

SPEECH

OF THE

HON. HORACE BINNEY,

ON THE QUESTION OF

THE REMOVAL OF THE DEPOSITES.

DELIVERED

IN THE HOUSE OF REPRESENTATIVES,

JANUARY, 1834.

WASHINGTON:

PRINTED BY GALES AND SEATON.

1834.

SPEECH.

The House having resumed the consideration of the motion to refer to the Committee of Ways and Means the reasons assigned by the Secretary of the Treasury for the removal of the public deposits, with Mr. McDUFFIE's motion for instructing the committee to report a bill for restoring them to the Bank of the United States—

Mr. BINNEY addressed the Chair to the following effect:

Mr. SPEAKER: The amendment offered by the gentleman from South Carolina, [Mr. McDUFFIE,] proposes to instruct the Committee of Ways and Means "to report a joint resolution, providing that the public revenue, hereafter collected, be deposited in the Bank of the United States, in conformity with the public faith, pledged in the charter of the said Bank." It, therefore, presents directly the question of the sufficiency of the Secretary's reasons for removing the public deposits from the Bank, and for making the future deposits elsewhere; and brings up for the consideration of this House every thing that can bear upon the great topics of national faith and public safety that are involved in the issue.

I mean to discuss this great question, sir, as I think it becomes me to discuss it, on my first entrance into this House; as it would become any one to discuss it, having the few relations to extreme party that I have, and being desirous, for the short time that he means to be connected with the station, to do or omit nothing that shall be the occasion of painful retrospect. I mean to discuss it as gravely and temperately as I can: not, sir, because it is not a fit subject for the most animated and impassioned appeals to every fear and hope that a patriot can entertain for his country—for I hold, without doubt, that it is so,—but because, as the defence of the measure to be examined comes to this House under the name and in the guise of "Reason," I deem it fit to receive it, and to try its pretensions by the standard to which it appeals. I mean to examine the Secretary's paper, as the friends of the measure say it ought to be examined—to take the facts as he states them, unless in the same paper, or in other papers proceeding from the same authority, there are contradictions; and then I must be allowed the exercise of private judgment upon the evidence—to take the motives as the Secretary alleges them—to add no facts, except such as are notorious or incontestable, and then to ask the impartial judgment of the House upon my answer.

Sir, the effort seems to be almost unnecessary. The great practical answer is already given by the condition of the country. No reasoning in this House can refute it; none is necessary to sustain it. It

comes to us, it is hourly coming to us, in the language of truth, and soberness, and bitterness, from almost every quarter of the country; and, if any man is so blind to the realities around him as to consider all this but as a theatrical exhibition got up by the Bank, or the friends of the Bank, to terrify and deceive this nation, he will continue blind to them until the catastrophe of the great drama shall make his faculties as useless for the correction of the evil, as they now seem to be for its apprehension.

Mr. Speaker, the change produced in this country, in the short space of three months, is without example in the history of this or any other nation. The past summer found the people delighted or contented with the apparent adjustment of some of the most fearful controversies that ever divided them. The Chief Magistrate of the Union had entered upon his office for another term, and was receiving more than the honors of a Roman triumph from the happy people of the Middle and Northern States, without distinction of party, age, or sex. Nature promised to the husbandman an exuberant crop. Trade was replenishing the coffers of the nation, and rewarding the merchant's enterprise. The spindle, and the shuttle, and every instrument of mechanic industry, were pursuing their busy labors with profit. Internal improvements were bringing down the remotest West to the shores of the Atlantic, and binding and compacting the dispersed inhabitants of this immense territory, as the inhabitants of a single State. One universal smile beamed from the happy face of this favored country. But, sir, we have had a fearful admonition, that we hold all such treasures in earthen vessels; and a still more fearful one, that misjudging man, either in error or in anger, may, in a moment, dash them to the earth, and break into a thousand fragments the finest creations of industry and intelligence.

Sir, there is one great interest in this nation, that is, and I fear will for some time continue to be, peculiarly subject to derangement; and yet every other interest is intimately and inseparably involved in it: I mean the currency. We have some twenty scores of banks from which this currency is derived. We have from eighty to a hundred millions of bank notes, with a metallic circulation along with it, not greater, perhaps, than as one to seven. We have, it may be, one hundred and forty to fifty millions of bank notes, and bank deposits, performing in part the same office, with about the same proportion of specie in the banks to sustain it. It is a system depending essentially for its safety upon public confidence, and that confidence depending of course upon the regularity of the whole machine, which again depends upon the control that governs the whole. When compared with the currencies of England and France—in the former of which the metallic circulation is estimated as nearly one-half, and in the latter as nine-tenths of the whole—it may be seen how much more confidence is required here, and how much greater the liability to shock and to derangement. Yet, by the regulation and control of the National Bank, ever since that regulation and control have obtained, the system has worked well, and it has worked well only by means of them. Sir, this regulation and control have been thrown away—

thrown away wantonly and contemptuously. In an instant, sir, almost in the midst of the smiling scene I have described, without any preparation of the country at large, with nothing by way of notice but a menace, which no one but the Bank itself, and she only from the instinct of self-preservation, seems to have respected, this most delicate of all the instruments of political economy has been assaulted, deranged, and dislocated; and the whole scene of enchantment has vanished, as by the command of a wizard. The State banks are paralyzed—they can do, or they will do, nothing. The Bank of the United States stands upon her own defence. She can do, or she will do nothing, until she knows the full extent of the storm that is to follow, and measures her own ability to meet it. Prices are falling, domestic exchange is falling, bank notes are falling, stocks are falling, and, in some instances, have fallen dead. The gravitation of the system is disturbed, and its loss threatened; and it being the work of man, and directed only by his limited wisdom, there is no *La Place* or *Bowditch* that can foretell the extent or the mischiefs of the derangement, or in what new contrivance a compensation may be found for the disturbing force.

Sir, whence has come this derangement? It comes from the act of the Secretary *in removing the deposits, and in declaring his doctrine of an unregulated, uncontrolled, State bank paper currency.* It is against all true philosophy to assign more causes than are sufficient to produce the ascertained effect. This cause is sufficient—this I verily believe has produced it—and I hope for the patient attention of the House to my humble efforts hereafter to show that nothing else has produced it.

Sir, the Secretary of the Treasury has, in my poor judgment, committed one error which is wholly inexcusable; it is, in part, the error of the argument that has proceeded from the honorable member from Tennessee. That error lies in supposing that there were but two objects to be considered in coming to his decision upon the deposits—the *Administration* and the *Bank*. The country has been forgotten. The Administration was to vindicate its opinions. The Bank was to be made to give way to them. The consequences were to be left to those whom they might concern; and they are such as moderate human wisdom might have foreseen, such as are now before us. While the Administration is apparently strong, and the Bank undisturbed, the country lies stunned and stupefied by the blow; and it is now for this House to say whether they will continue the error, by forgetting the country here also, or will endeavor to raise her to her feet, and assist her in recovering from the shaft that was aimed at the Bank, but has glanced aside and fallen on her own bosom.

Mr. Speaker, I cannot better show the extent of the derangement which this act is certain to produce, unless it is corrected, than by a statement of the uses which the Bank of the United States has annually afforded, in various ways, to the people of the United States. I take the year 1832, for which the returns are complete as to the item of exchanges, and the years 1832 and 1833 for some other items of nearly equal moment.

The amount of domestic bills of exchange, <i>purchased</i> in all parts of the Union, in 1832, was	-	-	-	-	§67,516,673
[The half year from December, 1832, to June, 1833, was \$41,312,982, showing a large increase in that line during the first half of this year.]					
The amount of domestic bills <i>collected</i> for others, was					42,096,062
The amount of drafts by Bank United States and its offices, on each other,	-	-	-	-	32,796,087
Drafts by Bank United States and its offices, on State banks,	-	-	-	-	12,361,337
Notes of Bank United States and its branches, received and paid out of place, viz: at places where there was no obligation to pay them,	-	-	-	-	39,449,527
Notes of State banks received by Bank United States and its branches, where they were not payable,	-				21,630,557
Transfers of funds for the United States,	-	-	-	-	16,100,000
Transfers of office balances,	-	-	-	-	9,767,667
					<hr/>
Making a total of domestic exchanges,	-	-	-	-	241,717,910
Add to which the amount of—					
Foreign exchange purchased,	-	-	§9,253,533		
Do. sold,	-	-	4,203,204		
					<hr/>
					13,456,737
					<hr/>
Making the total amount of exchanges, by means of the Bank of the United States, within the year 1832,					<u>255,174,647</u>

The amount of premiums on domestic exchange, received by the Bank for the same period, was §217,249 56, which is about one-eleventh of one per cent. on the aggregate amount of the domestic operations of the Bank, say §241,717,910; and this has been the whole cost of this circulation to the people of the United States, by the aid of which their property of every description has been passing in a copious and uniform current, from one extremity of this nation to the other. To this extensive aid must be added that derived from the Bank discounts, which, with the domestic bills purchased, amounted, in the year 1832, to an average sum of §66,871,349, and, in the year 1833, to an average of §61,746,708; and that also derived from the constant circulation of her notes, averaging §20,309,359 for the year 1832, and §18,495,436 for the succeeding year.

Now, sir, it appears to me that I do no injustice to the Secretary of the Treasury, or to any one who has directed, or authorized, or superintended this act, by saying that it was the *design* of the removal of the deposits to break up this whole machinery; that this was not to be a casual, unexpected, unpremeditated result; but that the removal was ordered for the very purpose of drawing the circulation of the Bank of the United States out of the hands of the people into the hands of the Bank; to compel her, with this view, to reduce her discounts, and diminish the amount of her purchases of domestic exchange; and thus to cut all the ties which united the Bank to the

internal trade of the country. I do no injustice by saying this, because, in the letter of the Secretary, if I read it right, this design is there explicitly avowed and defended. But whether designed or not, this will be the effect, and the necessary effect, of the measure, if it shall prove successful. It must throw the whole machinery of the Bank out of gear; compel her at once to begin the process which is to liquidate and close her transactions; separate her from the people, and the people from the Bank; and deliver over these vast concerns and interests to confusion and misrule. It is by the revelation of this design, and by the necessary consequences of the measure, as this intelligent people have apprehended them, that great distress has already been produced, and the just anticipation of greater distress hereafter. Can any one, after this view of the recent uses of the Bank, and of the effects which have followed, and are to follow, their intended or necessary interruption, ask the reason of the want of employment, the want of money, the stagnation of trade, which prevails in most of our cities? Can he ask the cause of the syncope into which this people have fallen? No, sir, no one can for a moment doubt the cause of all this. It lies in the act of removing the deposits, taken in connexion with its design and doctrine. It is not the mere transfer from one place to another. That is a circumstance which might happen, and has happened already, in the history of this Bank, without producing any alarm whatever. It is not the removal of the deposits simply, but the design with which that removal was made, and the effects which belong to it. The alarm proceeds from looking at the necessary consequences of such a design, unless Congress shall interpose to avert them.

Permit me, sir, before I come to the regular discussion of the reasons adduced by the Secretary of the Treasury for removing the deposits, to occupy a few moments in drawing the attention of the House to some matters, which, to many gentlemen here, are no doubt familiar, but which ought to be known and considered by all who would form a sound judgment on the question before us. I have said that the removal of the public deposits, if it had been a mere transfer of so much money from one bank to other banks, judiciously regulated as such transfers may be, would not have produced the train of consequences which we have already seen to flow from it. There are gentlemen in this House familiar with as large operations in finance, that have produced no inconvenience. The effects of such a measure must depend upon the condition of trade at the moment of removal, upon the continued or interrupted application of the money transferred, to the same uses to which it has been before applied, and upon the prosecution or discontinuance of the *general system* of banking operations which prevailed at the moment of transfer. What its effects must have been, and must continue to be, in the actual circumstances of the country, taken in connexion with the imputed design, it is not difficult to show.

