United States from the taxes levied upon the reserve association and its franchise. A competent authority has prepared an estimate that, after the accumulation of the surplus and the contingent fund, and the payment of the maximum dividend of 5 per cent to the shareholders, the Government will receive \$5,500,000 annually. This estimate is based upon the minimum amount of business which the National Reserve Association will be likely to transact. The franchise tax on the amount of Government bonds purchased, say \$700,000,000, would amount to \$10,500,000 annually.

Perhaps the most important defect in our monetary system is to be found in its unscientific treatment of the reserves of individual banks. We have described the character of this defect, and we have provided by the terms of the proposed bill what we believe to be an effective and logical remedy. We propose that all or any portion of the cash reserves of the banks, including those which are now required by law to be held in their vaults, may be deposited with the reserve association, and when so deposited shall be counted as a part of their legal reserve. This will transform money which is now deprived of potency and defensive power into a condition of vitality and effectiveness. It is proposed that the reserves thus concentrated may be used by the reserve association, through its branches, for the assistance and support of any bank or section when needed. The reserves of any subscribing bank can be replenished at any time by the discount or rediscount of commercial paper in the manner elsewhere described. This involves the use of assets which otherwise would not be available for this purpose to strengthen, whenever necessary, the loaning power of the bank.

These provisions taken together will enable the banks to adopt the policy of simultaneous strengthening of reserves and extension of credits which has been successful in every instance for half a century in the prevention of panics or serious financial disturbances in the commercial nations of Europe. They do not suffer from widespread bank suspensions or from a general paralysis of credit operations. An advance in bank rates is used to curb speculation and prevent over-

expansion of credit. The plan we submit provides not only for a concentration and mobilization of cash reserves, but for a decentralization of control by means of the powers over distribution granted to local and district associations.

The commission believe that the various provisions of the bill for establishing a broader discount market will prove of great advantage to the people of the entire country. The provisions upon which we rely to accomplish this purpose establish a standard of commercial paper issued for agricultural and other purposes, which is made available for rediscount at the branches of the reserve association. The establishment of this standard will create a strong tendency to make the usual instruments of commercial credit conform to its requirements; second, it allows national banks to the extent of one-half of their capital to accept properly secured drafts drawn upon them, drawn for instance with documents attached against cotton, wheat, or other products in transit or in warehouse; third, it gives a new and wider market to domestic bills of exchange drawn on foreign countries and based on transactions in American products or to pay for our purchases abroad; fourth, it authorizes the National Reserve Association to buy and sell in foreign countries prime bills of exchange, many of which would be of American origin.

These various provisions give a national and international currency to notes, acceptances, and bills of exchange based on the agricultural and other products of the United States.

The methods by which our domestic and international credit operations are now conducted are crude, expensive, and unworthy an intelligent people. The annual value of the products of our industries is estimated at thirty-five thousand million dollars. If to this vast sum is added the cost of transportation and distribution, we can realize that the movements of these products through various stages from the producer to the consumer requires the use of an enormous amount of credit and cash. To form an accurate estimate of the magnitude of our credit structure, we should add to this our accumulations of wealth and capital and the sums used in connection with our foreign trade. It is the function of a sound monetary system to take care of these vast operations without friction and in such a manner as will promote the prosperity of our people.

The unimportant part which our banks and bankers take in the financing of our foreign trade is disgraceful to a progressive nation. We export of domestic products about two thousand million dollars annually, and our annual imports amount approximately to fifteen hundred million dollars. Very much the larger portion of this international trade is financed by and pays tribute to foreign bankers. Take one illustration: Last year we exported about six hundred and fifty million dollars in value of cotton; it was largely financed by 60 or 90 day bills drawn on Liverpool, London, Paris, or Berlin. This business was practically all done by foreign banks or bankers. The banks in the South and perhaps in New York were enabled to collect a small commission on a part of the business en route, but the lion's share of the profits accruing from the transactions, millions of dollars in amount, were paid to European merchants and bankers, and this large sum was in the last analysis paid by the cotton planter.

The disabilities from which our producers suffer in our foreign trade also apply largely to domestic transactions. The man who raises cotton in Mississippi or cattle in Texas, or the farmer who raises wheat in the Northwest can not readily find a market in Chicago, New York, or London, for the obligations arising out of the transactions connected with the growth and movement of his products, because the bankers of these cities have no knowledge of his character and responsibility. We propose to remedy this condition in large part by the use of the standardized commercial paper we have described, and also by the use of acceptances of local banks of drafts drawn by a farmer or planter whose responsibility is known to the bank and who may have deposited with it security on his products.

Additional currency would be given to our commercial paper in the markets of the world if official standards could be adopted, first, for the different grades and qualities of the staple agricultural products of the country; second, for the methods used in preparing such products for the market; third, for uniformity of bills of lading; fourth, for the efficient and responsible management of warehouses and elevators used for the storage and delivery of agricultural products.

A wider domestic market for the commercial paper we have described will be found in the changes which are likely to take place under the provisions of the bill submitted, in the investment of the surplus funds of the banks, and by surplus funds in this connection we do not refer to moneys deposited with reserve agents, but to funds for which there may be no legitimate local demand. The surplus funds referred to are now deposited perhaps through correspondents in New York at 2 per cent interest. The New York banks are usually obliged to loan them on call on stock exchange collaterals, inducing at times dangerous speculative conditions, with the probability that when the money is withdrawn the necessary calling of loans may cause disturbances in reserves and in the market and sometimes lead to panics.

We propose by the provision of the bill submitted to enable the banks to invest their surplus funds of the character we have described in notes or bills of exchange representing the industries or the products of the United States. It may be that they will not be able in making these loans to obtain the full rate current for discounts of commercial paper, as they will have to compete with foreign banks for a portion of the business, but they will certainly receive more than 2 per cent for their money, and they will have in their portfolio commercial paper created for legitimate purposes which they can take to the district branch and have transformed into cash or a cash credit at any hour of any business day of the year.

We believe that these provisions for creating new classes of investment obligations by establishing a standard of commercial bills to be used in moving and caring for the agricultural and other products of the country, constitute very important features in our plan of reorganization. The creation of these new standards for foreign and domestic bills should have an important influence upon the status of the United States in the financial world. It should make a domestic documentary bill, drawn by a producer anywhere in the United States, drawn in dollars and cents, equal in currency and in value to the highest form of credit in the markets of the world. We ought to make

New York and our other financial centers equal in importance with any in Europe. We ought to place our financial institutions where they properly belong—in a class with the best and strongest in the world.

Section 57 of the bill submitted provides for the incorporation of banks to do business in foreign countries. We assume that it is not necessary to call attention to the desirability of making every reasonable effort to promote our foreign trade and to establish closer commercial and financial relations with foreign countries. The impediments in the way of the development of our international trade are numerous. Perhaps none of these is more important than the absence of American banking facilities in other countries and the lack of knowledge abroad of our financial resources and of the strength and character of our banking institutions. The status of the United States as one of the great powers in the political world is now universally recognized, but we have yet to secure recognition as an important factor in the financial world. This condition of affairs is likely to remain unchanged as long as practically all our purchases and sales abroad are financed by foreign bankers. We anticipate that the changes in the currents of trade which will follow the opening of the Panama Canal will tend to the enlargement of our international commerce. We shall, at least, be brought into closer contact from a transportation standpoint with many of the States of South America and the countries of the Orient. We shall certainly be disappointed as to the character and extent of the advantages of this change unless we take some practical steps of a positive character to secure for our merchants and bankers advantages in the countries we have named equal to those enjoyed by their commercial and industrial rivals. The establishment of American banks is essential in countries where we have a right to expect an enlargement of our trade.

In preparing the bill to establish the National Reserve Association the commission has been impressed with the necessity of inserting provisions that would prevent beyond question the possibility of its control by any corporation or combination of corporations, banks or otherwise, by any individual or combination of individuals for selfish or sinister purposes. No provision of the bill to reconstruct our monetary system is of more vital importance than this. To-day the financial interests of the whole country depend, in times of trouble, upon what is popularly known as "Wall Street." Those who express fears of the future domination of Wall Street seem to lose sight of the fact that the domination of New York is an accomplished fact; that we are now staking the safety of all of our banking resources on the patriotic character and business ability of bank managers in New York whose hands are tied in emergencies by the restrictions of a defective system and unwise legislation. The responsibilities of continuing this control are too enormous, the risks of failure are too great, for this condition to be tolerated long. In our judgment the only effective remedy will be found in the national organization suggested, with the power to maintain the independence of banks under all circumstances and with branches which will be relief centers at various points throughout the country, each with local self-govern-

ment. The reserve cities, the reserve agents of the country banks, and individual banks generally depend upon the banks of New York. This is naturally so, because New York, with her vast accumulations of capital, is the most important financial center in the country. When any serious financial disturbance occurs in New York—like the bank suspensions in 1907—and New York fails to respond to the drafts from other sections, the country suspends. This dangerous condition of dependence will continue until we have a thorough reorganization of our banking system. Every financial institution in the United States is in peril whenever confidence is destroyed in the strength of the New York banks or in the wisdom of their management.

In the provisions of the bill for the election of directors of the National Reserve Association we provide for 39 directors, 2 to be elected by each of the 15 districts defined in the bill, and 9 additional directors to be elected by representatives of stock holdings in the association. We propose to limit the representation of any one district to 3 out of the 39 directors elected, and under this plan every district will have 2 and none can have more than 3 directors.

The New York district under these provisions, with 29 per cent of the banking resources of the country, would have 8 per cent of the representation on the board; New England, with 12 per cent of the resources, would have 8 per cent of the representation; the Eastern States, as defined in the bill, with 41 per cent of resources, would have 15 per cent of representation; the Middle West, with 24 per cent of resources, would have 31 per cent of representation; the Southern States, with 11 per cent of resources, would have 23 per cent of representation; and the Western and Pacific States, with 12 per cent of resources, would have 23 per cent of representation. The New England, Eastern, and Middle West States, taken together, with 77 per cent of the resources, could elect only 21 out of the 46 directors in the Reserve Association, while the Southern, Western, and Pacific States, with 23 per cent of the resources, might have 46 per cent of the representation. These percentages of representation have been based upon the theory that the New England, Eastern, and Middle Western States, by reason of their preponderance of capital, would be entitled to elect the maximum number of 3 directors for each district.

In order to effect a combination to secure a majority of the directors, the votes of eight districts would be necessary, and with New England having one, the Eastern States two, and the Middle West four, one other district would be necessary, showing that no combination of Eastern and Middle West, with other interests could be made which did not include more than 80 per cent of the banking power of the country.

We think that this statement must of itself show conclusively that there can be no local domination—no domination of selfish interests in this organization, and that fear of possible Wall Street control can have no substantial foundation.