Sir, the Bank of the United States held of the public deposits, of every description, on the 1st of August, 1833, according to the statement of the Secretary of the Treasury, the sum of \$7,599,931; and they were in a course of increase, which the Bank knew as well

as the Secretary, up to the 1st of October, 1833, when they amounted to the sum of \$9,868,435; say ten millions of dollars. How was this money to be paid? The Secretary of the Treasury had a right to demand its payment, when, where, and in such sum or sums, as he thought fit. He had such a power to do it in point of form, that the Bank could not question its exercise in point of right. It was the duty of the Bank to be prepared to pay it; and the question must be answered, how was the money to be paid?

The answer given to this question, and given with a view to involve the Bank in odium and prejudice, is this: that she ought to have paid it, or whatever the Secretary chose to require of it, in specie, from her vaults, without distressing the community, by calling upon others to pay their debts to her. To say nothing of the fact, sir, that the Bank has always paid every one, the Treasury included, in specie, unless they preferred something else, the doctrine that she was to pay in specie to the Treasury, without putting herself in a condition to require it from some one else, is a doctrine which I cannot admit. It is one that will not bear examination.

The Bank, on 1st October, 1833, had specie in all her vaults to the extent of \$10,663,441. If she had been so situated at that time as that this, or any considerable portion of it, had left her vaults, without being brought back again, the consequences might have been of the most pernicious character to herself and to the whole country. The Bank had a circulation of more than eighteen millions to sustain, exclusive of her private deposits. A new era had opened. A new system was about to be adopted in the fiscal affairs of the Union. Its effects were to be seen. The extent to which the Treasury was about to assail her could not be known. The slightest interruption, the slightest fear of interruption, to her promptness and punctuality, would have raised that apprehension for her stability which has been excited for others. Sir, to ask this Bank, under these circumstances, to empty her vaults of specie, without taking any measures of precaution to replenish them, would have been to ask the able directors to throw away their whole capital of reputation, and that of the Bank also. They would have proved themselves unworthy of the occasion on which they were called to act. What, sir, at the very outbreaking of the storm, when no human intelligence could tell how long it was to last, or what would be the fury of its violence, to ask the pilots of this bark to keep all her sails set, and to throw her ballast overboard! No, sir; the Bank was bound to do as she has done. She was bound to prepare for the trial. She was bound to strengthen her position, by diminishing her discounts; and she has diminished them, in my judgment, most wisely, most discreetly, and most tenderly. And yet, sir, it is from this circumstance—the mere reduction of loans and purchases of bills, without looking either to the necessity for that reduction, or to the extent and effect of it—that some men of honest and upright minds have been prejudiced against her. I can show, without difficulty, that it is a mere prejudice.

The Bank had to pay over ten millions of public deposits, and she ought not to have exposed herself to lose any material portion of her specie, without being in a condition to recall it. She had then but

one resource, and that was, unless the interest of her debtors did of itself produce the effect by diminishing their loans, to call upon them to assist her in paying the amount. There was no other way open to her; and the degree to which she must call, in order to obtain assistance to a given extent, is a point in practical banking to which it is material for gentlemen to advert.

In explaining this operation, so as to make it intelligible to that portion of the House which may not be familiar with banking, I will state the argument against the Bank. It is said, sir, that whatever amount she requires her debtors to pay, or withholds from other borrowers after it is paid, is to be set down as an actual increase of her ability to meet the demand for the public deposits. This is a very specious but wholly unsound proposition. In the process of reduction of discounts, with a view to increase the ability of a bank, two and two do not always make four; they sometimes do not even make two. The Bank not only has debtors, but she is herself a debtor to the Treasury for the public deposits, and to individuals for their private deposits; she is a debtor for her notes in circulation, and to other banks for any balances due to them. When, therefore, she calls upon her debtors to return a part of the debt they owe her, these very persons may be her creditors by deposit, or may borrow from such as are, and may call upon the Bank to pay what she owes to them. Thus, if a person who is required by the Bank to pay a note, has at the same time a deposit or credit in bank, the one may be made an offset against the other; and if the two are equal, it is manifest that the Bank has no more ability to pay its debt to others after this transaction than she had before. She has merely paid a debt that she owed an individual, by the extinguishment of a demand which the Bank had upon him. Sir, this effect is universally seen in the practical business of banking, that when a Bank calls in what is owing to her, a part of the demand is paid by drafts upon herself; and as her line of discounts goes down, so does her line of individual deposits.

It will be easy to show, sir, the effect of this circumstance upon the resources of the Bank while the reductions of August and September last were being made.

In August and September the Bank loans and purchases fell, according to the Secretary's letter, 4,066,147 dollars, as follows:

The amount of notes and bills in August was	\$64,160,349	
And in October following	- - -	60,094,202
		<hr/>
		\$4,066,147
But the private deposits in August were	10,152,143	
And in October they had fallen to	-	8,008,862
Making a reduction by payment of these deposits equal to		<hr/>
		2,143,281

And leaving the Bank the better in ability to pay the public only - - - - - 1,922,866
the difference having been paid away to her own depositors or creditors. This result is familiar in the history of all banks. As a bank calls upon her debtors to pay, they call upon her in like manner; and she retains only the difference between her receipts and payments.

Sir, while the process of reduction was going on in August and September, 1833, the public deposits to be withdrawn in October were increasing against the Bank, having been in October the amount before stated - - - - - \$9,868,435
While in August they stood at - - - - - 7,599,931

Making an increase of - - - - - 2,268,504
so that, regarding these elements alone, the increased ability of the Bank to meet the public deposits was not equal to the increased demand by reason of the deposits; and the process of reduction was of necessity to be continued. So very insufficient a method is it of ascertaining the effect of reductions either upon a bank or the community, to take the amount of reductions only.

But, sir, let me carry this examination a little further. The amount of reductions from 1st August, 1833, to 1st January, 1834, was as follows:
Notes and bills in August, 1833, were \$64,160,149
in January, 1834, they were 54,911,461

Making a diminution or reduction in five months of \$9,248,688
The individual deposits in August, being
as before - - - - - \$10,152,143
They are in January, 1834 - - - - - 6,734,866

So that the Bank has paid those deposits to the extent of 3,417,277

And her ability so far as the reductions gave it, was
increased by the difference only - - - - - 5,831,411
But the public deposits in Oct. were as before \$9,868,435
And in January they stand at - - - - - 4,230,508

Showing a payment of the public deposits during this
time of - - - - - 5,637,927

And leaving an increased ability to pay the residue, as compared with the 1st Aug., 1833, only to the extent of the difference of - - - - - \$193,484

These statements, sir, show that, although reductions are necessary to meet the withdrawal of deposits, they do not produce an increase of ability to pay deposits in the direct ratio of their amount; and therefore that the amount alone is not a test of their having been carried to a sufficient extent. There is no doubt that the payments of debts to the Bank may have produced distress; but these payments have themselves been the effect of the removal of the deposits, and this effect has been infinitely aggravated by the stagnation of trade and the loss of confidence proceeding from the design of the removal, and from the manner of the removal.

Sir, the Treasury might have pursued a course that would have mitigated the evil, by diminishing the cause of alarm. Having the control of this demand, they might have made known to the Bank the times, proportions, and places of the intended transfers, and have thus given assurance to the Bank that its reductions to meet the

emergency need not exceed the proposed demand. But the Treasury took a different course; and, if any thing could raise the embarrassment of the Bank, and the community also, to the highest degree, it was the course which the Treasury pursued.

Mr. Speaker, what was that course? Is any gentleman in this House ignorant of it? The honorable member from Tennessee [Mr. Polk] has read to the House a passage from a pamphlet, which he was pleased to call the manifesto of the Bank; I shall, therefore, regard that publication as authentic, and I will refer gentlemen to the correspondence between the cashier of the Bank and the Treasurer of the United States that is appended to it. They will there find what, by agreement with the Bank, had been the practice of the Treasury when there was no alarm in the community, when the Bank was admitted to be in a state of perfect security, and free from the apprehension of embarrassment. The Treasury practice was to send to the Bank a daily list, specifying every draft upon the Bank from the Treasury, showing the amount drawn for and the place of payment, but omitting the names of the persons to whom payable, to guard against fraud. Another list was sent weekly, with the dates, amounts, places of payment, and names of the payees. These were intended not only to guard the Bank against fraud and surprise, but to enable the Bank to regulate the accommodations to its customers, as they were thus apprized of the points at which their funds would be wanted. Nothing surely could be more natural than to continue a practice like this, when the deposits were to be permanently removed. It could not be doubted by any one that such a proceeding must cause uneasiness in the public mind; and the very first precaution which prudence would have suggested to mitigate the alarm, was the continuance and increase of these safeguards of the Bank; certainly not that, at the very commencement of the alarm, they should be discontinued. But such was the fact. That they were discontinued, and that the Bank, misled and deceived, had to deal with the Treasury as with an enemy, is an event which belongs exclusively to the present day, and to the existence of personal feelings in the Department which directed the Treasurer, wholly unbecoming the official transactions of any Government.

Sir, if I meant to deal with my enemy as is befitting the spirit of honorable contest, I would give him equality of position, of instruction, of knowledge, and let the issue be the result of skill and the better cause; but if I meant to deprive him of all chance of defence or escape, to murder him basely, what better course could I pursue, than to blindfold him, or rather to throw false lights into his eyes, that he could only know the approach of the poniard by feeling it in his heart?

Sir, the former practice was made an instrument of imposition upon the Bank, by continuing to wear its usual appearances, while, in truth, drafts, to the extent of nearly three millions of dollars, were purposely withheld from the lists—drafts payable in unknown places, at unknown times, and to unknown parties. The lists themselves became instruments of deception, and gave false information to the Bank of the state of the Treasury demand, while rumors gave out the exist

ence of the concealed drafts in precisely that way which was most likely to increase the deception. I call the attention of the House to that correspondence of which I have spoken. The Treasurer says that the drafts were of an *unusual kind*; that they depended on *certain contingencies*—contingencies still unknown to this House and nation. Was this a reason why the Bank should not have notice of them? Was it calculated to quiet the apprehensions of the Bank or of the community, that the presentation of these drafts, payable as it now appears at sight, was suspended upon *unknown contingencies*? Sir, every unprejudiced person who looks at this transaction, must agree that the course of the Treasury, in regard to drafts for nearly three millions of dollars, hovering between Philadelphia, New York, and Baltimore, without an intimation to the Bank of the time and place where they were to be presented, was of itself amply sufficient to justify even more alarm than the Bank felt, and greater reductions than the Bank required.

There is one other fact to which I will advert before I close these preliminary remarks; it is of great use in explaining the influence of the removal in producing the present distress. The honorable member from Tennessee [Mr. Polk] expressed great surprise that any difficulty should be apprehended from transferring deposits from one side of a street to another, inasmuch as the community would derive the same amount of accommodation from them in one place as in the other. Sir, the consequence did not follow. The same amount of accommodation was not derived, and it is for those who know the condition of the deposite banks to give the reason. This House does not know what their circumstances were. Their capital may have been employed in furnishing capital to Western banks, or in discounting upon their own stock; or the amount of their private deposits may have been lessened by the apprehension of remaining in company with a public depositor and preferred creditor. There is one decisive reason why the deposite State banks can never so efficiently further the accommodation of the trading community as the Bank of the United States, and that is, that the circulation of the one extends over the whole Union, and never enters one of her banks in its course, but it issues again to repeat the circle. But the circulation of a State bank is at her own door. It cannot leave it to any material extent. Contrivances to extend it are abortive. It does not answer the purpose of exchange, and its excess as currency instantly returns upon the bank for something that is better than her bank notes. The discounts of the State banks, on the faith of the deposits placed in them, cannot have been equal to the reductions of the Bank of the United States to pay them. And, in addition to this, there is an immense mass of private capital usually loaned out on the security of stock, at moderate interest, which, at a moment of danger and alarm, retires from the scene. The days of exorbitant interest are not the days of the capitalist, but of men who desire to make exorbitant profit upon small investments.