This equal representation of districts, unequal in size and importance, in the election of a majority of directors of the National Reserve Association, follows the democratic principle also deliberately adopted in the organization of local and district associations. For instance, in a local association we give to a bank with \$25,000,000 capital no greater voting power in the election of a majority of the directors of the local association than a \$25,000 bank. In our political institutions we have

a similar idea in the provision of the Federal Constitution, which gives to every State, irrespective of its size an equal representation in the Senate. This plan of organization, practically as now reported, was made public a year ago and has received every manifestation of general approval. It is based upon the theory that each section of the country ought to be adequately represented on the board and that there exists such a solidarity in the interests of all sections of the country that no harm can come to the interests of any district through this unequal representation.

Suggestions have been made favoring a banking scheme based on separate State or district organizations, each with independent functions, partaking somewhat of the character of existing clearing houses or of the branches which we propose to create in the bill. The fatal objection, in the opinion of the commission, to any plan of this kind is found in the lack of affiliation or means to insure cooperation between these different local organizations in the public interest. The national association which we propose to create can of course only exercise the powers which are clearly delegated to it, but the grant of the limited powers proposed in the bill is necessary for the success of any plan which is to benefit the country at large.

We propose to create an institution which can, among other things, conserve the public credit; issue properly secured circulating notes; control movements of gold and foreign exchange; receive and disburse the Treasury balances; insure the cooperation of all banks in the public interest; equalize banking and credit facilities in different sections of the country and insure adequate assistance on reasonable terms to partially developed communities; secure uniform rates of discount; prevent interruption of domestic exchanges; provide means for replenishing cash reserves and for their concentration for use in any direction wherever needed, and establish standards of notes and bills of exchange issued for agricultural or other purposes. None of these results can be secured by the organization of separate units in the manner suggested. There can be no satisfactory reform of our monetary system, no remedy for existing defects, which does not place upon the banks of the entire country, acting together through some responsible agency, the serious duty of protecting public and private interests at times when they are imperiled. This is amply demonstrated by our experience with clearing-house organizations. The results we desire can not be secured through a headless aggregation of independent organizations, which would be as helpless as the members of a human organism without a brain to coordinate their functions or heart action to vitalize their forces.

The proposal to create a National Reserve Association has been criticized on the ground that its enactment would lead to an undue expansion of credit and a dangerous inflation of currency. We have already stated our reasons for believing that this contention as applied to note issues has no foundation. It is true that we propose to create new instrumentalities and provide new facilities for an expansion of credit whenever this is necessary for the welfare of our industries, or to prevent panics or avert dangerous monetary disturbances. We believe that credit properly organized and managed is one of the most potent factors in the development of communities and nations. The broad question we have to consider is whether the facilities which we

propose to create can be or are likely to be used in such a manner as to produce dangerous overexpansion.

In this connection the experience of other countries where facilities exist similar to those which we propose will afford valuable lessons. In none of the leading countries of Europe are there any statutory limitations upon credit expansion. In fact there is no limitation whatever, either by law or custom. This is true not only of the central banks but also of the joint-stock banks of these countries. None of these banks is required by law to hold reserves. Each bank acts for itself in this respect. Of course, self-interest, custom, and public opinion lead the banks of the great commercial nations to hold cash and liquid assets as reserves against their liabilities. Their cash reserves are kept almost entirely in central institutions and not in their own vaults.

In this country we have no legal restriction upon credit expansion except such as is involved in our statutory provisions for fixed reserves. In ordinary times a bank can, by increasing its balance with its reserve agent, expand credit to the extent to which this is possible from increased reserves, and to this expansion there is no legal limit.

We believe that the bill we propose effectively guards against the dangerous abuse of the facilities created. We propose that a bank may, under certain conditions, replenish its reserves and increase its loaning powers through rediscounts. The amount of paper that can be rediscounted for an individual bank is limited, first, by the amount of 28-day paper which it has available for the purpose; and second, by the provision that the aggregate amount of such rediscounts shall not exceed the capital of the bank. Discounts of long-time paper and of the direct obligations of banks can only be made with the restrictions involved in the guaranty of the local association, and the guaranties of the local association to the Reserve Association can not in any case exceed the capital and surplus of the banks in the local association.

The power given the national banks to accept properly secured drafts is limited in amount to one-half the capital of the bank.

We give to the Reserve Association effective means to check speculation and to prevent undue expansion through the power to advance its discount rate. The provision that the Reserve Association shall hold a reserve of not less than 50 per cent against all of its demand liabilities—a provision which is unique in monetary legislation—and the provision that a progressive tax shall be imposed on any deficiency of reserves will, we believe, effectually discourage undue expansion of credit.

The use of a portion of the cash reserves of the banks by the National Reserve Association will undoubtedly result in a legitimate expansion of credit. This is inevitable. It is necessary, in cases of unusual demands for credit in times of panic or anticipated trouble, that the banks should increase their reserves by rediscounts, in order that they may extend assistance to those entitled to receive it. This, of course, involves expansion. We can not prevent a condition like that of 1907 without expansion on an extensive scale. The prime purpose of the legislation suggested is to provide the means for a proper expansion of credit and the necessary enlargement of note issues in times of trouble. Any unusual expansion of credit or enlargement of notes issues should, of course, be followed by healthy and legitimate con-

traction, and we believe that this has been secured in the provisions of the bill submitted.

Our main reliance for preventing undue expansion must, however, be found in the wise management of the local and district associations and the reserve association. We can not, of course, endow men with wisdom, intelligence, or conservatism by legislative enactment. The efficiency of the institution will very largely partake of the character and capacity of those who will be chosen to manage it. In the management of financial institutions the personal equation is of the utmost importance. In the last analysis the success of every banking institution in the United States and in every other country depends upon the wisdom of its management. A century of exceptionally sound and intelligent management has given to the Bank of France the enviable position which it now holds. The important place which the Bank of England holds in the financial world is due to the wisdom of the men who have controlled its operations and not to any legislative enactments.

We have taken every precaution to secure an honest, intelligent, and able management for the local and district associations and for the national association, and it is incredible, with the ample powers conferred by the terms of the act, that they will allow the public interests to suffer from undue and destructive expansion. There must be collusion or failure on the part of all to make such a result possible. We can not suppose that the directors of a local association would be likely to indorse the paper of an individual bank to promote speculation or when dangerous expansion would be likely to follow. The officers and members of the local association would always be fully advised of the condition of an applicant, and when asked to become responsible for its obligations we can be sure that the guaranties would be given cautiously, and would be fully secured, and that they would be refused in cases of doubt as to the character and purpose of the paper presented.

The acts of the directors of the branches and of the reserve association will be open to public inspection and will be subject to the closest scrutiny by the shareholders of the association and the public, and it is impossible to suppose that they would consent to the adoption of a policy which would be ruinous to the vast material interests which they directly represent and destructive of public and private credit. We place in their hands ample powers to prevent this disastrous result, and there can be no reason to assume that they will not exercise it properly. We believe that the very best men in every section of the country will be selected as directors of the proposed institutions.

It can not be denied that there may be possibilities of abuses, as there must be in every case of grants of power where human agencies are employed, but this possibility should not lead us to refuse to create the facilities imperatively demanded for the progress and prosperity of the American people, facilities which are enjoyed by the producers of every country competing with them for the world's markets.

If we as a people should adopt the policy of discouraging the use of every invention or of refusing to avail ourselves of every discovery in the arts and sciences on account of the possibility that abuses might grow out of their use or that their acceptance might disarrange the established order of things, we should unwisely place an insuperable obstacle in the pathway of national progress.

The commission appreciates the magnitude of the duties assigned to it of constructing a monetary system that will provide for the present and future welfare of the American people. The questions involved in this problem affect the vital interests of the people of every class and every section. We were required to devise a system so comprehensive that its beneficial effects will be felt equally by wage earners, farmers, manufacturers, and all others engaged in productive industries, a plant which will inspire hope and confidence in all those who are responsible for the uninterrupted progress and prosperity of a great people.

The far reaching consequences of fundamental changes in a monetary system were graphically expressed by Sir Robert Peel in his opening statement with reference to the English bank act of 1844.

He said :

"There is no contract, public or private, no engagement, national or individual, which is unaffected by it. The enterprises of commerce, the profits of trade, the arrangements made in all the domestic relations of society, the wages of labor, pecuniary transactions of the highest amount and of the lowest * * * the command which the coin of the smallest denomination has over the necessaries of life, are all affected by the decision to which we may come on that great question which I am about to submit to the consideration of committee."

The adoption by the British Parliament of the minister's proposals established an important landmark in the history of monetary legislation.

In the construction of an adequate monetary system for the United States, the task of the commission was rendered more difficult from the fact there were no precedents that we could follow, and no system in existence that to any considerable extent could be made applicable to existing or prospective conditions in the United States.

We were therefore obliged to originate a plan which would answer the exacting requirements of American conditions that would meet the needs of a progressive nation, with its hundred millions of energetic and enterprising people, whose development has been impeded by a defective and inefficient monetary system. The plan we propose is essentially an American system, scientific in its methods, and democratic in its control.

A BILL TO INCORPORATE THE NATIONAL RESERVE ASSOCIATION OF THE UNITED STATES, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Reserve Association of the United States be, and it is hereby, created and established for a term of fifty years from the date of filing with the Comptroller of the Currency a certificate of paid-in capital stock as hereinafter provided. It shall have an authorized capital equal in amount to twenty per centum of the paid-in and unimpaired capital of all banks eligible for membership in said National Reserve Association. Before said association shall be authorized to commence business two hundred million dollars of the capital stock shall be subscribed and one hundred million dollars of its capital shall be paid in cash. The capital stock of said association shall be divided into

shares of one hundred dollars each. The outstanding capital stock may be increased from time to time as subscribing banks increase their capital or as additional banks become subscribers or may be decreased as subscribing banks reduce their capital or leave the association by liquidation. The head office of the National Reserve Association shall be located in Washington, in the District of Columbia.

Sec. 2. Upon duly making and filing with the Comptroller of the Currency the certificate hereinafter required the National Reserve Association of the United States shall become a body corporate and as such and by that name shall have power—

First. To adopt and use a corporate seal.

Second. To have succession for a period of fifty years from the date of said certificate.

Third. To make all contracts necessary and proper to carry out the purposes of this act.

Fourth. To sue and be sued, complain and defend, in any court of law or equity, as fully as natural persons.

Fifth. To elect or appoint directors and officers in the manner hereinafter provided and define their duties.

Sixth. To adopt by its board of directors by-laws not inconsistent with this act, regulating the manner in which its property shall be transferred, its general business conducted, and the privileges granted to it by law exercised and enjoyed.

Seventh. To purchase, acquire, hold, and convey real estate as hereinafter provided.

Eighth. To exercise by its board of directors or duly authorized committees, officers, or agents, subject to law, all the powers and privileges conferred upon the National Reserve Association by the act.

Sec. 3. All national banks, and all banks or trust companies chartered by the laws of any State of the United States or of the District of Columbia, complying with the requirements for membership in the said National Reserve Association, hereinafter set forth, may subscribe to its capital to an amount equal to twenty per centum of the paid-in and unimpaired capital of the subscribing bank, and not more nor less; and each of such subscribing banks shall become a member of a local association as hereinafter provided. Fifty per centum of the subscriptions to the capital stock of the National Reserve Association shall be fully paid in; the remainder of the subscriptions or any part thereof shall become a liability of the subscribers, subject to call and payment thereof whenever necessary to meet the obligations of the National Reserve Association under such terms and in accordance with such regulations as the board of directors of the National Reserve Association may prescribe.

The subscriptions of a bank or trust company incorporated under the laws of any State or of the District of Columbia to the capital stock of the National Reserve Association shall be made subject to the following conditions:

First: That (a) if a bank, it shall have a paid-in and unimpaired capital of not less than that required for a national bank in the same locality; and that (b) if a trust company, it shall have an unimpaired surplus of not less than twenty per centum of its capital, and if located

in a place having a population of six thousand inhabitants or less shall have a paid-in and unimpaired capital of not less than fifty thousand dollars; if located in a city having a population of more than six thousand inhabitants and not more than fifty thousand inhabitants, shall have a paid-in and unimpaired capital of not less than one hundred thousand dollars; if located in a city having a population of more than fifty thousand inhabitants and not more than two hundred thousand inhabitants shall have a paid-in and unimpaired capital of not less than two hundred thousand dollars; if located in a city having a population of more than two hundred thousand inhabitants and not more than three hundred thousand inhabitants shall have a paid-in and unimpaired capital of not less than three hundred thousand dollars; if located in a city having a population of more than three hundred thousand inhabitants and not more than four hundred thousand inhabitants shall have a paid-in and unimpaired capital of not less than four hundred thousand dollars, and if located in a city having a population of more than four hundred thousand inhabitants shall have a paid-in and unimpaired capital of not less than five hundred thousand dollars.

Second. That it shall have and agree to maintain against its demand deposits a reserve of like character and proportion to that required by law of a national bank in the same locality: *Provided, however,* That deposits which it may have with any subscribing national bank, State bank, or trust company in a city designated in the national banking laws as a reserve city or a central reserve city shall count as reserve in like manner and to the same extent as similar deposits of a national bank with national banks in such cities.

Third. That it shall have and agree to maintain against other classes of deposits the percentages of reserve required by this act.

Fourth. That it shall agree to submit to such examinations and to make such reports as are required by law and to comply with the requirements and conditions imposed by this act and regulations made in conformity therewith.

The words "subscribing banks" when used hereafter in this act shall be understood to refer to such national banks, and banks or trust companies chartered by the laws of any State of the United States or of the District of Columbia, as shall comply with the requirements for membership herein defined.

SEC. 4. The Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce and Labor, and the Comptroller of the Currency are hereby designated a committee to effect the organization of the National Reserve Association, and the necessary expenses of said committee shall be payable out of the Treasury upon vouchers approved by the members of said committee, and the Treasury shall be reimbursed by the National Reserve Association to the full amount paid out therefor.

Within sixty days after the passage of this act said committee shall provide for the opening of books for subscriptions to the capital stock of said National Reserve Association in such places as the said committee may designate. Before the subscription of any bank to the capital stock of the National Reserve Association shall be accepted, said bank shall file with the organization committee or after organization with the National Reserve Association a certified copy of a reso-

lution adopted by the board of directors of said bank accepting all the provisions and liabilities imposed by this act and authorizing the president or cashier of said bank to subscribe for said stock.

SEC. 5. When the subscriptions to the capital stock of the National Reserve Association shall amount to the sum of two hundred million dollars the organization committee hereinbefore provided shall forthwith proceed to select fifteen cities in the United States for the location of the branches of said National Reserve Association: *Provided*, That one branch shall be located in the New England States, including the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut; two branches in the Eastern States, including the States of New York, New Jersey, Pennsylvania, and Delaware; four branches in the Southern States, including the States of Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, Kentucky, Tennessee, and also the District of Columbia; four branches in the Middle Western States, including the States of Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, and Missouri; four branches in the Western and Pacific States, including the States of North Dakota, South Dakota, Nebraska, Kansas, Montana, Wyoming, Colorado, New Mexico, Oklahoma, Washington, Oregon, California, Idaho, Utah, Nevada, and Arizona.

When the cities in which the branches are to be located have been selected the organization committee shall forthwith divide the entire country into fifteen districts, with one branch of the National Reserve Association in each district: *Provided*, That the districts shall be apportioned with due regard to the convenient and customary course of business and not necessarily along State lines.

The districts may be readjusted, and new districts and new branches may from time to time be created by the directors of the National Reserve Association whenever, in their opinion, the business of the country requires.

SEC. 6. All subscribing banks within a district shall be grouped by the organization committee or after organization, by the National Reserve Association, into local associations of not less than ten banks, with an aggregate capital and surplus of at least five million dollars, for the purposes hereinafter prescribed: *Provided*, That the territory included in each association shall be contiguous and that in apportioning the territory due regard shall be had for the customary course of business and for the convenience of the banks forming the association: *Provided further*, That in apportioning the territory to local associations comprising a district every bank and all of the territory within said district shall be located within the boundaries of some local association: *And provided further*, That every subscribing bank shall become a member only of the local association of the territory in which it is situated.

The banks uniting to form a local association shall, by their presidents or vice presidents, under authority from the board of directors, execute a certificate in triplicate setting forth the name of the association, the names of the banks composing it, its principal place of business, its territorial limits, and the purposes for which it is organized. One copy of this certificate shall be filed with the Comptroller of the Currency, one copy shall be filed with the National Reserve Associa-

tion, and one copy shall be filed with the branch of the National Reserve Association of the district in which the local association is included. Upon the filing of such certificates the local association therein named shall become a body corporate and by the name so designated may sue and be sued and exercise the powers of a body corporate for the purposes mentioned in this act, and not otherwise.

The local associations in each district may be readjusted from time to time and new associations may be authorized by the directors of the National Reserve Association.

SEC. 7. Each local association shall have a board of directors, the number to be determined by the by-laws of the local association. Three-fifths of that number shall be elected by ballot cast by the representatives of the banks that are members of the local association, each bank having one representative and each representative one vote for each of the positions to be filled without reference to the number of shares which the bank holds in the National Reserve Association. Two-fifths of the whole number of directors of the local association shall be elected by the same representatives of the several banks that are members of the association, but in voting for these additional directors each representative shall be entitled to as many votes as the bank which he represents holds shares in the National Reserve Association: *Provided*, That in case forty per centum of the capital stock in any subscribing bank is owned directly or indirectly by any other subscribing bank, or in case forty per centum of the capital stock in each of two or more subscribing banks, being members of the same local association, is owned directly or indirectly by the same person, persons, copartnership, voluntary association, trustee, or corporation, then and in either of such cases, neither of such banks shall be entitled to vote separately, as a unit, or upon its stock, except that such banks acting together, as one unit, shall be entitled to one vote, for the election of the board of directors of such local association. In no case shall voting by proxy be allowed. The authorized representative of a bank, as herein provided, shall be its president, vice president, or cashier.

Each director shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such association and will not knowingly violate or willingly permit to be violated any of the provisions of this act.

The directors originally elected shall hold office until the second Tuesday in February immediately following their election, and thereafter the directors shall be elected annually on that date and shall hold office for the term of one year.

The board of directors of the local association shall have authority to make by-laws, not inconsistent with law, which shall be subject to the approval of the National Reserve Association.

SEC. 8. Each of the branches of the National Reserve Association shall have a board of directors, the number, not less than twelve in addition to the ex officio member, to be fixed by the by-laws of the branch. These directors shall be elected in the following manner:

The board of directors of each local association shall elect by ballot a voting representative. One-half of the elected directors of the branch shall be elected by the vote of such representatives, each representative having one vote for each of the positions to be filled,

without reference to the number of shares which the banks composing the association which he represents holds in the National Reserve Association. One-third of the elected directors shall be elected by the same voting representatives, but each voting representative in this case shall have a number of votes equal to the number of shares in the National Reserve Association held by all the banks composing the local association which he represents. The remaining one-sixth of the directors shall be chosen by the directors already elected and shall fairly represent the agricultural, commercial, industrial, and other interests of the district and shall not be officers nor, while serving, directors of banks, trust companies, insurance companies, or other financial institutions. The manager of the branch shall be ex officio a member of the board of directors of the branch and shall be chairman of the board.

Each director shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such association and will not knowingly violate or willingly permit to be violated any of the provisions of this act.

All the members of the board of directors of the branch except the ex officio member shall at the first meeting of the board be divided into three classes. One-third of the directors shall hold office until the first Tuesday in March immediately following the election; one-third of the directors shall hold office for an additional period of one year after the first Tuesday in March immediately following the election; the remaining one-third of the directors shall hold office for an additional period of two years after the first Tuesday in March immediately following the election. All elections shall be held on the first Tuesday in March of each year, and after the first election all directors shall be elected for a term of three years: *Provided*, That the by-laws of the National Reserve Association shall provide for the manner of filling any vacancies which may occur in the board of directors of the branches.

The board of directors of the branch shall have authority to make by-laws, not inconsistent with law, which shall be subject to the approval of the National Reserve Association.

SEC. 9. The National Reserve Association shall have a board of directors, to be chosen in the following manner:

First. Fifteen directors shall be elected, one by the board of directors of each branch of the National Reserve Association. In case the number of districts shall be increased hereafter, each additional district shall be entitled to elect an additional director of this class.

Second. Fifteen additional directors shall be elected, one by the board of directors of each branch of the National Reserve Association, who shall fairly represent the agricultural, commercial, industrial, and other interests of the district, and who shall not be officers nor, while serving, directors of banks, trust companies, insurance companies, or other financial institutions. In case the number of districts shall be increased hereafter, each additional district shall be entitled to elect an additional director of this class.

Third. Nine additional directors shall be elected by voting representatives chosen by the boards of directors of the various branches, each of whom shall cast a number of votes equal to the number of shares in the National Reserve Association held by the banks in the

branch which he represents. Not more than one of the directors of this class shall be chosen from one district. Directors of each of the three classes named above shall be residents of the district from which they are elected.

Fourth. There shall be seven ex officio members of the board of directors, namely: The governor of the National Reserve Association, who shall be chairman of the board, two deputy governors of the National Reserve Association, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce and Labor, and the Comptroller of the Currency.

No member of any national or State legislative body shall be a director of the National Reserve Association, nor of any of its branches, nor of any local association.

All the members of the board, except the ex officio members, shall at the first meeting of the board be divided into three classes. One-third of the directors shall hold office until the first Tuesday in April immediately following the election; one-third of the directors shall hold office for an additional period of one year after the first Tuesday in April immediately following the election; the remaining one-third of the directors shall hold office for an additional period of two years after the first Tuesday in April immediately following the election. All elections shall be held on the first Tuesday in April of each year, and after the first election all directors shall be elected for a term of three years: *Provided*, That all directors provided for in sections seven, eight, and nine of this Act shall serve until their successors have qualified: *And provided further*, That the by-laws of the National Reserve Association shall provide for the manner of filling any vacancies which may occur in the board of directors of the National Reserve Association.

Each director shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such association and will not knowingly violate or willingly permit to be violated any of the provisions of this act.