Still, sir, it is not easy to account for the height of the present distress by the mere change of the deposits, nor by the diminished use of them in the State banks, when compared with their use in the Bank

of the United States, from which they were taken. These circumstances had an effect, but they do not stand alone. There is an intense apprehension for the future connected with this operation—an apprehension which springs from the Treasury determination that nearly the whole of the existing circulation of exchanges is to cease; and cease it must, to a great extent, if the Bank of the United States is not to collect the public revenue.

The Bank of the United States, Mr. Speaker, has performed her great offices to this people by the concurrence of two peculiarities, which belong to her—her structure, and her employment in the collection of the public revenue. No State banks, by any combination, can effect the required exchanges to a considerable extent. No Bank of the United States, without the aid of the public revenue, can effect them to the extent which the necessities of trade require.

Sir, the structure of the Bank of the United States contributes to this operation in a way which every one may comprehend. The whole circulation of the United States is employed in effecting the exchange of the crops with the merchandise of the country. It is employed in transporting the crops to market, and merchandise to the places of its consumption. Now, sir, a National Bank, with branches spread over the whole Union, knows, from experience, and by her means of observation, where the amount of demand will fall and rise, and at what time these changes will occur. She knows beforehand where she may with safety diminish her resources, and where she must enlarge them. Wherever her resources are placed for use, it is the same thing to the Bank. Her profit is the same every where; and this ability to give them the position which the trade of the country requires, is sustained by, and in a great degree dependent upon, her employment as the depository of the public revenue. In this character the Bank receives the revenue, and holds it until the time of disbursement; and the knowledge which her accomplished President and the Board of Directors obtain through their relations to the Treasury, and by intimate acquaintance with the fiscal operations of the Department, enables them to reconcile all the demands of the Treasury with the demands of trade, at the same time that they preserve the whole currency of the country in that due proportion to demand which makes it, and which alone makes it, sound and invariable.

But now, sir, this revenue is to be collected *against* the Bank. She is to assist in *paying*, not in *receiving* it. Her situation is to be entirely reversed. The wants of the community are to become secondary to her own preservation; and, instead of placing her funds where trade will most require them, she must place them where, from the presence of rivals supported by the Government, she will require them herself for her own protection. Sir, this is to be the future operation of the measure taken by the Treasury Department. The theory of a National Bank with branches not collecting and disbursing the revenue, is an absurdity. It never was conceived of until the present day; and even now, though complaints are made against the Bank, as if her powers were not impaired, no one can seriously regard the measure of removal except as a measure of intended destruction. It

is particularly a measure of intended destruction to all the usual operations of exchange. The Bank cannot perform them as she has done. If the State banks promise to perform them, it is all delusion. If they have contracted to perform them, they will break their contract; and if they do not, they will break themselves. If by possibility they could make themselves a Bank of the United States and its branches, which they cannot do, what would the country gain by such a contrivance but a bank with the powers of the present Bank, subject to no restrictions or control by law, and dependent only on the pleasure of him who controls the deposits? Sir, the whole property of the country, in its transfer from place to place within it, is to undergo—has already undergone—a violent change. There is not a man who can now take the management of a crop in the South, or of a manufacture or importation in the North, who is able to foresee how he shall conduct it to its close; and the consequence is, that he will, if possible, have nothing to do with either. This derangement, actual and prospective, sir, enters materially into the present excitement and distress.

And does the honorable member from Tennessee propose, as a remedy for all this, to have an inquiry into the affairs of the Bank? Is it for difficulties of this description and magnitude that he demands a *sifting* inquiry, an inquiry into the *printing* accounts of the Bank? Is his great object to ascertain how \$7,000 of unvouched payments have been distributed, and who is the owner of the National Intelligencer? Sir, I confess my profound astonishment that gentlemen, having the welfare of this great nation confided to them, will descend to inquiries like these, will run after petty accounts with printers and the concerns of the National Intelligencer, and, in the ardor of pursuit, forget the country that is intrusted to them. The time has come, or I greatly mistake the indications around us, when the country demands that our attention be given to objects of a higher nature.

I humbly hope, then, Mr. Speaker, that this House will inquire into nothing but the question before it, and from which we cannot escape—the evil which now threatens the country, and the proper remedy to be applied. An inquiry of this character is worthy of all attention, and of the devotion of all our faculties and efforts. In such an inquiry, no person will be more ready than myself to forget the Bank, if that shall be the course of patriotism and safety. Except as she ministers to the public good, I regard her as nothing, and less than nothing. The public good, in the preservation of the public faith, in the maintenance of the public currency, and in the support of the constitution—this is an object which this House should never cease to regard, and to which, in my further remarks, I shall endeavor to keep my own attention fixed, without yielding it to any other.

Mr. Speaker, the immediate question before the House is, whether the reasons assigned by the Secretary of the Treasury for removing the public deposits are such as ought to satisfy Congress and the country; and, if not, what is the remedy which it is the duty of Congress to apply?

The reasons assigned are remarkable, sir, in a particular which cannot have escaped the general observation. The letter of the Secretary consists of certain general propositions, by which he en-

deavors to sustain his authority, and of certain particular reasons or statements of fact, by which he endeavors to justify its exercise. The general propositions upon which all his particular reasons depend, he does not condescend to argue at all; and I have listened with all due attention to the gentleman who has preceded me, the honorable member from Tennessee, without being able to perceive that his course has in any respect differed from that of the Secretary. The Secretary asserts, sir, that, by the removal of the deposits, by and through his absolute and unconditional power, whether the act was in itself right or wrong, with or without cause, the Bank of the United States is put out of court, and the nation discharged from the contract, without any violation of faith. He further asserts, that while his own power was absolute, that of Congress over the same subject was gone, having been alienated to him; that the Legislature were, as to the treasure deposited in the Bank of the United States, in a condition of impotency and imbecility; that they had bound themselves hand and foot by the charter of the Bank; and that, while they had given unlimited authority over the subject to him, they had reserved no power whatever to themselves or to the people; and, consequently, that in no event, not even if the deposits were unsafe, or the ultimate law of all Governments—the safety of the people—should imperiously have demanded the removal of the deposits, was it in the power of Congress to touch them, without a violation of the public faith. He further asserts, that the rightful exercise of his power is not, even in point of responsibility to Congress, dependent on the safety of the deposits, or on the fidelity of the Bank in its conduct to the Government; but that it was his right and duty to remove them, if the removal tended in any degree to the interest and convenience of the public. He finally asserts, that as it was his right to remove the deposits, so it was his right, as a consequence, to select the places of new deposite; and he did so.

Sir, these are startling propositions. They involve grave consequences. They deserve careful consideration. They are far from being self-evident. It was worthy of the officer who asserted them, and who was bound to justify the assertion to Congress, to favor that body with at least an outline of the train of reasoning by which he came to these remarkable conclusions. But, sir, there is no such thing in the book. I have looked carefully through it, to borrow some light on this subject from the mind of the Secretary, by which I might enlighten my own; but, beyond the simple dogmas which I have stated, there is nothing to be found, except the causes of his particular determination, which were of no sort of importance whatever, nor worthy of the least consideration, if his general propositions are true. I am compelled, therefore, from necessity, to assert the contrary of all that the Secretary has asserted, and to take the burden of refuting what it would seem to have been rather his duty to establish. These are points, sir, to which I shall especially call the attention of the House, as involving principles of the highest public importance—principles which, if this House shall affirm them, they will affirm that all power over the Treasury is gone from Congress, and that there is but a single Department in the Government.

The first proposition is that with which the Secretary begins his letter. The Secretary says—

“ 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 contract, 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.”

That the House may have before them the section to which the Secretary refers, I beg their attention to it. It is the 16th section of the Bank Charter, which enacts:

“ That the deposits of the money of the United States, in places in which the said Bank or 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*.”

I beg the House to remark that this document proceeds from a gentleman of distinguished reputation as a jurist, trained to legal investigations, and fully acquainted with the legal effect and value of every word which he has used. The language he has adopted runs, “ by the *plain terms* of the contract, as contained in the section above quoted, the stockholders have agreed,” &c. Sir, if the Secretary had said that the contract gave him this power by *implication*, or that he possessed it by the fair *interpretation* of the section, or by its *reason, spirit, scope, or intention*, my perplexity would have been less; but when he asserts that his authority is derived from the *terms* of the section, and from its *plain terms*, and that by those terms it is not restricted to any particular contingencies, but is absolute and unconditional, I feel some doubts whether there is that common medium of a common language between the honorable Secretary and myself which is so indispensable to profitable argument. If I rightly understand the proposition, it has no authority in the terms, nor in the reason, spirit, or intention of the section; and it is as revolting to good sense, in the strength of the language which the Secretary has used, as it is to the rules of law. It asserts that, in no event, right or wrong, not even in the extremest case of wilful injustice or fraud, (a case which I am far from supposing to have been in the view of the Secretary, though his language comprehends it,) could the Bank assert the least violation of

faith by the Secretary's removal of the deposits. Sir, I submit to the House that the contrary proposition may be easily shown to be true, and therefore that the Secretary's proposition is not true.

The right of the Bank to the deposits is derived from contract; a valuable consideration having been paid for it, in a bonus to the Treasury, and in a stipulation for expensive services to be performed through the whole term of the charter. A right in the Secretary to remove those deposits, without good cause, during any part of the time, is not to be presumed, but the contrary; and it should not be conceded, until it is shown to be required by the clear and plain meaning of the whole section. The terms of the section, instead of giving to the Secretary an absolute and unconditional power to remove the deposits, require that he shall have reasons for the removal, which reasons he shall immediately communicate to Congress. This is the condition upon which the Bank submits to the exercise of his power—that he shall have reasons, and communicate them; and such is the agreement of the parties. The whole section is agreement, as the whole charter is. It is all contract, from the beginning to the end. Now, if Congress have agreed with the Bank that the Secretary shall give his reasons for the act, and, consequently, that he shall have reasons, the difficulty, sir, is to understand how, according to approved rules of interpretation, these reasons can be considered as of no concern to the Bank, but only to Congress; how we can understand that it is of no sort of moment to the Bank whether there are reasons or not, when the Bank is to be affected by the removal, and Congress have agreed with the Bank that the reasons shall be given. Sir, in my judgment, the Secretary has directly inverted the object of the provision. The reasons concern the Bank only, and not Congress; or rather, they concern Congress only because they concern the Bank. The contract for the deposits with the Bank is a mockery under any other interpretation. Congress is above the reasons. Whether good or bad, she can do right and justice to herself, whatever the Secretary may argue. The Bank, on the other hand, is wholly dependent upon them, and has no other protection from injustice; and the stipulation for communicating the reasons to Congress is, therefore, for the plain and manifest object of giving to the Bank the benefit of a review by Congress, upon such principles as ought to govern such a contract.

Sir, the honorable member from Tennessee seems to me not to have been fortunate in his reference to the former head of the Treasury, Mr. Crawford, for his doctrine on any branch of this case. On this, in particular, the opinion of Mr. Crawford was directly against him, as well as against the present Secretary, and in favor of that interpretation which I suppose to be the true one. On the 25th May, 1824, the select committee on the memorial of Ninian Edwards, reported that, in certain instances, deposits of the public money were made by Mr. Secretary Crawford in certain State banks situated in places where the Bank of the United States had branches, and that he made no such communication of his reasons to Congress as the charter requires. "This omission," says the committee, "is acknowledged by the Secretary, who says it was owing to inadvertence; and

that the inattention to the provision of the law was unimportant, inasmuch as the provision was intended obviously *for the benefit of the Bank*, and the Bank had full notice." (Reports of committees, 18th Congress, 1st session, document 128.) The doctrine of the present Secretary is, that the provision was not intended at all for the benefit of the Bank; but that, so far as regards the Bank, his power of removing the deposits is, by the plain terms of the section, absolute and unconditional.