The board of directors of the National Reserve Association shall have authority to make by-laws, not inconsistent with law, which shall prescribe the manner in which the business of said association shall be conducted and the privileges granted to it by law exercised and enjoyed.

Sec. 10. The executive officers of the National Reserve Association shall consist of a governor, two deputy governors, a secretary, and such subordinate officers as may be provided by the by-laws. The governor of the National Reserve Association shall be selected by the President of the United States from a list of not less than three submitted to him by the board of directors of said association. The person so selected shall thereupon be appointed by the said board as governor of the National Reserve Association for a term of ten years, subject to removal for cause by a two-thirds vote of the board. There shall be two deputy governors, to be elected by the board, for a term of seven years, subject to removal for cause by a majority vote of the board. The two deputy governors first elected shall serve for terms of four years and seven years, respectively. In case of any vacancy in the office of deputy governor his successor shall be elected to fill the unexpired term. In the absence of the governor or his inability to

act the deputy who is senior in point of service shall act as governor. The board of directors shall have authority to appoint such other officers as may be provided for by the by-laws.

SEC. 11. When the National Reserve Association is duly organized its board of directors shall call upon the subscribing banks for a payment of fifty per centum on the amount of their subscriptions to the capital stock of said association. When one hundred million dollars of capital have been paid in the board of directors shall at once proceed to execute and file with the Secretary of State a certificate showing the payment of one hundred million dollars on capital stock, and they shall further file with the Comptroller of the Currency a certificate showing the title and location of each bank which has subscribed to the capital stock of the National Reserve Association, the number of shares subscribed by each, and the amount paid thereon.

SEC. 12. Shares of the capital stock of the National Reserve Association shall not be transferable, and under no circumstances shall they be hypothecated nor shall they be owned otherwise than by subscribing banks, nor shall they be owned by any such bank other than in the proportion herein provided. In case a subscribing bank increases its capital it shall thereupon subscribe for an additional amount of the capital of the National Reserve Association equal to twenty per centum of the bank's increase of capital, paying therefor its then book value as shown by the last published statement of said association. A bank applying for membership in the National Reserve Association at any time after its formation must subscribe for an amount of the capital of said association equal to twenty per centum of the capital of said subscribing bank, paying therefor its then book value as shown by the last published statement of said association. When the capital of the National Reserve Association has been increased either on account of the increase of capital of the banks in said association or on account of the increase in the membership of said association, the board of directors shall make and execute a certificate showing said increase in capital, the amount paid in and by whom paid. This certificate shall be filed in the office of the Comptroller of the Currency. In case a subscribing bank reduces its capital it shall surrender a proportionate amount of its holdings in the capital of said association, and if a bank goes into voluntary liquidation it shall surrender all of its holdings of the capital of said association. In either case the shares surrendered shall be canceled and the bank shall receive in payment therefor a sum equal to their then book value as shown by the last published statement of said association.

If any member of the National Reserve Association shall become insolvent and a receiver be appointed, the stock held by it in said association shall be canceled and the balance, after paying all debts due by such insolvent bank to said association (such debts being hereby declared to be a first lien upon the paid-in capital stock), shall be paid to the receiver of the insolvent bank.

Whenever the capital stock of the National Reserve Association is reduced, either on account of the reduction in capital of members of said association or the liquidation or insolvency of any member, the board of directors shall make and execute a certificate showing such reduction of capital stock and the amount repaid to each bank. This certificate shall be filed in the office of the Comptroller of the Currency.

SEC. 13. The National Reserve Association and its branches and the local associations shall be exempt from local and State taxation except in respect to taxes upon real estate.

SEC. 14. The directors of the National Reserve Association shall annually elect from their number an executive committee and such other committees as the by-laws of the National Reserve Association may provide. The executive committee shall consist of nine members, of which the governor of the National Reserve Association shall be ex officio chairman and the two deputy governors and the Comptroller of the Currency ex officio members, but not more than one of the elected members shall be chosen from any one district.

The executive committee shall have all the authority which is vested in the board of directors, except the power of nomination, appointment, and removal of the governor and deputy governors and except such as may be specifically delegated by the board to other committees or to the executive officers, or such as may be specifically reserved or retained by the board.

SEC. 15. There shall be a board of examination elected annually by the board of directors from among their number, excluding the members of the executive committee, of which the Secretary of the Treasury shall be ex officio chairman. It shall be the duty of this board to carefully examine the condition and the business of the National Reserve Association and of its branches and to make a public statement of the result of such examination at least once a year.

SEC. 16. Each branch shall have a manager and a deputy manager appointed from the district by the governor of the National Reserve Association with the approval of the executive committee of said association and the board of directors of the branch, and subject to removal at any time by the governor with the approval of the executive committee of the National Reserve Association. The powers and duties of the manager and deputy manager and of the various committees of the branches shall be prescribed by the by-laws of the National Reserve Association.

SEC. 17. The directors of each local association shall annually elect from their number a president, a vice president, and an executive committee, whose powers and duties shall be determined by the by-laws of the local association, subject, however, to the approval of the National Reserve Association.

SEC. 18. The National Reserve Association shall cause to be kept at all times, at the head office of the association, a full and correct list of the names of the banks owning stock in the association and the number of shares held by each. Such list shall be subject to the inspection of all the shareholders of the association, and a copy thereof on the first Monday of July of each year shall be transmitted to the Comptroller of the Currency.

SEC. 19. The earnings of the National Reserve Association shall be disposed of in the following manner:

After the payment of all expenses and the franchise and other taxes not provided for in this section the shareholders shall be entitled to receive an annual dividend of four per centum on the paid-in capital, which dividend shall be cumulative. Further annual net earnings shall be disposed of as follows: First, a contingent fund shall be created, which shall be maintained at an amount equal to one per

centum on the paid-in capital, and shall not exceed in any event two million dollars and shall be used to meet any possible losses. Such fund shall, upon the final dissolution of the National Reserve Association, be paid to the United States and shall not under any circumstances be included in the book value of the stock or be paid to the shareholders. Second, one-half of additional net earnings shall be paid into the surplus fund of the National Reserve Association until said fund shall amount to twenty per centum of the paid-in capital, one-fourth shall be paid to the United States as a franchise tax, and one-fourth shall be paid to the shareholders, until the shareholders' dividend shall amount to five per centum per annum on the paid-in capital: *Provided*, That no such dividends, exclusive of the cumulative dividends above provided for, shall at any time be paid in excess of five per centum in any one year. Whenever and so long as the contingent fund has been provided for and the five per centum dividend has been paid to shareholders one-half of the additional earnings shall be added to the surplus fund, and one-half shall be paid to the United States as a franchise tax. Whenever and so long as the surplus fund of the National Reserve Association amounts to twenty per centum of the paid-in capital and the shareholders shall have received dividends not exceeding five per centum, all excess earnings shall be paid to the United States as a franchise tax.

SEC. 20. Any member of a local association may apply to such association for a guaranty of the commercial paper which it desires to rediscount at the branch of the National Reserve Association in its district. Any such bank receiving a guaranty from a local association shall pay a commission to the local association, to be fixed in each case by its board of directors. Expenses and losses in excess of commissions shall be met by an assessment of the members of the local association in proportion to the ratio which their capital and surplus bears to the aggregate capital and surplus of the members of the local association, which assessment shall be made by its board of directors, and the commission received for such guaranty, after the payment of expenses and possible losses, shall be distributed among the several banks of the local association in the same proportion. A local association shall have authority to require security from any bank offering paper for guaranty, or it may decline to grant the application. The total amount of guaranties by a local association to the National Reserve Association shall not at any time exceed the aggregate capital and surplus of the banks forming the guaranteeing association.

SEC. 21. Any local association may be a vote of three-fourths of its members and with the approval of the National Reserve Association, assume and exercise such of the powers and functions of a clearing house as are not inconsistent with the purposes of this act. The National Reserve Association may require any local association to perform such services in facilitating the domestic exchanges of the National Reserve Association as the public interests may require.

SEC. 22. All of the privileges and advantages of the National Reserve Association shall be equitably extended to every bank of any of the classes herein defined which shall subscribe to its proportion of the capital stock of the National Reserve Association and shall otherwise conform to the requirements of this act: *Provided*, That the

National Reserve Association may suspend a bank from the privileges of membership for refusal to comply with such requirements or for a failure for thirty days to maintain its reserves, or to make the reports required by this act, or for misrepresentation in any report or examination as to its condition or as to the character or extent of its assets or liabilities.

SEC. 23. The National Reserve Association shall be the principal fiscal agent of the United States. The Government of the United States shall upon the organization of the National Reserve Association deposit its general funds with said association and its branches, and thereafter all receipts of the Government, exclusive of trust funds, shall be deposited with said Association and its branches, and all disbursements by the Government shall be made through said association and its branches.

SEC. 24. The Government of the United States and banks owning stock in the National Reserve Association shall be the only depositors in said association. All domestic transactions of the National Reserve Association shall be confined to the Government and the subscribing banks, with the exception of the purchase or sale of Government or State securities or securities of foreign governments or of gold coin or bullion.

SEC. 25. The National Reserve Association shall pay no interest on deposits.

SEC. 26. The National Reserve Association may through a branch rediscount for and with the indorsement of any bank having a deposit with it, notes and bills of exchange arising out of commercial transactions; that is, notes and bills of exchange issued or drawn for agricultural, industrial, or commercial purposes, and not including notes or bills issued or drawn for the purpose of carrying stocks, bonds, or other investment securities.

Such notes and bills must have a maturity of not more than twenty-eight days, and must have been made at least thirty days prior to the date of rediscount. The amount so rediscounted shall at no time exceed the capital of the bank for which the rediscounts are made. The aggregate of such notes and bills bearing the signature or indorsement of any one person, company, firm, or corporation, rediscounted for any one bank, shall at no time exceed ten per centum of the unimpaired capital and surplus of said bank.

SEC. 27. The National Reserve Association may through a branch also rediscount, for and with the indorsement of any bank having a deposit with it, notes and bills of exchange arising out of commercial transactions as hereinbefore defined, having more than twenty-eight days, but not exceeding four months, to run, but in such cases the paper must be guaranteed by the local association of which the bank asking for the rediscount is a member.

SEC. 28. Whenever, in the opinion of the governor of the National Reserve Association, the public interests so require, such opinion to be concurred in by the executive committee of the National Reserve Association and to have the definite approval of the Secretary of the Treasury, the National Reserve Association may through a branch discount the direct obligation of a depositing bank, indorsed by its local association, provided that the indorsement of the local association shall be fully secured by the pledge and deposit with it of satis-

factory securities, which shall be held by the local association for account of the National Reserve Association; but in no such case shall the amount loaned by the National Reserve Association exceed three-fourths of the actual value of the securities so pledged.

SEC. 29. The power of rediscount and discount granted to the National Reserve Association by sections twenty-six, twenty-seven, and twenty-eight of this act shall in each case be exercised through the branch in the district in which the bank making the application is located.

SEC. 30. The National Reserve Association shall have authority to fix its rates of discount from time to time, which when so fixed shall be published, and shall be uniform throughout the United States.

SEC. 31. National banks are hereby authorized to accept drafts or bills of exchange drawn upon them, having not more than four months to run, properly secured, and arising out of commercial transactions as hereinbefore defined. The amount of such acceptances outstanding shall not exceed one-half the capital and surplus of the accepting bank, and shall be subject to the restrictions of section fifty-two hundred of the Revised Statutes.

SEC. 32. The National Reserve Association may, whenever its own condition and the general financial conditions warrant such investment, purchase from a subscribing bank acceptances of banks or acceptors of unquestioned financial responsibility arising out of commercial transactions as hereinbefore defined. Such acceptances must have not exceeding ninety days to run, and must be of a character generally known in the market as prime bills. Such acceptances shall bear the indorsement of the subscribing bank selling the same, which indorsement must be other than that of the acceptor.

SEC. 33. The National Reserve Association may invest in United States bonds; also in obligations, having not more than one year to run, of the United States or its dependencies, or of any State, or of foreign governments.

SEC. 34. The National Reserve Association shall have power, both at home and abroad, to deal in gold coin or bullion, to make loans thereon, and to contract for loans of gold coin or bullion, giving therefor, when necessary, acceptable security, including the hypothecation of any of its holdings of United States bonds.

SEC. 35. The National Reserve Association shall have power to purchase from its subscribing banks and to sell, with or without its indorsement, checks or bills of exchange, arising out of commercial transactions as hereinbefore defined, payable in such foreign countries as the board of directors of the National Reserve Association may determine. These bills of exchange must have not exceeding ninety days to run, and must bear the signatures of two or more responsible parties, of which the last one shall be that of a subscribing bank.

SEC. 36. The National Reserve Association shall have power to open and maintain banking accounts in foreign countries and to establish agencies in foreign countries for the purpose of purchasing, selling, and collecting foreign bills of exchange, and it shall have authority to buy and sell, with or without its indorsement, through such correspondents or agencies, checks or prime foreign bills of exchange arising out of commercial transactions, which have not exceeding ninety days to run, and which bear the signatures of two or more responsible parties.

SEC. 37. It shall be the duty of the National Reserve Association or any of its branches, upon request, to transfer any part of the deposit balance of any bank having an account with it to the credit of any other bank having an account with the National Reserve Association. If a deposit balance is transferred from the books of one branch to the books of another branch, it may be done, under regulations to be prescribed by the National Reserve Association, by mail, telegraph, or otherwise, at rates to be fixed at the time by the manager of the branch at which the transaction originates.

SEC. 38. The National Reserve Association may purchase, acquire, hold, and convey real estate for the following purposes and for no other:

First. Such as shall be necessary for the immediate accommodation in the transaction of the business either of the head office or of the branches.

Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by said association, or shall purchase to secure debts due to it.

But the National Reserve Association shall not hold the possession of any real estate under mortgage or the title and possession of any real estate purchased to secure any debts due to it for a longer period than five years.

SEC. 39. All subscribing banks must conform to the following requirements as to reserves to be held against deposits of various classes, but the deposit balance of any subscribing bank in the National Reserve Association and any notes of the National Reserve Association which it holds may be counted as the whole or any part of its required reserve:

First. On demand deposits: National banks in different localities shall maintain the same percentages of reserve against demand deposits as is now required by law, and the same percentages of reserve against demand deposits shall be required of all other subscribing banks in the same localities.

Second. On time deposits: All time deposits and moneys held in trust payable or maturing within thirty days shall be subject to the same reserve requirements as demand deposits in the same locality. All time deposits and moneys held in trust payable or maturing more than thirty days from date shall be subject to the same reserve requirements as demand deposits for the thirty days preceding their maturity, but no reserves shall be required therefor except for this period. Such time deposits and moneys held in trust, payable only at a stated time not less than thirty days from date of deposit, must be represented by certificates or instruments in writing and must not be allowed to be withdrawn before the time specified without thirty days' notice.

SEC. 40. National banks may loan not more than thirty per centum of their time deposits, as herein defined, upon improved and unencumbered real estate, such loans not to exceed fifty per centum of the actual value of the property, which property shall be situated in the vicinity or in the territory directly tributary to the bank: *Provided*,

That this privilege shall not be extended to banks acting as reserve agents for banks or trust companies.

SEC. 41. All demand liabilities, including deposits and circulating notes, of the National Reserve Association shall be covered to the extent of fifty per centum by a reserve of gold (including foreign gold coin and gold bullion) or other money of the United States which the national banks are now authorized to hold as a part of their legal reserve: *Provided*, That whenever and so long as such reserve shall fall and remain below fifty per centum the National Reserve Association shall pay a special tax upon the deficiency of reserve at a rate increasing in proportion to such deficiency as follows: For each two and one-half per centum or fraction thereof that the reserve falls below fifty per centum a tax shall be levied at the rate of one and one-half per centum per annum: *Provided further*, That no additional circulating notes shall be issued whenever and so long as the amount of such reserve falls below thirty-three and one-third per centum of its outstanding notes.

SEC. 42. In computing the demand liabilities of the National Reserve Association a sum equal to one-half of the amount of the United States bonds held by the association which have been purchased from national banks, and which had previously been deposited by such banks to secure their circulating notes, shall be deducted from the amount of such liabilities.

SEC. 43. The National Reserve Association shall make a report, showing the principal items of its balance sheet, to the Comptroller of the Currency once a week. These reports shall be made public. In addition, full reports shall be made to the Comptroller of the Currency by said association coincident with the five reports called for each year from the national banks.

SEC. 44. All subscribing banks shall, under regulations to be prescribed by the National Reserve Association make a report monthly, or oftener if required, to said association showing the principal items of their balance sheets.

SEC. 45. All reports of national-bank examiners in regard to the condition of banks shall hereafter be made in duplicate, and one copy shall be filed with the National Reserve Association for the confidential use of its executive officers and branch managers.

SEC. 46. The National Reserve Association may accept copies of the reports of the national-bank examiners for subscribing national banks and also copies of the reports of State bank examiners for subscribing State banks and trust companies, in States where the furnishing of such information is not contrary to law: *Provided, however*, That the standard of such examinations, both National and State, meets the requirements prescribed by the National Reserve Association. The National Reserve Association shall have the right at any time to examine or cause to be examined by its own representatives any subscribing bank. The National Reserve Association may make such payments to national and State examiners for such services required of them as the directors may consider just and equitable.

SEC. 47. All provisions of law requiring national banks to hold or to transfer and deliver to the Treasurer of the United States bonds of the United States other than those required to secure outstanding circulating notes and Government deposits are hereby repealed.

SEC. 48. There shall be no further issue of circulating notes by any national bank beyond the amount now outstanding. National banks may maintain their present note issue, but whenever a bank retires the whole or any part of its existing issue its right to reissue the notes so retired shall thereupon cease.

SEC. 49. The National Reserve Association shall, for a period of one year from the date of its organization, offer to purchase at a price not less than par and accrued interest the two per centum bonds held by subscribing national banks and deposited to secure their circulating notes. The National Reserve Association shall take over the bonds so purchased and assume responsibility for the redemption upon presentation of outstanding notes secured thereby. The National Reserve Association shall issue, on the terms herein provided, its own notes as the outstanding notes secured by such bonds so held shall be presented for redemption and may issue further notes from time to time to meet business requirements, it being the policy of the United States to retire as rapidly as possible, consistent with the public interests, bond-secured circulation and to substitute therefor notes of the National Reserve Association of a character and secured and redeemed in the manner provided for in this act.

SEC. 50. All note issues of the National Reserve Association shall at all times be covered by legal reserves to the extent required by section forty-one of this act and by notes or bills of exchange arising out of commercial transactions as hereinbefore defined or obligations of the United States.

SEC. 51. Any notes of the National Reserve Association in circulation at any time in excess of nine hundred million dollars which are not covered by an equal amount of lawful money, gold bullion, or foreign gold coin held by said association shall pay a special tax at the rate of one and one-half per centum per annum, and any notes in excess of one billion two hundred million dollars not so covered shall pay a special tax at the rate of five per centum per annum: *Provided*, That in computing said amounts of nine hundred million dollars and one billion two hundred million dollars the aggregate amount of any national-bank notes then outstanding shall be included.

SEC. 52. The circulating notes of the National Reserve Association shall constitute a first lien upon all its assets and shall be redeemable in lawful money on presentation at the head office of said association or any of its branches. It shall be the duty of the National Reserve Association to maintain at all times a parity of value of its circulating notes with the standard established by the first section of the act of March fourteenth, nineteen hundred, entitled "An act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes."

SEC. 53. The circulating notes of the National Reserve Association shall be received at par in payment of all taxes, excises, and other dues to the United States, and for all salaries and other debts and demands owing by the United States to individuals, firms, corporations, or associations, except obligations of the Government which are by their terms specifically payable in gold, and for all debts due from or by one bank or trust company to another, and for all obligations due to any bank or trust company.

SEC. 54. The National Reserve Association and its branches shall at once, upon application and without charge for transportation, forward its circulating notes to any depositing bank against its credit balance.

SEC. 55. Upon application of the National Reserve Association the Secretary of the Treasury shall exchange the two per centum bonds of the United States bearing the circulation privilege purchased from subscribing banks for three per centum bonds of the United States without the circulation privilege, payable after 50 years from the date of issue. The National Reserve Association shall hold the three per centum bonds so issued during the period of its corporate existence: *Provided*, That after 5 years from the date of its organization the Secretary of the Treasury may at his option permit the National Reserve Association to sell not more than fifty million dollars of such bonds annually: *And provided further*, That the United States reserves the right at any time to pay any of such bonds before maturity, or to purchase any of them at par for the trustees of the postal savings, or otherwise.

SEC. 56. The National Reserve Association shall pay to the Government a special franchise tax of one and one-half per centum annually during the period of its charter upon an amount equal to the par value of such United States bonds transferred to it by the subscribing banks.

SEC. 57. That banking corporations for carrying on the business of banking in foreign countries and in aid of the commerce of the United States with foreign countries and to act when required as fiscal agents of the United States in such countries may be formed by any number of persons, not less in any case than five, who shall enter into articles of association which shall specify in general terms the object for which the banking corporation is formed and may contain any other provisions not inconsistent with the provisions of this section which the banking corporation may see fit to adopt for the regulation and conduct of its business and affairs, which said regulations shall be signed, in duplicate, by the persons uniting to form the banking corporation and one copy thereof shall be forwarded to the Comptroller of the Currency and the other to the Secretary of State, to be filed and preserved in their offices.

That the persons uniting to form such banking corporation shall under their hands make an organization certificate which shall specify, first, the name assumed by such banking corporation, which name shall be subject to approval by the comptroller; second, the foreign country or countries or the dependencies or colonies of foreign countries or the dependencies of the United States where its banking operations are to be carried on; third, the place in the United States where its home office shall be located; fourth, the amount of its capital stock and the number of shares into which the same shall be divided; fifth, the names and places of residence of the shareholders and the number of shares held by each of them; and, sixth, a declaration that said certificate is made to enable such persons to avail themselves of the advantages of this section.