The honorable member from Tennessee is not more fortunate in the suggestion of his own reasons for supposing the provision to regard Congress and not the Bank. I understand him to have said that the section required this communication from the Secretary, that Congress might know, 1st, where the deposits were made by the Secretary after their removal; and 2d, whether the Secretary was or was not liable to impeachment for the act. Now, sir, I think myself entitled to ask it as a concession from the honorable member, that a communication of the *fact* where the public money is placed, is not a communication of the *reasons* why it was removed from the Bank of the United States. That fact is precisely what the Secretary is not directed to communicate. His communication is, by the plain terms of the section, confined to the reasons for ordering and directing that the deposits should not be made in the Bank or the branches thereof. As to the object of impeachment, sir, it is as much in derogation of that principle of our constitution, that no man shall be compelled to be a witness against himself, as it is of the character of the Legislature for plain and honest dealing with its officer, to impute to it the design of drawing the Secretary of the Treasury into a confession which may be read against him to the Senate. No, sir; this was not the design of Congress, nor can any course of decent reasoning sustain the enormous proposition of the Secretary, that his power is absolute and unconditional. It is a power which Congress did not, could not, give. An absolute and unconditional power, derived by implication from a contract, for valuable consideration, belongs to doctrines which a court of justice would spurn from its hall. It has no countenance in our institutions; it has none in our constitution, which was ordained to establish justice, as well as to secure the blessings of liberty; it has no countenance from any thing but the poverty of the case, which, finding a reason to be impossible, makes it unnecessary.

Sir, the interpretation of the section is, to my mind, abundantly clear. The Legislature did not see fit to part with the absolute right to the deposits, nor to make the right of the Bank a *judicial question* by defining the exceptions to it. In consequence of the fiscal relations of the Secretary of the Treasury to the Bank, and of the probability that whenever the proper reasons should occur they would call for immediate action, the parties have agreed that he shall exercise a *provisional power* over the subject, under the stipulation that his reasons shall come immediately to Congress for their review, upon such principles as belong to the contract; and if, according to those principles, the reasons of the Secretary are insufficient for the act, then it will be an open breach of the public faith, not merely sanctioned, but

committed by Congress, not to send the deposits back to the Bank, whose right to them is unimpaired. If, after the payment of a million and a half of money as a bonus, and the performance of costly duties to this period of the charter, and to be continued to the end of it, together equivalent to an annual payment of two hundred thousand dollars for twenty years, the Secretary has removed the public money without adequate cause, it is possible, indeed, that an artificial argument may be made to sustain the act; but reflection in this House, and by this people, will infallibly bring the question back to the ground upon which it must ultimately rest—the ground of common sense and common justice, upon which alone the faith of the nation is to be defended, if it can be defended at all.

Mr. Speaker: The second general proposition of the Secretary affects this House as a component part of the legislative power, and affects the whole legislative power in the most critical manner, as may be seen by the proposition itself. “The place of deposite could not be changed by a legislative act, without disregarding a pledge which the Legislature has given,” “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.” These are the plain terms of the Secretary, and the House must see what is their plain meaning; that, whereas the Secretary could overthrow this contract, with or without reason, right or wrong, Congress could not be relieved from it by the most impetuous reasons; that as his action could under no circumstances impair the contract, so the action of Congress upon it could, in no event, be otherwise than illegal.

Sir, there is one characteristic of these propositions, for which I acknowledge myself to be indebted to the Secretary; they are so strongly stated, that it is impossible to mistake their meaning. While the Secretary asserts every power over the subject in himself, he denies the existence of any power in Congress over the same subject. The use and design of the doctrine are, at the same time, as clear as its meaning; it is the only and the indispensable justification of the Secretary's extreme action upon the deposits so shortly before the present session of Congress; and, if this justification fails, he is without any.

The question, sir, concerns the interpretation of a statute. The extent of the Secretary's authority, and of the restriction upon that of Congress, must be collected, therefore, in the ordinary way, from the fair scope and meaning of its provisions, in their application to the subject-matter; and the House must consequently feel some surprise that the Secretary should have adopted the interpretation which he asserts, in a state of mind that ought to have carried him to the directly opposite conclusion. His letter proceeds to say: “The power over the place of deposite 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.*” I must state it as an extraordinary fact, in the history of legal interpretation,

that, when the learned Secretary admitted that he could not imagine why the meaning should be what he asserts it to be, it did not occur to him that this was one of the best reasons in the world for holding that its meaning is not what he asserts it to be. If a court of justice should be told by learned counsel that he could not imagine why the meaning he gave to a statute should be its meaning, he would probably be admonished to try the effect of his imagination upon a different construction, and it would be very likely to assist him in obtaining the true construction. The Secretary says, he cannot imagine why the power was confided exclusively to the Executive. I hold, sir, with submission, that the power is not confided to the Executive, either exclusively or at all. The position is directly repugnant to his first proposition, that the power of the Secretary is *absolute* and *unconditional*, and it is equally repugnant to the laws and constitution, as they have created and fashioned the Executive department. The Secretary is not the agent or officer of that department in the performance of the trust committed to him by the 16th section of the charter, nor in the performance of any of the trusts committed to him by Congress, in regard to the control of the public treasure. In these particulars he is the agent and officer of that department which levies and collects taxes, duties, and imposts; pays the debts of the nation; borrows money; raises and supports armies; provides and maintains a navy; makes appropriations, and keeps the public treasure under its own control, till, in virtue of a legal appropriation, it is drawn out of the Treasury. He is the agent and officer of Congress, and not of the Executive.

This, sir, is a question of vast importance, not more in relation to the recent transaction, than to the due order of this Government, under all future administrations of it. It is not a point now raised for the first time, though possibly for the first time made a topic of controversy. The distinction is coeval with the constitution. It may be traced, in the clearest characters, through the first organization of the Executive department and of the Treasury; and, if it did not lead to public discussion then, it was because it challenged universal assent. It is impossible to explain the structure of these different departments or offices upon any other theory. I ask the attention of the House to the consideration of this point.

The act of 27th July, 1789, entitled "An act for establishing an *Executive* department, to be denominated the Department of Foreign Affairs," enacts that the Secretary for that department (now the Department of State) "*shall perform and execute such duties as shall, from time to time, be enjoined on or intrusted to him by the President of the United States, agreeably to the constitution, relative to correspondences, commissions, or instructions, to and with public ministers or consuls from the United States, or to negotiations with public ministers from foreign States or princes, or to memorials or other applications from foreign public ministers or other foreigners, or to such other matters respecting foreign affairs as the President of the United States shall assign to the said department: and furthermore, that the said principal officer shall conduct the business of*

the said department in such manner as *the President of the United States shall, from time to time, order and direct.*"

The act of 7th August, 1789, entitled "An act to establish an *Executive* department, to be denominated the Department of War," enacts that the Secretary "*shall perform and execute such duties as shall, from time to time, be enjoined on or intrusted to him by the President of the United States, agreeably to the constitution, relative to military commissions, or to the land or naval forces, ships or warlike stores of the United States, or to such other matters respecting military or naval affairs, as the President of the United States shall assign to the said department, or relative to the granting of lands to persons entitled thereto for military services rendered to the United States, or relative to Indian affairs: and furthermore, that the said principal officer shall conduct the business of the said department in such manner as the President of the United States shall, from time to time, order or instruct.*"

The act of 30th April, 1798, entitled "An act to establish an *Executive* department, to be denominated the Department of the Navy," enacts that it shall be the duty of the Secretary "*to execute such orders as he shall receive from the President of the United States, relative to the procurement of naval stores and materials, and the construction, armament, equipment, and employment of vessels of war, as well as all other matters connected with the naval establishment of the United States.*"

The provisions of these acts require no commentary. They place the departments wholly under the direction of the President, agreeably to the constitution, in all that regards the exercise of his constitutional powers over foreign affairs, the army, and the navy.

The act of the 2d September, 1789, for the establishment of the Treasury Department, pursues a strikingly different course. It drops from the title the denomination of *Executive* given to the other departments—not by accident, but by design, as the word "Executive" was contained in the title of the bill when reported by committee, (see Journal 1st & 2d Cong. vol. 1, p. 57,) and, what is more material, it enacts that it shall be the duty of the Secretary "to digest and prepare
" plans for the management and improvement of the revenue, and for
" the support of the public credit; to prepare and report estimates of the
" public revenue and the public expenditures; to superintend the collec-
" tion of the public revenue; to decide on the forms of keeping and stat-
" ing accounts and making returns; and to grant, under the limitations
" herein established, or to be hereafter provided, all warrants for
" moneys to be issued from the Treasury, in pursuance of appro-
" priations by law; to execute such services relative to the sale
" of the lands belonging to the United States as may be by law
" required of him; to make report and give information to either
" branch of the Legislature, in person or in writing, as he may be
" required, respecting all matters referred to him by the Senate or
" House of Representatives, or which shall appertain to his office;
" and generally to perform all such services relative to the finances
" as he shall be directed to perform." The name of the President

is not mentioned in the act, except in the 7th section, which charges the assistant with the duties of the office, in case the Secretary is removed by the President; and the bond of the Treasurer, prescribed by the 4th section, is not to be approved by the President, but by the Secretary of the Treasury and Comptroller.

It is not meant to say, sir, that the Secretary of the Treasury performs, or is bound to perform, no duties of an Executive department, or that, in the performance of any such duties, he is not subject to direction by the President; but it is meant to say that the Treasury Department is not, in its control of the Treasury, an Executive department, in the constitutional sense; and that the direction which is to govern the Secretary, is left, by the terms of the act, to be settled according to the character of the function to be exercised. The Secretary is not the head of an Executive department, in the performance of acts which concern the custody and security of the public moneys in the Treasury. His department is not, in this respect, a Presidential department. To have placed the custody of the public Treasury within the Executive department, would have been a constitutional incongruity, a solecism, to say nothing of the enormous mischiefs to result from placing the power of the sword and the purse in the same hand. It would have marred the harmony and simplicity of the whole scheme of the constitution, by leaving to Congress the duty of paying the debts and providing for the common defence and welfare, while the money collected for these objects was not under their control, but in the hands of a different department. It would make, and the adoption of the doctrine does make, the power of appropriation entirely futile, because the public money is, by force of it, as little under the control of Congress before appropriation as it is afterwards; and it gives the control of the public treasure, so far as the position and distribution of it can give such a control, to a department that can wield the whole force of the revenue, against the legislative department and the people.

The argument of the honorable gentleman from Tennessee here cuts into the subject by means of the power of removal from office; and, with the aid of the debates in Congress, when the act for organizing the Department of Foreign Affairs was on its passage, he contends that the President may *direct* the Secretary of the Treasury in the discharge of his duties of every description, because he may remove him. Sir, I do not adopt his conclusion. It does not flow from his premises, and a better conclusion flows from better premises.

The power of *removal* is a great question, which I do not mean at present to agitate. It has been allowed, by implication and usage, to the President of the United States, for different reasons; and the argument handed down to us on this head is perhaps not altogether as clear, consistent, and intelligible as the great names connected with it would lead us to expect. It is probably imperfect. It is, however, plain, from what remains of it, that the gentlemen who asserted this power did not all do so for the same reasons. It would seem to have been the opinion of some, that the power of removal was an Executive power, or a power of the Executive department.