That no banking corporation shall be organized under the provisions of this section with a less capital than two million dollars, which shall be fully paid in before the banking corporation shall be authorized to commence business, and the fact of said payment shall

be certified by the Comptroller of the Currency and a copy of his certificate to this effect shall be filed with the Secretary of State: *Provided*, That the capital stock of any such bank may be increased at any time by a vote of two-thirds of its shareholders with the approval of the Comptroller of the Currency and that the capital stock of any such bank which exceeds two million dollars may be reduced at any time to the sum of two million dollars by the vote of shareholders owning two-thirds of the capital.

That every banking corporation formed pursuant to the provisions of this section shall for a period of twenty years from the date of the execution of its organization certificate be a body corporate, but shall not be authorized to receive deposits in the United States nor transact any domestic business not necessarily related to the business being done in foreign countries or in the dependencies of the United States. Such banking corporations shall have authority to make acceptances, buy and sell bills of exchange, or other commercial paper relating to foreign business, and to purchase and sell securities, including securities of the United States or of any State in the Union. Each banking corporation organized under the provisions of this section shall have power to establish and maintain for the transaction of its business a branch or branches in foreign countries, their dependencies, or the dependencies of the United States at such places and under such regulations as its board of directors may deem expedient.

A majority of the shares of the capital stock of such banking corporation shall be held and owned by citizens of the United States or corporations chartered under the laws of the United States or of any State of the Union, and a majority of the members of the board of directors of such banking corporations shall be citizens of the United States. Each director shall own in his own right at least one hundred shares of the capital stock of the banking corporation of which he is a director.

Whenever the Comptroller shall become satisfied of the insolvency of any such banking corporation he may appoint a receiver who shall proceed to close up such corporation in the same manner in which he would close a national bank, the disposition of the assets of the branches to be subject to any special provisions of the laws of the country under whose jurisdiction such assets are located.

The annual meeting of every such banking corporation shall be held at its home office in the United States, and every such banking corporation shall keep at its home office books containing the names of all stockholders of such banking corporation and members of its board of directors, together with copies of the reports furnished by it to the Comptroller of the Currency exhibiting in detail and under appropriate heads the resources and liabilities of the banking corporation. Every such banking corporation shall make reports to the Comptroller of the Currency at such times as he may require, and shall be subject to examinations when deemed necessary by the Comptroller of the Currency through examiners appointed by him; the compensation of such examiners to be fixed by the Comptroller of the Currency.

Any such banking corporation may go into liquidation and be closed by the vote of its shareholders owning two-thirds of its stock.

Any bank doing business in the United States and being the owner of stock in the National Reserve Association may subscribe to the stock of any banking corporation organized under the provisions of this section, but the aggregate of such stock held by any one bank shall not exceed ten per centum of the capital stock of the subscribing bank.

SEC. 58. Congress reserves the right to alter or amend the provisions of this act to take effect at the end of any decennial period from and after the organization of the National Reserve Association.

SEC. 59. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

NELSON W. ALDRICH,
Chairman.

EDWARD B. VREELAND,
Vice Chairman.

JULIUS C. BURROWS.

EUGENE HALE.

H. M. TELLER.

H. D. MONEY.

THEODORE E. BURTON.

JAS. P. TALIAFERRO.

BOIES PENROSE.

JOHN W. WEEKS.

ROBT. W. BONYNGE.

L. P. PADGETT.

GEO. F. BURGESS.

A. P. PUJO.

GEO. W. PRINCE.

JAMES McCLACHLAN.

A. PIATT ANDREW,
Assistant to Commission.

ARTHUR B. SHELTON,
Secretary.

WASHINGTON, *January 8, 1912.*

Annual Report, Secretary of Treasury (Franklin MacVeagh)

[Sixty-Second Congress, 3d Session, December 2, 1912, Pages 1-4]

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BANKING AND CURRENCY REFORM.

One of the most important facts in connection with Banking and Currency legislation is its urgency. As long as our banking and currency system remains as it is the immeasurable disaster of a panic will remain a possibility. The system under which we are living not only will not prevent a panic, but after a certain point in the generation of panic conditions is reached, will make it inevitable. So that,

as long as the financial system created by our Federal laws remains unchanged and unreformed, the government will be exclusively responsible for the commercial, industrial and social disasters which flow from panics. This responsibility is a fixed one. It is unavoidable; and ought to be frankly recognized and acknowledged. The people are helpless. The character of this responsibility is better understood when it is realized that the effects of financial panics are not at all confined to the banks and the larger business world. A panic such as that of 1907, or a lesser panic, reaches directly or indirectly every town and hamlet of the country, and every family and individual. It nationalizes itself long before it has gone far; and its interruption of the business movements large and small, its fracture of the organization under which commercial and industrial life go on and the resulting social suffering are prolonged into years. These facts intensify the significance of the delays and postponements of the government. A panic is as unnecessary and as avoidable as an epidemic of smallpox. You can have an epidemic of smallpox if you disregard all that science has provided as a preventive. You can not possibly have an epidemic of smallpox if you will apply the simple means that science has provided. So we will continue to have panics only so long as we refuse to apply the simple preventives which he who runs may read.

Not only does the system established by the present Federal laws promote and develop panics, but at all times the country is carrying the needless and heavy burden of an unfit and wholly insufficient banking and currency system. This system never permits entirely free commercial, financial or industrial action at any time; because its liability to sudden constraint and restriction is always a part of the nation's financial consciousness. There never is a time when there is any long look ahead; except when we are in the midst of a panic when there is a long look of disaster ahead. There is never a long look of ease and convenience and prosperity ahead.

This is true even in the quietest periods of the year. And then there always comes, in the crop moving season, a special stress and constraint; which not only affects the imaginations but the actual resources of the banks. The autumnal constrictions are not felt, of course, so severely as those of a panic; but severely enough to make long periods of wholly unnecessary discomfort and apprehension; not to speak of the actual lack of financial facilities legitimately needed by the people and denied by the government.

We have had before us this autumn another object lesson of the urgency of the need of banking and currency relief. This relief which is so urgently needed by the legitimate business and enterprise of our people is not relief from a financial situation built up by the financial world itself, but is from a system and conditions superimposed by the government; and forced upon the business community and upon American society. The banking and currency system is the product of Federal law. And there can be no relief from it until Congress acts. And this is why Congressional action is urgent.

Fortunately, the banks have been able unaided to carry on, this autumn, the financial operations necessary to the movement of our vast crops; and at the same time finance the operations of a general business expansion—even in the face of a European disturbance. This, however, has called out nearly all the resources that were available under our constricting system. And it was at no time certain that the Treasury Department might not be fairly called upon to use its facilities to assist these ordinary business transactions. I should have been sorry to feel it necessary for the Treasury Department to intervene at such a normal period as this. But, of course, it would have assisted if it had become necessary; for the use of the surplus in the Treasury belongs of right to the business operations of the country whenever a real need for it arises. In view, however, of the impotent condition of our bank reserves whenever reserves are seriously needed, it has seemed that the present moderate accumulations in the Treasury might well be held intact for a greater need. The Treasury reserve is the only trustworthy one we have; and until Congress furnishes the nation with another and better reserve it is well to make that of the Treasury as useful and responsible as possible. I think it fortunate that the financial world has been able to finance the enlarged business of the country this autumn without resort to the reserve which the Treasury Department has accumulated. I also think it fortunate that the Treasury has accumulated a reserve to aid in bridging over until the new and urgent legislation is passed, and believe it is of high public importance that such a reserve shall be maintained until a more legitimate one has been provided for by legislation.

This anomalous relation between the Treasury Department and the general financial world is, at the same time, a part of the thing to be reformed. Taking large sums of actual money out of the ordinary financial use and locking it up as a dead mass in the vaults of the Treasury is a proceeding as unscientific and unreasoned as any other part of our unreasoned and unscientific banking and currency system. But until that system is changed so as to provide a trusty system of bank reserves, it seems to me the Treasury Department performs, as incidental to its very bad share in the banking and currency system, some functions as a reserve center which are of very great value. Since, however, the Treasury surplus is not a genuine self-acting reserve, it is desirable that as long as it is not excessive, it shall not be too easily drawn upon and absorbed—not used as long as the ordinary facilities of the money market can be made sufficient to meet the general demand. It was upon these general views that the Treasury Department acted this fall with respect to the money market.

It is not my intention to speak of the details of this urgent relief measure—this Banking and Currency legislation. But the general features of a new system—if that system shall be at all adequate to the emergency—must include, among its necessary features, provisions for never-failing reserves and never-failing currency, and for the perfect elasticity and flexibility of both; for the permanent organization and organized cooperation of the banks, which are now suffering and causing the nation to suffer by reason of their unorganized state; for a central agency, to represent and act for the organized and cooperative banks—this agency to be securely free from political or trust control, but with the government having adequate and intimate

supervision of it; for independent banking units—so independent that no one bank can be owned, controlled or shared in in any degree, directly or indirectly, by any other bank; for the equality of all banks, national or state, both as to standards and as to functions—so that every requirement made of a national bank must be complied with equally by a state bank, and every function or privilege enjoyed by a state bank shall be enjoyed by a national bank; for the utilization and the fluidity of bank assets; for the scientific development of exchanges—domestic and foreign; for foreign banking as an adjunct of our foreign commerce; and for taking the Treasury Department out of the banking business.

ALDRICH VREELAND LAW.

In order that the Treasury Department might do what it could—pending legislation—to reduce the inconveniences and dangers of the present Banking and Currency system, it promoted and secured the formation of all necessary National Currency Associations throughout the country to make available the provisions of the Aldrich-Vreeland law in case of need—and as a preventive of need, and these Associations are now practically complete. The important facilities afforded by that law are now available; and the assured knowledge that these facilities are ready to act at once is of itself a strong preventive of trouble.

That law, by the way, will expire by limitation June 30, 1914; and I recommend very strongly a reasonable extension of it that it may not lapse before it becomes unnecessary.

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Annual Reports, Comptroller of Currency, Banking Statistics, 1774-1912

[Comptroller of Currency, Annual Report for 1912, pages 769-771; for 1931,
pages 1023-1025]

Resources and liabilities of the first Bank of the United States.

[Incorporated by Congress in 1791 for 20 years.]

[In millions of dollars.]

	January.	
	1809	1811
RESOURCES.		
Loans and discounts.....	15.0	14.6
United States 6 per cent and other United States stock.....	2.2	2.8
Due from other banks.....	.8	.9
Real estate.....	.5	.5
Notes of other banks.....	.4	.4
Specie.....	5.0	5.0
Total.....	23.5	24.2
LIABILITIES.		
Capital.....	10.0	10.0
Surplus.....	.5	.5
Circulation.....	4.5	5.0
Individual deposits.....	8.5	5.9
United States deposits.....	.1	1.9
Due to other banks.....	.6	.6
Unpaid drafts outstanding.....	.2	.2
Total.....	23.5	24.2

Resources and liabilities of the second Bank of the United States.

[Chartered by Congress in 1816, for 20 years; renewal of charter denied; in consequence reorganization was effected by means of authority of the Legislature of the State of Pennsylvania. The bank assigned in 1841, the affairs being finally liquidated in 1856, and resulted in the payment in full, interest and principal of liabilities to depositors and note holders; the shareholders, however, received nothing on their investment in stock of the bank.]

[In millions of dollars.]

	1817	1818	1819	1820	1821	1822	1823	1824
RESOURCES.								
Loans and discounts.....	32.2	41.2	35.8	31.4	30.9	28.1	30.7	33.4
Stocks.....	4.8	9.5	7.4	7.2	9.2	13.3	11.0	10.9
Real estate.....						.6	.6	1.3
Banking house.....		.2	.4	1.3	1.9	1.9	2.0	1.9
Due from foreign bankers.....		1.0	.6	.3	1	1.1		1.4
Due from State banks.....	8.8	1.2	2.6	2.7	1.2	1.7	1.4	1.3
Notes of State banks.....	.6	1.8	1.9	1.4	7	.9	.8	.7
Specie.....	1.7	2.5	2.7	3.4	7.6	4.8	4.4	5.8
Total.....	48.1	57.4	51.4	47.7	51.6	52.4	50.9	56.7
LIABILITIES.								
Capital.....	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Circulation.....	1.9	8.3	6.6	3.6	4.6	5.6	4.4	4.6
Deposits.....	11.2	12.3	5.8	6.6	7.9	8.1	7.6	13.7
Due to State banks.....								
Due to foreign banks, etc.....		1.4	1.4	2.0	2.1	2.0	1.3	1.0
Other liabilities.....		.4	2.6	.5	2.0	1.7	2.6	2.4
RESOURCES.								
Loans and discounts.....	31.8	33.4	30.9	33.7	39.2	40.7	44.0	66.3
Stocks.....	18.4	18.3	17.8	17.6	16.1	11.6	8.7	
Real estate.....	1.5	1.8	2.0	2.3	2.3	2.9	2.6	2.1
Banking house.....	1.9	1.8	1.7	1.6	1.6	1.4	1.3	1.2
Due from foreign bankers.....		.4	.5	.4	.5	1.5	2.4	.1
Due from State banks.....	2.1	.7	1.7		1.7	1.2		3.9
Notes of State banks.....	1.1	1.1	1.1	1.4	1.3	1.5	1.5	2.2
Specie.....	6.7	4.0	6.5	6.2	6.1	7.6	10.8	7.0
Total.....	63.5	61.5	62.2	63.2	68.8	68.4	71.3	82.8
LIABILITIES.								
Capital.....	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Circulation.....	6.1	9.5	8.5	9.9	11.9	12.9	16.3	21.4
Deposits.....	12.0	11.2	14.3	14.5	17.1	16.0	17.3	22.8
Due to State banks.....				1.7			.7	2.0
Due to foreign banks, etc.....	2.4	.3	.3	1.5	1.4			
Other liabilities.....	8.0	5.5	4.1	.6	3.4	4.5	2.0	1.6

Resources and liabilities of the second Bank of the United States—Continued.

	1833	1834	1835	1836	1837	1838	1839	1840
RESOURCES.								
Loans and discounts.....	61.7	54.9	51.8	59.2	57.4	45.3	41.6	36.8
Stocks.....						14.9	18.0	16.3
Real estate.....	1.9	1.7	1.8	1.5	.8	1.1	1.1	1.2
Banking house.....	1.2	1.2	1.2	1.0	.4	.4	.4	.6
Due from foreign bankers.....	3.1	1.8	1.9	.1				
Due from State banks.....	3.7	3.1	4.6	4.1	2.3	3.7	5.8	7.5
Notes of State banks.....	2.3	2.0	1.5	1.7	1.2	.9	1.8	1.4
Specie.....	9.0	10.0	15.7	8.4	2.6	3.8	4.2	1.5
Total.....	82.9	74.7	78.5	76.0	64.7	70.1	72.9	65.3
LIABILITIES.								
Capital.....	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Circulation.....	17.5	19.2	17.3	23.1	11.4	6.8	6.0	6.7
Deposits.....	20.3	10.8	11.8	5.1	2.3	2.6	6.8	3.3
Due to State banks.....	2.1	1.5	3.1	2.7	2.3	5.0	3.1	4.2
Due to foreign banks, etc.....					6.9	20.5	22.0	13.1
Other liabilities.....	8.0	8.2	11.3	10.1	6.8	.2		3.0

Number of colonial and State banks, their capital, circulation, deposits, specie, and loans, in the years mentioned from 1774 to 1833.

Year.	Number of banks.	Capital.	Circulation.	Deposits.	Specie.	Loans.
		Millions.	Millions.	Millions.	Millions.	Millions.
1774					\$4.0	
1784	3	\$2.1	\$2.0		10.0	
1790	4	2.5	2.5		9.0	
1791	6	12.9	9.0		16.0	
1792	16	17.1	11.5		18.0	
1793	17	18.0	11.0		20.0	
1794	17	18.0	11.6		21.5	
1795	23	19.0	11.0		19.0	
1796	24	19.2	10.5		16.5	
1797	25	19.2	10.0		16.0	
1798	25	19.2	9.0		14.0	
1799	26	21.2	10.0		17.0	
1800	28	21.3	10.5		17.5	
1801	31	22.4	11.0		17.0	
1802	32	22.6	10.0		16.5	
1803	36	26.0	11.0		16.0	
1804	59	39.5	14.0		17.5	
1805	75	40.4				
1806	115	5.4	1.6	\$2.0	.9	\$7.0
1807	116	5.5	1.4	1.7	.7	6.8
1808	116	5.9	1.0	2.5	1.0	7.4
1809	1 ² 29	7.2	1.7	2.7	1.2	9.7
1810	1 ² 28	6.6	2.5	2.8	1.6	11.1
1811	88	42.6	22.7		9.6	
1812	1 ² 29	7.9	2.6	5.3	4.0	12.8
1813		65.0	66.0		28.0	117.0
1814		80.3				
1815	208	82.2	45.5		17.0	150.0
1816	246	89.8	68.0		19.0	
1817		90.6				
1818	1 ² 27	9.7	2.6	2.9	1.1	12.5
1819		72.3	35.7	11.1	9.8	73.6
1820	307	102.1	40.6	31.2	16.7	
1821	1 ² 28	9.8	3.0	5.4	3.0	13.0
1822	1 ² 33	10.8	3.1	3.2	.9	14.5
1823	1 ² 34	11.6	3.1	3.1	1.0	15.6
1824	1 ² 37	12.8	3.8	5.2	1.9	17.4
1825	1 ² 41	14.5	4.0	2.7	1.0	21.9
1826	1 ² 55	16.6	4.5	2.6	1.3	23.6
1827	1 ² 60	18.2	4.9	2.9	1.4	24.2
1828	1 ² 108	25.4	5.6	3.0	1.4	34.5
1829	329	110.1	48.2	40.7	14.9	
1830	329	110.1	48.4	39.5	14.5	159.8
1831	1 ² 91	23.4	8.8	4.6	1.3	38.9
1832	1 ² 172	35.5	10.2	4.7	1.6	53.2
1833	1 ² 175	37.8	10.2	5.4	1.7	57.0

¹ Massachusetts.
² Rhode Island.

³ Capital stock of Massachusetts only.
⁴ New Hampshire.

⁵ Maine.

Abstract of resources and liabilities of all reporting banks on or about June 30, each year 1834 to 1912, inclusive

(Includes National, State (commercial), savings and private banks, and loan and trust companies)

[In thousands of dollars]

	Number of banks	Loans and discounts, including overdrafts	United States Government and other securities	Cash	Due from banks ¹	Other resources	Total resources	Capital	Surplus and net undivided profits	Circulation ²	Total deposits	Bills payable and discounts	Other liabilities
1834	506	324, 119	6, 113	48, 797	27, 330	12, 574	418, 933	200, 006		94, 840	102, 269		21, 818
1835	704	365, 184	9, 211	68, 085	40, 084	15, 782	498, 326	231, 250		103, 692	122, 054		41, 330
1836	713	457, 506	11, 709	76, 935	51, 877	24, 170	622, 197	251, 875		140, 301	165, 507		64, 514
1837	788	525, 116	12, 407	79, 815	59, 664	29, 488	706, 490	290, 772		149, 186	189, 818		76, 714
1838	829	485, 632	33, 909	61, 052	58, 195	43, 270	682, 058	317, 637		116, 139	145, 707		102, 575
1839	840	492, 278	36, 128	76, 118	52, 896	44, 960	702, 382	327, 133		135, 171	143, 376		96, 702
1840	901	462, 897	42, 412	41, 140	57, 527	53, 774	657, 750	358, 443		106, 969	119, 856		72, 482
1841	784	386, 488	64, 811	63, 626	47, 877	45, 341	608, 143	313, 609		107, 290	107, 752		79, 492
1842	692	323, 958	24, 586	50, 988	30, 752	41, 528	471, 812	260, 172		83, 734	88, 273		39, 633
1843	691	254, 545	28, 380	53, 401	20, 666	36, 170	393, 162	228, 862		58, 564	77, 625		28, 111
1844	696	264, 906	22, 859	68, 301	35, 861	34, 675	426, 602	210, 872		75, 168	116, 549		24, 013
1845	707	288, 617	20, 356	63, 068	29, 619	32, 250	433, 910	206, 046		89, 609	114, 358		23, 897
1846	707	312, 114	21, 487	63, 313	31, 690	27, 013	455, 617	196, 894		105, 552	125, 132		28, 039
1847	715	310, 283	20, 158	62, 035	31, 789	33, 426	457, 691	203, 071		105, 520	120, 332		28, 768
1848	751	344, 477	26, 498	73, 287	38, 905	28, 761	511, 928	204, 838		128, 506	142, 641		35, 943
1849	782	332, 323	23, 572	65, 008	32, 228	25, 457	478, 588	207, 309		114, 743	121, 274		35, 262
1850	824	364, 204	20, 607	73, 286	41, 632	32, 532	532, 261	217, 317		131, 367	146, 304		37, 273
1851	879	413, 757	22, 388	81, 208	50, 718	29, 156	597, 227	227, 808		155, 165	175, 375		38, 879
1852	913	429, 761	23, 254	84, 350	52, 680	30, 283	620, 328	236, 620		161, 167	182, 158		40, 383
1853	750	408, 044	22, 285	77, 570	48, 920	19, 466	577, 185	207, 909		146, 073	195, 179		28, 024
1854	1, 208	557, 398	44, 350	107, 649	55, 516	29, 957	794, 870	301, 376		204, 689	238, 511		50, 294
1855	1, 307	576, 145	52, 727	99, 310	55, 739	32, 808	816, 729	332, 177		186, 952	235, 557		62, 043
1856	1, 398	634, 183	49, 485	104, 031	62, 640	29, 748	880, 087	343, 874		195, 748	265, 426		75, 039
1857	1, 416	684, 457	59, 272	111, 555	65, 849	32, 045	953, 178	370, 835		214, 779	288, 026		79, 538
1858	1, 422	583, 165	60, 305	112, 241	68, 053	34, 832	848, 596	394, 623		155, 208	237, 102		61, 663
1859	1, 476	657, 184	63, 502	150, 205	78, 245	34, 300	983, 436	401, 976		193, 307	327, 784		60, 369
1860	1, 562	691, 946	70, 344	128, 429	67, 235	41, 905	999, 859	421, 880		207, 102	309, 735		61, 142
1861	1, 601	696, 778	74, 005	138, 876	58, 794	47, 406	1, 015, 859	429, 593		202, 006	318, 505		65, 755
1862	1, 492	646, 678	99, 011	155, 228	65, 257	45, 975	1, 012, 149	418, 140		183, 792	357, 466		52, 751
1863	1, 532	654, 068	186, 173	207, 775	100, 052	60, 480	1, 208, 548	412, 235		238, 677	503, 692		53, 816
1864	1, 556	554, 653	149, 714	147, 261	88, 739	32, 568	972, 935	386, 768		³ 4, 224	176, 257		25, 335
1865	1, 643	517, 524	412, 314	231, 445	160, 525	35, 603	1, 357, 411	397, 017		³ 54, 463	179, 662		37, 306
1866	1, 931	682, 327	483, 196	259, 094	220, 504	27, 818	1, 672, 939	480, 749		³ 70, 438	308, 825		45, 447
1867	1, 908	709, 310	530, 249	155, 219	242, 875	30, 426	1, 674, 085	483, 762		³ 93, 889	320, 343		23, 472
1868	1, 887	765, 487	520, 277	158, 936	258, 586	32, 337	1, 735, 623	486, 469		³ 109, 383	329, 028		13, 253
1869	1, 878	801, 437	479, 804	130, 414	281, 214	36, 702	1, 735, 571	489, 628		³ 126, 032	328, 530		15, 758
1870	1, 937	863, 757	469, 734	173, 935	231, 673	41, 731	1, 780, 830	513, 749		³ 134, 552	306, 078		16, 306