Others, who did not agree to this, thought it belonged to the appointing power, which was substantially in the President. And some, who differed from both, deemed the most convenient and safest position of the power to be in the President, who, by its immediate exercise, might resist the aggressions of dishonesty, or prevent the mischiefs of incompetency. No one, sir, appears to have thought that the power belonged to the President, because he had a right to *direct* all officers appointed during pleasure; although it is clear, from the argument of Mr. Madison, that the force of that principle was very striking in its influence upon the question then directly before Congress—the right to remove the Secretary for Foreign Affairs. That eminent person said, “It is evidently the intention of the constitution that the First Magistrate should be responsible for the *Executive department*. So far, therefore, as we do not make the officers *who are to aid him in the duties of the said department* responsible to him, *he is not responsible to his country.*” This, sir, is very striking, but it goes no further than the duties and responsibilities of an Executive department, in its constitutional sense. If the honorable gentleman can make it out that the keeping and control of the public Treasury are duties of an Executive department in that sense, he will gain a better support for his argument than I have yet heard.

The principle which, it seems to me, sir, must govern this question, and that which I take the liberty of stating to the House, as the only satisfactory one that has occurred to me, is this—that the *right of direction*, where it exists at all, results from official connexion, subordination, and responsibility, and not from tenure of office. If the duty belongs to the Executive department, the right of direction is in the head of that department, who is responsible for the performance of all its duties. If it belongs to the Judicial department, the right is in the heads of that department—the courts. If it belongs to the Legislative department, the right of direction is in Congress. The direction in these several cases, by force of this principle, is in perfect harmony with the system. It proceeds from official responsibility in the principal, and official duty in the subordinate officer to follow what the principal directs. The officer is bound to obey the principal, because the principal is responsible for him in the very matter directed, and his direction is a justification to the officer who obeys him. Any other principle must produce perpetual conflict and confusion. The attempt to make a test of the removing power, fails as soon as you apply it. The marshals are, as to matters of judicial cognizance, directed by the courts, to whom they are responsible, and for the proper direction of whom the courts are responsible; yet the courts do not appoint, and cannot remove, the marshals.

Sir, the question cannot well arise as to acts plainly prescribed. No one can assert an authority in the President to direct an act to be done, which the laws, or the courts, in conformity with the laws, direct not to be done; nor the contrary. It arises only in regard to discretionary acts. But the same principle regulates duties of every description, and especially duties which are committed by the law to the discretion of an officer. For abuse of that discretion, if answerable

to any thing but the law, he is answerable to the head of that department to which the particular duty appertains, and by that department he may be directed. The marshal is, in judicial matters, answerable to the court; in legislative matters, to Congress; and in executive matters, to the President. The Secretary of the Treasury, as it regards the Treasury, is answerable to Congress. To give the President the right of directing or controlling his discretion in such matters, is to make the Secretary responsible to the President, who is not responsible for him. This, sir, is the position upon which the doctrine I maintain may be safely placed. The President is not responsible for the duties which do not appertain to his department. His direction is no justification to the officer to whom the law assigns the duty to be performed, or to whom it has given the discretion to perform the act or not; he is, therefore, not bound to obey him, nor excusable for obeying him. Any other principle will give to the President the right of directing and controlling the discretion of every officer in the land except the Judges.

The answers given to these suggestions, sir, are not satisfactory. It is said, the President has the undoubted right to remove, and may, in this way, obtain the direction. Certainly the President may thus obtain the direction of men who prefer their office to their duty; but if he removes, to obtain a *power* of direction where he has not the *right*, he violates his own duty. The power of removal ought not to be so exercised.

It is further said, that all powers are legislative, judicial, or executive. The Secretary's power is neither legislative nor judicial, and therefore it must be executive, and belong to the Executive department. This is a confusion of language. The *departments* of our Government are legislative, judicial, and executive; and what does not belong to the first two, belongs to the third. But there are executive acts, that is to say, acts to be executed in the Judicial and Legislative departments, as well as in the Executive department. An act to be executed in the Judicial department does not belong to the Executive department. The question of the right of direction regards not merely the act to be done, but the relation in which it is to be done.

It is again said, that the constitutional power of the President to demand the opinion, in writing, of the officers of the Executive departments, touching the duties of their respective offices, shows the dependency of these officers upon the President, and his responsibility for them. This may or may not be so; but it leaves the question, what is an Executive department, in this sense, precisely where it found it.

Again: it is said that the President is bound to take care that the laws are faithfully executed. This proves too much for the argument, as, if it proves any thing, it proves that the President may direct the judges as well as other officers during pleasure. The supervisory power cannot interfere with the exercise of discretion in the Secretary, when the law gives it to him, because the faithful execution of the law consists in the exercise of his discretion; and whoever disturbs that exercise, violates the law instead of executing it. It is a power that

does not enlarge the President's authority, but rather declares the result of other powers before given to him in the constitution. It is corrective, to put aside, where his power is adequate, both dishonesty and incompetency; but it is not directory nor transcendental, to bring all the officers and operations of the nation under his sway.

Finally, it is said that the power of removal is fairly applied to discharge an officer who does not do his duty; and how can this be, if the President cannot decide what is his duty, and, consequently, direct its performance? Sir, the President is responsible for the use and abuse of his power. If he exercises it fairly, to remove an officer who does not do his duty, it is well. But if the discharge is colorably for this, but really to enforce a direction which he had no right to give, he gains the power he ought not to have, by the abuse of the power he has.

These are the remarks, sir, which I have supposed would show the inaccuracy of the Secretary, in that part of his letter which attributes a power over the deposits to the Executive, or to the Secretary as an Executive officer. In this matter of the deposits, he is emphatically the minister or agent of Congress. He is to give reasons to Congress, and they are consequently to be his own reasons. The reasons of the President are not given, and would not be a justification to the Secretary, if they were. The Secretary is to give them to *Congress*, his principal, and not to the head of the Executive department, to whom, in this matter, he does not sustain an official relation. It is a charter authority, and to be pursued as the charter directs. Under this charter, the President has several powers, such as to appoint commissioners to receive subscriptions, to appoint directors, and to issue a writ of *scire facias*. The Secretary, also, has powers, as to require transfers of public money, and to remove the deposits, giving his reasons. It is humbly apprehended that these are different powers in relation as well as in action, and that the President cannot assume those which have not a relation to the department of which he is the head.

But how would it follow, sir, if this were otherwise, that Congress cannot remove the deposits in any event, as the Secretary avers? It would seem as if the grant to the Executive was set up as a less startling reason for denying the power to Congress, than a grant to the Secretary would be; but the power is inherent in Congress. It is one of which they could not divest themselves absolutely and unconditionally. They hold it now, as they always must hold it, subject only to the right of the Bank; that is to say, except so far as the charter gives the right of possession to the Bank. This right of the Bank grows out of her covenant to afford safety and to render service. The continuance of her right depends upon the performance of her duty. The covenant of the nation, to leave the deposits with the Bank, and of the Bank to keep them secure, and to perform other duties in regard to them, are mutual and dependent covenants. If the Bank commits a breach, the covenant of the nation is either discharged or suspended, and Congress may take care of that which is the property of the nation; and if the acts imputed to the Bank were a sufficient cause of removal, Congress were as competent to decide them to be so, at the present

session, as the Secretary was before. The technical doctrine of the Secretary is inconsistent with the spirit of the charter, and with the safety of the nation. It strips Congress of all power, and lodges it where there is no responsibility either to the Bank or to Congress. It asserts, that Congress could not reclaim the control of the deposits, under any circumstances, from either the Bank, or its own minister. It leads to this extraordinary consequence, that if the Bank could have propitiated the Secretary to connive at the most corrupt employment of the public treasure, there would have been no remedy for it. If "offence's gilded hand" could have shined by the Secretary, we should have seen "the wicked prize itself buy out the law." The proposition is wholly inadmissible in every possible interpretation of it.

Another proposition, sir, and the most alarming, from the great practical mischiefs which must flow from it, comes from the Secretary in the following terms: "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." In another part of his letter, the Secretary of the Treasury says that it is his duty to remove the deposits "whenever the change would *in any degree* promote the public interest." And again he says: "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."

The application of this doctrine to the present power of the Secretary over the deposits in the State banks may be seen from another part of the letter. The Secretary says: "The law incorporating the Bank has reserved to him, in its fullest 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.*" Consequently, it is the Secretary's apprehension that he now has the same power over the deposits in the State banks, which he claims to have had over the deposits in the Bank of the United States; and it is this which makes the subject worthy of the special attention of the House.

Sir, it is an abuse of language to call the charter direction as to the deposits, a contract, if this be the Secretary's power. It has none of the features or binding force of a contract. It is wholly dependent on his mere favor, pleasure, opinion; upon any thing short of, and indeed not short of, the most fantastic caprice. The Bank has no contract with the nation under this construction; and, sir, when I regard the necessary effects of the asserted power upon the nation at large, the interests of the Bank disappear; she ceases to be an object of the least consideration. What are convenience and interests? Where are they defined? What acts promote them? What is *any degree* of them? What law has made the Secretary of the Treasury a judge of them? This nation and this House are variously divided

in regard to almost all the topics of general convenience and interest that are discussed before them; and here is a challenge of the right, by a single officer of the Government, to direct the momentum of the whole revenue of the United States to the support of what he thinks fit to regard as the general interests and convenience of the people; and he challenges it as the power with which his office has been clothed since its creation. A more extravagant proposition has never, in my humble judgment, been asserted; and it is as unsound in reference to the subject to which it is applied by the Secretary, as it is dangerous to the liberty and welfare of the country. The question of general convenience and interest, in regard to the public deposits, was settled by Congress when they agreed that the Bank should have them; and it was settled for the whole term of the charter. The Secretary has nothing to do with it. The power of removal was given to him to be exercised for the promotion of a particular interest, or the remedy of a particular mischief, and for nothing else. General convenience and interest are results with which Congress have never trusted him, or meant to trust him, or any body but themselves.

The authority given by the charter to the Secretary of the Treasury is official, and not personal; and, by necessary implication, it is limited by the sphere of his office. His powers and duties are fiscal, and the functions of his office are the index to the reasons for which, and for which alone, he has authority to remove the deposits. His reasons must grow out of his relations to the Bank, to the treasure in its custody, and to the collection and disposition of that treasure, which the law confides to him. If the deposits are not safe, his official connexion with the Bank will apprize him of it: he has the means of ascertaining it by the returns made to him, and by examination of the general accounts of the Bank, if he is not satisfied with the returns. If the Bank does not perform its duties to the Government, of paying and transferring the public funds, the Secretary knows it, because he is the officer to direct the service, and to watch over the performance. And, beyond this, what official authority has the Secretary? What official duties does he perform that can instruct him with reasons for the removal of the public deposits? Sir, he must leave his office before he can obtain them, and enter into departments which do not belong to him: he must take charge of interests that have not been confided to his office. I have stated to the House why these reasons have not been explicitly defined in the act, and that it was to continue a control over the Treasury, which Congress thought might be impaired if the conditions of its exercise were more explicitly stated. In the eye of a court, there is discretion, regulated by an appeal to Congress. In the contemplation of Congress, there is limited power, regulated by the duties of the Treasury Department, in its relations to the Bank. Sir, it is a stain upon the Congress that incorporated this Bank—it is a stain upon the first Congress that organized the Treasury Department—to say that they placed in the power of unknown men for an indefinite period, and for a period of twenty years without the right of recall, the whole revenue of the United States, to be used as the Secretary should think the general convenience and interest of the public re-

quired. Is it so, sir? And will this House affirm this proposition of the Secretary? Let the nation look to it. If it should be the Secretary's opinion that it is for the general convenience and interest of the people that manufactures should decline and die away, he brings a dearth upon the land—he draws the public treasure to another quarter—and they perish. If internal improvements are not to his mind—if Pennsylvania wants a loan, if New Jersey requires funds, to assist them—if there is any proposed rival interest which would be promoted by their decline—his mandate to the State banks, in promotion of general convenience and interest, consummates the design. The currency is his, to regulate at his pleasure, and every thing dependent on it. Sir, if this theory of the Secretary be true, it was the duty of the Bank of the United States, it is the duty of the deposit banks, to submit to his pleasure. If his power is constitutionally and legally what he asserts it to be, it is the duty of the banks to become his slaves. If all this power over the Treasury is his lawful power—if he is the arbiter of general convenience and interest—if the Executive is the only head to direct and control him—it is a theory of universal subserviency to the Executive, for the profits that are to spring from the application of the public treasure. It never occurred to me, sir, that men, treading the soil of a republic, would present such a doctrine for the review and sanction of Congress.