1871	2, 175	990, 267	479, 423	204, 679	279, 974	48, 189	2, 002, 532	561, 775	³ 143, 857	370, 232	887, 839	³ 8, 399	30, 430
1872	2, 419	1, 123, 038	479, 510	217, 357	272, 298	53, 192	2, 145, 395	592, 672	³ 155, 416	405, 278	926, 577	³ 10, 687	54, 765
1873	3, 208	1, 439, 877	721, 348	198, 994	267, 571	83, 556	2, 731, 346	532, 818	215, 639	338, 964	1, 625, 183	³ 12, 731	6, 013
1874	3, 552	1, 564, 383	732, 000	241, 848	267, 986	84, 258	2, 890, 475	550, 310	239, 092	338, 692	1, 740, 049	³ 8, 769	13, 543
1875	3, 336	1, 748, 009	801, 944	230, 234	296, 353	128, 126	3, 204, 666	592, 508	254, 251	318, 326	2, 006, 620	³ 10, 119	20, 942
1876	3, 448	1, 727, 178	818, 214	217, 347	265, 231	135, 047	3, 183, 017	602, 355	261, 633	294, 833	1, 993, 030	³ 10, 041	21, 125
1877	3, 384	1, 721, 038	851, 613	220, 642	262, 660	148, 065	3, 204, 018	614, 342	260, 612	290, 390	2, 006, 199	³ 9, 202	23, 273
1878	3, 229	1, 561, 219	874, 478	207, 284	285, 223	152, 642	3, 080, 668	587, 673	237, 813	300, 009	1, 920, 898	³ 7, 477	26, 796
1879	3, 335	1, 507, 354	1, 138, 623	207, 491	297, 319	161, 894	3, 312, 681	580, 472	246, 167	307, 718	2, 149, 192	³ 6, 737	22, 395
1880	3, 355	1, 662, 256	904, 193	274, 262	381, 149	177, 085	3, 398, 945	565, 228	260, 297	318, 371	2, 222, 106	³ 7, 519	25, 424
1881	3, 427	1, 902, 037	985, 298	277, 987	503, 573	200, 229	3, 869, 124	572, 339	292, 075	312, 498	2, 648, 062	³ 7, 389	35, 761
1882	3, 572	2, 050, 453	1, 054, 909	268, 697	486, 399	170, 687	4, 031, 145	590, 547	310, 062	309, 208	2, 777, 421	³ 9, 833	34, 074
1883	3, 835	2, 233, 539	1, 027, 791	286, 120	425, 621	235, 031	4, 208, 104	625, 531	347, 861	312, 151	2, 893, 977	³ 8, 335	30, 249
1884	4, 113	2, 260, 704	1, 041, 135	303, 312	375, 040	241, 098	4, 221, 289	656, 475	379, 675	295, 352	2, 848, 554	³ 15, 606	25, 627
1885	4, 350	2, 272, 236	1, 042, 024	389, 799	488, 154	236, 617	4, 426, 830	677, 961	361, 956	269, 246	3, 078, 153	³ 7, 938	31, 576
1886	4, 338	2, 433, 784	1, 051, 559	346, 819	426, 298	283, 935	4, 542, 395	680, 393	395, 986	244, 996	3, 186, 179	³ 9, 864	24, 977
1887	6, 170	2, 943, 309	1, 011, 099	432, 319	566, 742	239, 854	5, 193, 323	799, 175	459, 873	166, 857	3, 718, 639	³ 14, 111	34, 668
1888	6, 647	3, 161, 216	1, 131, 107	459, 075	530, 197	188, 863	5, 470, 458	853, 752	493, 814	155, 482	3, 891, 096	³ 18, 051	58, 263
1889	7, 244	3, 477, 596	1, 129, 208	629, 332	514, 995	629, 776	5, 944, 907	894, 713	532, 958	128, 987	4, 310, 516	³ 14, 152	63, 581
1890	8, 201	3, 853, 533	1, 173, 203	488, 748	634, 639	207, 503	6, 357, 626	973, 363	584, 764	126, 444	4, 576, 433	³ 22, 056	74, 566
1891	8, 641	4, 031, 024	1, 179, 393	497, 931	626, 706	227, 146	6, 562, 200	1, 029, 653	619, 271	124, 027	4, 682, 695	³ 27, 768	78, 766
1892	9, 336	4, 336, 889	1, 283, 693	580, 405	791, 588	246, 869	7, 245, 444	1, 071, 073	650, 182	141, 199	5, 297, 460	³ 13, 765	71, 767
1893	9, 492	4, 368, 677	1, 366, 151	515, 988	673, 695	267, 760	7, 192, 271	1, 091, 794	689, 289	155, 081	5, 065, 422	³ 61, 322	129, 363
1894	9, 508	4, 085, 069	1, 445, 452	688, 997	784, 322	286, 731	7, 290, 571	1, 069, 826	682, 722	171, 720	5, 267, 669	³ 18, 195	80, 439
1895	9, 818	4, 268, 623	1, 565, 330	631, 111	810, 916	333, 264	7, 609, 544	1, 080, 277	699, 401	178, 816	5, 538, 634	³ 21, 949	90, 467
1896	9, 469	4, 251, 157	1, 674, 647	531, 856	734, 489	361, 773	7, 553, 922	1, 051, 976	694, 455	199, 214	5, 486, 182	³ 27, 765	94, 327
1897	9, 457	4, 215, 978	1, 732, 418	628, 201	882, 887	362, 601	7, 822, 085	1, 012, 244	712, 704	186, 591	5, 787, 188	³ 15, 075	98, 283
1898	9, 500	4, 652, 279	1, 859, 883	687, 797	1, 036, 554	372, 490	8, 609, 003	992, 091	732, 738	199, 866	6, 554, 165	³ 14, 648	125, 495
1899	9, 732	5, 177, 594	2, 179, 138	723, 299	1, 431, 704	393, 276	9, 905, 011	973, 612	761, 120	199, 358	7, 900, 303	³ 8, 233	62, 385
1900	10, 382	5, 657, 687	2, 498, 381	749, 940	1, 453, 101	426, 716	10, 785, 825	1, 024, 729	882, 203	265, 303	8, 513, 303	³ 16, 872	83, 688
1901	11, 406	6, 425, 431	2, 821, 196	807, 517	1, 773, 930	529, 403	12, 357, 477	1, 076, 121	1, 095, 606	319, 009	9, 896, 122	³ 17, 652	92, 967
1902	12, 424	7, 189, 110	3, 039, 426	848, 103	1, 830, 636	456, 591	13, 363, 866	1, 201, 612	1, 096, 887	309, 337	10, 625, 592	³ 22, 739	107, 699
1903	13, 684	7, 738, 981	3, 359, 794	857, 260	1, 820, 272	526, 810	14, 303, 117	1, 321, 925	1, 273, 498	359, 261	11, 179, 144	³ 28, 579	140, 530
1904	14, 850	7, 982, 023	3, 619, 192	960, 575	2, 015, 047	591, 991	15, 198, 828	1, 392, 495	1, 360, 880	399, 584	11, 864, 925	³ 30, 596	150, 348
1905	16, 410	9, 027, 298	3, 953, 024	994, 136	2, 277, 926	685, 823	16, 918, 207	1, 463, 166	1, 439, 534	445, 456	13, 332, 801	³ 27, 164	210, 086
1906	17, 905	9, 893, 757	4, 031, 498	1, 016, 447	2, 373, 814	862, 063	18, 147, 579	1, 565, 293	1, 558, 843	510, 861	14, 207, 429	³ 37, 403	267, 750
1907	19, 748	10, 763, 912	4, 293, 786	1, 113, 743	2, 441, 237	1, 032, 338	19, 645, 016	1, 690, 869	1, 645, 068	547, 919	15, 358, 215	³ 49, 140	363, 805
1908	21, 346	10, 437, 992	4, 392, 874	1, 368, 329	2, 507, 709	676, 506	19, 583, 410	1, 757, 159	1, 761, 513	613, 664	15, 116, 863	³ 52, 327	291, 884
1909	22, 524	11, 440, 722	4, 622, 459	1, 457, 685	2, 676, 265	872, 773	21, 197, 904	1, 803, 061	1, 846, 691	641, 312	16, 668, 219	³ 98, 944	139, 749
1910	23, 005	12, 521, 809	4, 687, 753	1, 423, 809	2, 903, 846	913, 104	22, 450, 321	1, 879, 944	1, 955, 599	675, 633	17, 584, 175	³ 153, 445	201, 525
1911	24, 392	13, 046, 390	5, 014, 997	1, 554, 148	3, 183, 505	832, 044	23, 631, 084	1, 952, 411	2, 065, 575	681, 740	18, 581, 475	³ 135, 857	214, 496
1912	25, 195	13, 953, 607	5, 320, 635	1, 572, 954	3, 252, 032	887, 415	24, 986, 643	2, 010, 844	2, 166, 158	708, 091	19, 719, 288	³ 149, 615	232, 047

¹ Includes lawful reserve.

² Prior to 1895 includes State bank circulation.

³ National banks only.

Note: Revised data, beginning in 1896, appear in *All-Bank Statistics, United States, 1896-1955*, Board of Governors, Federal Reserve System (1959).