It has been said, that both Secretary Crawford and Secretary Ingham have asserted a similar doctrine. Sir, without meaning the least disrespect to those officers, I may be permitted to say, that arguments in favor of power are not entitled to most consideration when they come from those who are to exercise it. A Treasury argument, in favor of Treasury power, is not quite as much to be relied on, as an argument for the same power even from some other department. But, sir, the authority is not exactly as it is apprehended to be. In regard to Mr. Secretary Ingham, there seems to have occurred one or two animated passages between himself and the President of the Bank, in the course of which a menace was let off, as to the use of the public deposits, for a certain purpose, or in a certain event; but nothing to the effect threatened occurred. Mr. Secretary Crawford did act, but I do not admit that his action sustains the present Secretary; or, if it does to a small extent, its effect is taken off by the opinion of a committee of this House, of whose report a part was read the other day by the honorable member from Tennessee. The Secretary of the Treasury was invested, by the joint resolution of 30th April, 1816, with the largest powers, to cause the taxes and other moneys accruing, or becoming payable to the United States, to be collected and paid in the legal currency of the United States. He was required and directed to adopt such measures *as he might deem necessary*; and there can be no doubt that such an authority gave to that officer a power, which, since the entire and effectual restoration of specie payments, has ceased to exist. The history of the disposition of the public moneys by Mr. Secretary Crawford, who came into office in the fall of that year, is given in the report of the committee upon the memorial or address of Ninian Edwards, made

to this House in May, 1824. There appear to have been in the year 1818, and afterwards, two descriptions of acts by Mr. Crawford affecting the public deposits. One of them consisted in using certain State banks to the West as depositories of the public money, for the sake of the revenue itself, and because the Bank of the United States would not receive on deposit, as cash, any thing but the legal currency of the country or its own notes, in which the large receipts of the United States could not at that time be collected. There consequently were cases in which the deposits could not be made in the Bank of the United States, because the Bank would not receive them in that form alone in which the Treasury could make them. It was not, as I apprehend, a case of omission to deposit the public moneys in the Bank of the United States, but an omission to deposit in that Bank moneys which the Bank would not receive, and was not bound to receive as moneys at all, because, although nominally they were the notes of specie-paying banks, substantially they were not such notes as the Bank thought it could convert into specie. This was not a case of exercise of power under the 16th section, but a case of necessity, arising from the lawful refusal of the Bank to receive the deposits in the only form in which the Treasury could make them. The other acts referred to were of a different kind, and they consisted of such dispositions of the public money as Mr. Crawford, in his letter of 13th February, 1817, cited by the present Secretary of the Treasury, says he has authority to make: that is to say, deposits made with State banks, to sustain their credit. Upon this point, the committee explicitly say that "*this is no legal employment of public funds; it is nothing but a gratuitous loan,*" which, certainly, the Secretary was not authorized to make, whatever was the practice. It was precisely of the same character as the transfer drafts, which appear to have been placed, by direction of the present Secretary, in different hands, during the removal of the public deposits from the Bank of the United States, and which are liable to precisely the same criticism. The authority of Mr. Secretary Crawford, therefore, does not seem competent for the purpose for which it has been cited.

The fourth and last general proposition of the Secretary is that which asserts, that, as the propriety of removing the deposits was evident, it was consequently *his duty* to select the places of present deposite. Sir, on this point I do not mean to ask any considerable attention of the House; for, although I hold the act of the Secretary to be against the law of Congress, and one from which the most critical consequences may result, it is not altogether, as I learn, without the countenance of a previous Treasury practice, and I mean not to press it to any other purpose than as a caution to be adverted to in the disposition of the general subject. The authority of the Secretary of the Treasury, under the 16th section of the charter, is not to remove the deposits, as his letter supposes, but merely to order and direct that they shall not be made in the Bank of the United States. When the deposite in that Bank ceases to be lawful by the order of the Secretary, the general law takes up the subject, and that law gives to the Treasurer the power which the Secretary has undertaken to

exercise. The 4th section of the act of 2d September, 1789, is entirely explicit, "that it shall be the duty of the Treasurer *to receive and keep* the moneys of the United States,"—"to submit to the Secretary of the Treasury, and to the Comptroller, or either of them, *the inspection of the moneys in his hands,*" and to give bond, with sufficient sureties, in the sum of \$150,000, payable to the United States, "with condition for the faithful performance of the duties of his office, and *for the fidelity of the persons to be by him employed.*" It is the Treasurer who is to choose the place of deposite; and he is the best officer in theory, as well as the only officer by the law, to perform the act; because the doctrines of general convenience and interest are not so likely to reach him. His object will be security, and his bond is the motive for obtaining it. If there is a Treasury practice that has displaced the Treasurer, the practice should be made to conform to the law, or the law to the practice. As the case now stands, the money of the United States is not deposited where it is, by direction and under the sanction of the law. It is placed in the deposite banks by an officer who has not the authority so to place it; and, in case of controversy, it may possibly be found, not only that the bond of the Treasurer is of no avail, but that remedies for the loss or detention of the deposits, are not to be obtained in the name of the United States, or in the courts of the United States, but in private names and in State courts, with all the contingencies incident to litigation in this form. Whatever may be the practice, it is not becoming, sir, that the Treasury of the United States should be in any predicament but that precisely in which the law has given its direction to place it.

These general propositions of the Secretary are, then, I submit to this House, one and all of them, unsound, and without foundation in law; and some of them are pregnant with most alarming consequences to the public safety and welfare. If his particular reasons are dependent on them, as they doubtless are, they fall with their foundation; and they have, moreover, peculiar defects of their own, as will be seen by the details of more interest to which their consideration will give rise.

Sir, the Secretary admits that the public deposits were safe in the Bank of the United States. He admits that the Bank has faithfully performed its duty to the Government in every stipulated form. He admits it, by the clearest implication, in various parts of his report to Congress, and places the order of removal upon entirely distinct grounds. The only valid causes of removal are, then, in my humble judgment, wanting; and, if all the particular causes asserted by the Secretary could be sustained in fact and law, they would fall short of a justification. They will, however, be found, one and all, to be without support.

Sir, the first and principal reason for the order of the Secretary is, that the present charter of the Bank will expire in March, 1836, and that it is not to be renewed. I do not mean to detain the House with a commentary upon the novel spectacle of a Secretary of the Treasury instructing Congress upon the subject of his constitutional opin-

ions in regard to the charter of the Bank, or upon what they will or will not think fit themselves to do in regard to the renewal of the charter. For the purposes of this inquiry, I grant that the charter is not to be renewed. The question is, how does that circumstance justify the present removal?

The manner in which the Secretary develops his reasoning on this head is as striking as it is plain and intelligible. He begins by an averment, that, if the deposits should be left in the Bank until the expiration of the charter, it may be doubted whether the Bank will have the ability to be prompt in paying them to the Government. He proceeds to suggest that the circulation of the Bank, moreover, if it continues out till that time, will become a depreciated currency, not merely by the character of the paper, but by the cessation of the public guarantee; that the Bank should be made to reduce her circulation, by reducing her discounts; that the removal of the public deposits will compel her to make this reduction; and that the State bank circulation being pushed out, in its place, by means of these deposits made elsewhere, the notes of the Bank of the United States will be withdrawn, and a currency *probably more uniform* be substituted in its place.

Sir, whatever may be the merits of this plan, there is no doubt that it is perfectly intelligible. It is an operation we are acquainted with. We know what it means, and what it is to bring to pass. But the question in this place is, what right had the Secretary to take the public moneys from the Bank of the United States, because its charter was to expire in March, 1836! What authority did Congress mean to give him over the deposits, from the simple fact of lapse of time? I confidently assert, none whatever. There was no contingency in the circumstance. It was matter of fatal necessity. It must occur; and the Secretary could not be better informed that it had occurred in 1833, than the Congress which granted the charter in 1816 were then informed that it would occur. Sir, it was just as well known in 1816 as it now is, that the 1st of October, 1833, was separated by two years and five months from the 1st of March, 1836; and if lapse of time had not been deemed an inadequate cause for the removal, Congress would themselves have ordered the deposits to be removed at the time they thought proper, and have made the removal at that time a matter of positive enactment, and not of contingency. Now Congress have not only not done this, but they have done the contrary. They have chartered the Bank for twenty years; they have bound her to perform services for twenty years; and they have ordered the deposits to be made in her vaults, by necessary implication for the whole period, subject to the contingent exercise of the power of removal. It is a violation of the charter, without reasonable color, for the Secretary to make that removal upon the ground of mere time; and such is the ground his letter occupies, without reference to any contingency whatsoever.

The Secretary has wholly overlooked the provision in the charter which allows two years to the Bank for winding up its concerns, after the 3d March, 1836. That provision runs: "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.”—*Sec. 21.*

“ As the act of Congress,” says the Secretary, “ which created the corporation, limits its duration to the 3d of March, 1836, it became my duty, as the 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.” “ It was incumbent on me, in discharging my official duties, to act upon the assumption that this corporation would not continue in being after the time above specified.” Now, sir, the corporate existence is not so limited as the Secretary has felt it incumbent on him to assume. It is to continue two years more, for the very purpose of enabling it to do that which the Secretary says shall be done before. There is no one operation which he wishes to compel the Bank now to perform, that she cannot most appropriately perform in the additional two years. She may diminish or reduce her discounts in any ratio she deems fit, five per cent. or ten per cent. a month, or more or less, as circumstances may require. She may possibly bring in her circulation, in the same proportion, though that depends on the pleasure of the holder. She may do every thing she now does, but expand herself after having closed or liquidated a transaction. She cannot make a new loan, but she may continue in force the existing contracts, or settle and liquidate them as she may deem expedient. Sir, not only has the Bank the right to keep out her circulation, and to keep up her discounts during the whole term of the charter, which right she has purchased and paid for, but it is her duty to do it, unless she is disabled by the act of the Secretary. It was her promise in accepting the charter. Her duty to trade is to assist it; to her stockholders, it is to make an interest upon their capital; and, above all, her duty to the nation is to keep within the limits of safety, by due control and regulation, the very State bank paper which the Secretary desires to augment. For these duties, in addition to the greater design of securing and distributing the public revenue, the Bank was created, and is bound to their performance as long as she can perform them with safety to herself and to the country.

Sir, the project of the Secretary of the Treasury astonishes me—it has astonished the country. It is here that we find a pregnant source of the present agony—it is in the clearly avowed design to bring a second time upon this land the curse of an *unregulated, uncontrolled, State bank paper currency*. We are again to see the drama which already, in the course of the present century, has passed before us, and closed in ruin. If the project shall be successful, we are again to see these paper missiles shooting in every direction through the country—a derangement of all values—a depreciated circulation—a suspension of specie payments; then a further extension of the same

detestable paper—a still greater depreciation—with failures of traders, and failures of banks, in its train—to arrive, at last, at the same point from which we departed in 1817. Suffer me to recall to the recollection of the House a few of the more striking events of that day. The first Bank of the United States expired in March, 1811. Between the 1st of January, 1811, and the close of the year 1814, more than one hundred new banks were established, to supply this more *uniform and better currency*. For ten millions of capital called in by that Bank, twenty millions of capital, so called, were invested in these. In the place of five and a half millions, about the amount of circulation in notes of that bank withdrawn, twenty-two millions were pushed out. Then came a suspension of specie payments, in August and September, 1814. As an immediate consequence of this suspension, the circulation of the country, in the course of fifteen months, increased fifty per cent., or from forty-five to sixty-eight millions of dollars; and the fruit of this more uniform currency was the failure of innumerable traders, mechanics, and even farmers; of one hundred and sixty-five banks, with capitals amounting to thirty millions of dollars; and a loss to the United States alone, in the negotiation of her loans, and in the receipt of bankrupt paper, to an amount exceeding four millions of dollars. I take this summary from the treatise of Mr. Gallatin, on the Currency and Banking System of the United States, one of the most valuable contributions that great sagacity and an enlightened spirit of research have made to the political literature of this country, and which it is one of the sins of the present Bank that she has endeavored to diffuse among the people. This may enable us to apprehend what was lost, in the item of property alone, by this *better currency*. What it cost us in reputation, it is impossible to estimate. Does Kentucky wish to see the return of those days? Does Pennsylvania wish it? Does any man wish it, who has property, or the desire to possess it, and reason to discern the causes of its decay and destruction? I thank the Secretary for the disclosure of this plan. I trust in God it will be defeated; that the Bank of the United States, while it is in existence, may be sustained and strengthened by the public opinion and interests of the people to defeat it; that the sound and sober State banks of the Union may resist it, for it is their cause; that the poor men and laborers in the land may resist it, for it is a scheme to get from every one of them a dollar's worth of labor for fifty cents, and to make fraud the currency of the country as much as paper. Sir, the Bank of the United States, in any other relation than to the currency and property of the country, is as little to me as to any man under heaven; but after the prime and vigor of life are passed, and the power of accumulation is gone, to see the children stripped, by the monstrous imposture of a paper currency, of all that the father's industry had provided for them—this, sir, may well excite the warmth that denounces this plan as the precursor of universal dismay and ruin.

I have said, sir, that it is the cause of the sound and sober State banks that I am defending. When the evils of such a currency prevail, the people do not discriminate. A bank note is a bank note.

Fear gives them all the same look to the apprehensive. If a few banks suspend their specie payments, many will do it; all must do it, unless they see the storm in its approach, and close their doors until its fury be spent. The Bank of the United States herself may well look for that day, if it comes in her time, with fear. Let her not be weakened before the hour of her trial. I should regard that man, sir, as one of the greatest benefactors of his country, who would devise, for the use of this people, some control over the paper currency of the State banks, and relieve us from the perpetual recurrence of constitutional doubts and party contention, to which the career of a Bank of the United States seems necessarily exposed. Control of some kind is essential—it is indispensable; there can be no property, or, what is the same thing, no security or uniformity to its value, without it. Let us have a respite from the evil while the law will give it to us. Let us not be turned off before the warrant of execution calls for it. Let two years more be given to sober reflection by the people, that there may be a *locus penitentie* allowed to those who are now proposing this plan, without suggesting the means of control, or appearing to think that they are necessary.

But, sir, the Secretary says that the deposits will not be promptly paid, if they are left in the Bank until the charter expires, and it is his duty, therefore, not to leave them there. What is it that it is apprehended will cause this default? Does the Secretary suppose that private deposits will continue in the Bank to the same time, and, by their demands, interfere with the payments to the public? If individual deposits do not remain, all will be admitted to be well. The public deposits will be paid then, as they are now paid, promptly. If the private deposits do remain, and the bank notes continue in circulation to their old amount, then, sir, let the Treasury, for once, trust to the instinct of self-interest in the people, and believe that what all concur in doing for themselves, when they have the readiest means of doing otherwise, if they please, cannot be very dangerous to the public. Sound reasoning and experience alike expose this Treasury apprehension. A bank, having the resources that the Bank of the United States is admitted to have, when she arrives at the term of her charter, increases, from that moment, in strength; because her capital is then to be returned to her, and her debtors have been previously admonished that they must then be prepared to return it to her. Other banks may then assist, by their expansion, the liquidation of her debts, and they may do it safely, to a considerable extent, as she cannot have, or, if she has, she cannot exercise, a power to distress them by her demands, without combining a vast force of public opinion against her, that will effectually resist her. To ask of the State banks what it must distress them to give, and what is not necessary to the United States' Bank for operations then discontinued, would be as idle in her as the apprehension of it is in others. It cannot occur. There must be a reasonable arrangement between the United States' Bank and all the State banks who assist in absorbing her loans, to prevent or to mitigate the distress that the withdrawing of a large capital would otherwise occasion. This,

therefore, is the moment when the Bank of the United States will have the greatest power for her own protection, without having it for the annoyance of the State banks; and, unless there is a general crash which shall make deposits unsafe every where, they will be as safe in the Bank of the United States as they can be any where.

Sir, this is the result of experience, derived from an operation which the Secretary of the Treasury has strangely overlooked.

The honorable member from Tennessee, in the course of his argument, made one remark, which, not being at all necessary in the consideration of the present question, I may be excused for saying, was a remark which I regretted. The gentleman took occasion to say, that the first Bank of the United States was charged with having been given over to political abuses and to the aid of the aristocracy, in opposition to the Government of the country; and that, in this respect, the present Bank had followed in her steps.

Sir, I owe a debt to the directors of that first Bank which it would ill become me not to endeavor to discharge, in part, on such an occasion as this. I am indebted to those gentlemen for having first held out their hand to me in the path of my profession. With such of them as have passed away, I lived in unbroken friendship and affection till their death, and the few who remain are equally worthy of the sentiment. I should feel it to be an abandonment of my duty if I did not deny the imputation which has been cast upon them, not by the gentleman from Tennessee, but by those whom he quotes. I was a director of that Bank during the last years of her charter, when I was too young to govern her councils, though not to understand them; and, as one of those directors, I have assisted in liquidating her concerns. Sir, the directors of the parent Bank (I know nothing of the branches,) were a body of as honorable men, as impartial, and as faithful to their trust, as any men that ever lived. There was not a politician at their board, nor a man who gave up himself to any thing but the performance of duty to his trust. At their head was a gallant soldier, who, during the war of the Revolution, was a prisoner to the enemies of his country, and who, a few years since, descended to his grave, esteemed and respected by all who knew him, most of all for his rectitude as well as fearlessness of purpose, in the execution of every trust he undertook. Sir, I know the Bank was charged as the gentleman states, but the charges were unjust and untrue. From whom or why she received the bad name for which she was hunted down, it does not concern the present question to inquire.

It is the history of the liquidation of this Bank that the Secretary has overlooked, and it is the most triumphant answer to his doctrine of default and depreciation. Her charter expired on the 3d March, 1811, when her corporate existence ceased at once and forever.

On the 1st January, 1811, her situation was as follows:

The amount of her notes discounted and loans was		\$17,759,001
Public deposits, -	-	\$6,474,402
Private deposits, -	-	3,855,402
Notes in circulation,	-	6,070,153
Specie, -	-	5,317,885

On the 1st March, 1811, it was as follows:

The amount of discounts and loans,	-	-	\$14,587,134
Public deposits, -	-	\$2,874,833	
Private deposits, -	-	3,583,596	
Notes in circulation,	-	6,552,875	
Specie,	-	-	<u>4,835,702</u>

On the 1st September, 1811, it was as follows:

The amount of discounts and loans,	-	-	\$7,152,786
Public deposits, -	-	\$ 322,349	
Private deposits, -	-	448,112	
Notes in circulation,	-	2,963,209	
Specie,	-	-	<u>4,500,527</u>

And on the 1st March, 1812, it was as follows:

The amount of discounts and loans,	-	-	\$3,792,975
Public deposits, -	-	\$ 81,517	
Private deposits, -	-	223,442	
Notes in circulation,	-	1,070,459	
Specie,	-	-	<u>6,116,776</u>

Thus, from the 1st March, 1811, two days before the charter expired, to the 1st September, 1811, the Bank paid, as the above statements show—

Public deposits, -	-	\$2,552,484	
Private deposits, -	-	3,135,484	
Bank notes, -	-	3,589,566	
			<u>\$9,277,534</u>

And her specie fell only \$335,175.

From the 1st March, 1811, to the 1st March, 1812, she paid—

Public deposits, -	-	\$2,792,316	
Private deposits, -	-	3,360,154	
Bank notes, -	-	5,482,416	
			<u>\$11,635,886</u>

And her specie increased from \$4,116,776 to \$6,116,796, being an increase of \$1,281,074.

Comparing her capital with that of the present Bank, which is three and a half times greater, the present Bank might stand with equal safety on the 1st of January, 1836, with the following discounts and liabilities:

Notes and domestic bills,	-	\$62,156,503
Notes in circulation, -	-	21,245,530
Public deposits, -	-	22,660,407
Private deposits, -	-	13,493,907

Whereas, on the 1st of October, 1833, the discounts and liabilities of the present Bank were as follows:

Notes and domestic bills,	-	\$60,094,202
Notes in circulation, -	-	19,128,189
Public deposits, -	-	9,868,434
Private deposits, -	-	8,008,862

In one particular, and only in one, was the provision of the first Bank better, for the day of trial, than that of the present Bank. Her specie, on the 1st of January, 1811, was \$5,317,585, being more than equal to one-half of her capital; while that of the present Bank, on the 1st of October, 1833, was \$10,663,441—a little more than two-sevenths of her capital. The specie of the first Bank had been greatly augmented by importations under the royal orders from the Spanish colonies, which the embargo and other restrictions had prevented from going abroad; but it was increased, instead of being diminished, by the liquidation of her concerns. So much, sir, for the probability of default in paying the public deposits. As to depreciation of her notes, which the Secretary also apprehends—if the notes are to depreciate because they will be paid on presentation, because the quantity in circulation will be daily diminished, because the residue outstanding will be of increased value as exchange, and because, unless Congress shall pass a law to the contrary, the public guarantee will continue, then, but not otherwise, the Secretary's fears may prove true. Sir, the Secretary has erred, even as to the matter of the guarantee. The letter of the Secretary says that "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 will lose the peculiar value they now possess." The fourteenth section of the charter says otherwise. It says "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 an act of Congress." They will be notes of the said corporation as much after the charter expires as they now are.

But, sir, this apprehension of the non-payment of the public deposits, if left in the Bank until March, 1836, will appear, from another paper presented by the same Department to this House, to have been changed into an apprehension that, at that time, there would be no deposits any where to be paid. "*Judging from the past*," the Secretary's letter says, "it is highly probable they will always amount to several millions." But a reference to the past, only, is not the best way of ascertaining what, under our altered revenue system, will be its amount. Accordingly, in his annual report on the state of the finances, made in the last month, the Secretary judges otherwise than by a reference to the past. I ask the attention of the House to a few extracts from this report.

The balance in the Treasury on the 31st of December, 1834, is estimated to be \$2,981,796 05.

The Secretary, after the statement which he deems necessary to justify this result, proceeds to say:

"In this view of the receipts of 1834, the income of the year will about equal the estimated expenditure; and, with the aid of the balance in the Treasury on the 1st of January next, it will be sufficient for all the wants of the Government, including the amount necessary to pay off the residue of the national debt."

He further says: "If the entire amount of appropriations proposed in the estimates for 1834 were also to be required within the

“ year, there would not be money enough in the Treasury to meet them, after satisfying the balances above stated, and paying off the public debt.”

He says further: “ In estimating the balance in the Treasury at the close of 1834, I have therefore assumed that a portion of the estimates of expenditures herewith submitted will not be used during the year; and that balances of appropriations, equal to the amount at the close of the present year, will, in like manner, remain in the Treasury at the end of the year 1834, and go into the expenses of the succeeding year; and it is not necessary to raise money for the public use sooner than it will probably be needed. But the balance stated at the end of 1834 is not to be considered as a clear surplus. It will still be chargeable with the amount of appropriations estimated to remain unexpended at that time.

“ From this state of the finances, and of the proposed appropriations, it is evident that a reduction of the revenue cannot, at this time, be made without injury to the public service. Under the act of the last session, the receipts of 1835 will be less than those of 1834, as a further reduction in the rate of duties will take effect on the 1st of January, 1835; *and if the appropriations should be kept up to the amount authorized for the present year, the charge upon the Treasury in 1835 would be more than it could probably meet. But the debt will then have been entirely paid; and, if a guarded rule of appropriation is at once commenced, there will be no difficulty in bringing down the expenditure, without injury to the public service.*

“ If the revenue is not to be reduced more than the existing laws provide for, there seems to be no sufficient reason to open, at this time, the vexed question of the tariff. The manner in which duties are now apportioned on different articles would be liable to insuperable objections, if it were to be considered as a settled and permanent system. But the law is temporary on the face of it, and was intended as a compromise between conflicting interests; *and, unless the revenue to arise under it should hereafter be more productive than is anticipated, it will be necessary, in two years from this time, to impose duties on articles that are now free, in order to meet the current expenses of the Government.*”

The existence of the several millions in the Treasury in March, 1836, is therefore to depend on the future action of Congress upon the report of the Committee of Ways and Means; and if the existence of any public money in any bank at that time is to depend on the future action of Congress, how could that constitute a motive for removing the deposits in October, 1833?

The Secretary of the Treasury presents another reason for withdrawing the deposits on the 1st of October, which is very remarkable. If I understand the Secretary, he makes the removal in October a consequence of the reductions by the Bank in August and September. The remarkable feature of this reason is, that the very effect he intended to produce by the removal, and which, if the Bank did reduce, was produced by the known intention of removal, is pre-

ferred as the ground of complaint against the Bank, and as the justification of the removal. He complains of the Bank, because she acted as if she meant to carry his design into effect; and he removes the deposits because the Bank took measures to prevent the removal from distressing her. The amount of reductions in August and September, as the Secretary states them, was \$4,066,146, or \$2,000,000 per month; and, as her discounts and bills in August were \$64,000,000, there is a simple rule in arithmetic by which we may ascertain the monthly reduction necessary to effect the Secretary's object during the thirty-one months of the charter which then remained. It is clear, sir, that the monthly reduction must be more than two millions; and now that the deposits are removed, and we are in the month of January, when the loans and bills stand at about \$55,000,000, the monthly reductions of the Bank for the twenty-six remaining months of the charter must be more than \$2,000,000, or the object which the Secretary meant to effect will not be accomplished. It is remarkable that the apparent coincidence of the Bank with the design of the Secretary should be a ground of complaint against the Bank.

The Secretary says, and gentlemen concur with him in saying, that the Bank have reduced too rapidly. Suppose it to be so; did the Secretary inform the Bank what amount of reduction he thought sufficient? Did he tell them of the amounts to be from time to time removed, and the places at which they would be required? No. He says that "the nature of the inquiry at the four principal banks," (of which the Bank knew nothing,) "showed that the immediate withdrawal, so as to distress the Bank, was not contemplated; and that if any apprehensions to the contrary were felt by the Bank, an inquiry at the Department would no doubt have been promptly and satisfactorily answered." What, sir, was the Bank to come to the Treasury Department to ask for the suspension of a demand, which she was bound to be in readiness to pay whenever made? Is this to be said while the sound of the honorable member's voice, upon the subject of the three per cents, is still in our ears? While this House has in its fresh recollection the charge against the Bank, that she asked in March a suspension of the discharge of half the three per cents, from July to October, 1832, "because the Bank was not able to pay them?" No, sir; that was sufficient warning to Mr. Biddle not to approach the Department upon the subject, even had he been invited; and, if he had approached it, under any circumstances, we should have heard again the same changes rung upon the inability to pay the deposits that we have heard in regard to the three per cents. The master of the removal was in the Treasury. The time and proportions depended upon him; and, if his concern for the country was excited, if the reductions of the Bank were too rapid according to the Treasury views, the remedy was in the power of the Treasury, and should have been applied.

Sir, the Bank of the United States acted wisely and warily in August and September. Although the removal of the deposits did not take place until the 1st of October, the intention to remove was

fully known in July. The agency to negotiate with the State banks was announced in the *Globe* on the 25th of July; and, whatever the public might think, it was not for the Bank to act in any other faith than that the purpose would be immediately and relentlessly executed. It was the clear duty of the Board to prepare itself without a moment's delay. The position of the Bank was every where known to the Treasury Department by the weekly statements. Her widely dispersed branches were to be strengthened wherever they required it. Her circulation was large, and she was in the practice of assisting it by an almost universal payment at all points, without regard to the tenor of the notes. The House may judge of the extent of accommodation which the Bank was in the practice of giving, by the thirty-nine millions of these notes paid, out of place, in the year 1832. They may know it further by the fact, that, of these branch notes, \$1,540,000 were paid at the Bank of the United States in Philadelphia, during the very months of August and September, 1833. This circulation was to be sustained and increased, to be still more facilitated, as it since has been, to keep the people and the Bank from feeling the consequences of the measure. All this required that the Bank should not sleep upon her post. The least dishonor suffered by that Bank would have produced universal disorder in the country.

I understand the honorable member from Tennessee to say, that the reductions by the Bank, in August and September last, were greater than they ever had been in any other two months since her institution. I join issue upon this allegation. They have been greater in other months, and they were greater in the very same months of the preceding year.

In August and September, 1833, the amount reduced			
was - - - - -	-	-	\$4,066,146
In August and September, 1832, it was - - - - -	-	-	4,315,678

being the difference between \$68,008,988, the discounts and domestic bills in August, 1832, and \$63,693,310, their amount in October; and yet there was no alarm whatever in 1832. There was, moreover, a greater reduction, by a million and a half, from July to October, 1832, than there was between the same months in the present year, and without any distress or alarm.

The discounts and bills in July, 1833, were	-	\$63,369,897
The discounts and bills in October, 1833, were	-	60,094,202

Reduction, - - -	-	<u>\$3,275,695</u>
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The amount in July, 1832, was - - -	-	\$68,416,081
The amount in October, 1832, - - -	-	63,693,310

Reduction, - - -	-	<u>\$4,722,771</u>
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There was a greater State bank debt in October, 1832, than in the same month, 1833, and yet there was no alarm. In October,

1833, it was \$2,285,573, and in October, 1832, it was \$2,820,114. The reason of the difference may possibly show to gentlemen that mere reduction is an insufficient element for determining the pressure in the market. In October, 1832, the payment of the three per cents was to restore to the community a portion of the sums called in by the Bank. In October, 1833, the deposits were to go where individuals must have a less beneficial use of them, and where they could have no use of them, except as the State banks should choose to lend upon them.

Nor did the whole reduction, from October to December, 1833, cause the existing distress. It is well, sir, to present these details, that the House may reflect upon them, and learn how far the Secretary is responsible for the condition of the country. The Bank paid out, in the two months of October and December, \$246,766 more than she received from the community.

		<i>Receipts.</i>
In October, 1833, her discounts and bills were	-	\$60,094,202
In December they were,	-	54,453,104
		<hr/> \$5,641,098
		<i>Payments.</i>
In October the public deposits were	-	\$9,868,434
In December they were,	5,162,259	-
		<hr/> \$4,706,175
In October the private deposits were	-	\$8,008,862
In December they were,	6,827,173	-
		<hr/> 1,181,689
		<hr/> 5,887,864
Excess of payments over receipts,	-	-
		\$246,766
Nor was the reduction by the Bank of the United States, in the month of December, the cause of the distress.		
In December, 1833, the discounts and bills were		\$54,453,104
In January, 1834, they are,	-	54,911,461
		<hr/> \$458,357
Showing an actual increase of	-	-

Yet, in that month, the public and private deposits were paid to the extent of \$1,024,058. Yes, sir, in this very month, when it has been said that the Bank had grasped the debtor's throat, to compel an outcry to Congress for the return of the deposits, the Bank extended her loans nearly half a million of dollars, while she paid more than a million of her deposits.

Nor was the entire reduction in the four commercial cities, from October, 1833, to January, 1834, the cause of the prevailing distress.

In October, 1833, the loans and bills in those places were as follows:

Philadelphia,	-	-	-	-	-	\$7,156,487
New York,	-	-	-	-	-	6,180,883
Boston,	-	-	-	-	-	3,965,283
Baltimore,	-	-	-	-	-	2,033,318

\$19,335,971

In January, 1834, they are as follows:

Philadelphia,	-	-	-	-	-	\$7,979,233
New York,	-	-	-	-	-	5,970,055
Boston,	-	-	-	-	-	2,316,034
Baltimore,	-	-	-	-	-	1,954,045

\$18,219,367

Making \$1,116,604 reduction in the four cities during the three preceding months.

The cause of the alarm and general paralysis are not to be found, then, in the conduct of the Bank of the United States. They are to be sought for and found in the removal of the deposits; in the universal derangement of the money system of the country by that means; in the just refusal of the United States' Bank to extend herself to her own undoing, or to keep herself unprepared for the coming storm, by remaining as extended as she was; in the inability of the State banks to use the deposits as beneficially as they were used before; and in the refusal of capitalists to lend their money and adventure their property in the face of a project to overwhelm the country with an uncontrollable State bank paper currency.

What, sir, does the Secretary of the Treasury expect of the Bank? What measure of justice does he render to her? He says, the design of removing the deposits was to compel reduction, and he censures her because she reduces. He complains that she increased her discounts and domestic bills, from December, 1832, to August, 1833, more than two millions and a half, when this was the very season in which trade requires the increase, and it was wholly in the purchase of domestic bills. He complains that she reduced her discounts, in August and September, 1833, four millions of dollars, when this is the very season of payment, when trade does not require the means, and three millions of the amount was by the payment of domestic bills which had arrived at maturity. He complains of the increase of loans in December, 1830, when they were \$42,402,304; and he complains of reductions in August, 1833, when they were twenty-two millions more, viz: \$64,160,349. He complains of reductions in 1833, when, in the whole, from June to December, they have been but \$610,508 more than they were in 1832; and the Bank has had also to pay the public deposits.*

* The statements which verify these positions may be more intelligibly placed in a note than in the body of the argument, as they were stated to the House.

i. The variations in the increase and diminution of discounts and domestic bills through the years 1832 and 1833, are shown by the following statement:

Sir, it is clear that the Bank must abide the reproaches of the Secretary, whatever she does. But what has she not a right to expect from this House, from the People, from the solid State banks, from all who are concerned in the currency, and the property it circulates? Their safety depends on her pursuing the course she has traced out, from which neither the reproaches of enemies, nor the entreaties of friends, should divert her. For the former I have no apprehension; and for the latter, although I entertain some fears, I trust that an answer will always be found by the able Board which administers the concerns of the Bank, in the superior claims of public duty.

The Secretary asserts, sir—and it seems to be a favorite assertion, as it is to be found in more than one place in the letter—he asserts that the Bank has violated the charter. He says, that, “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*

		<i>Domestic bills.</i>	<i>Discounts.</i>	<i>Total.</i>
January, 1832,	-	\$16,691,129	49,602,577	66,293,707
June,	-	22,850,769	46,712,040	69,562,809
December,	-	16,647,507	44,924,118	61,571,625
January, 1833,	-	18,069,043	43,626,870	61,695,913
June,	-	22,427,702	40,627,094	63,054,796
December,	-	15,672,537	38,780,567	54,453,104
Total reduction from June to December, 1832,				- - 7,991,184
Total reduction from June to December, 1833,				- - 8,601,692

2. The increase of two millions and a half, from January to August, 1833, was wholly in domestic bills, while the discounts were reduced.

		<i>Domestic bills.</i>	<i>Discounts.</i>	
January, 1833,	-	\$18,069,043	\$43,626,870	
August, 1833,	-	20,923,243	43,237,106	
Increase,	-	<u>2,854,200</u>	<u>389,764</u>	diminution.

“ *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 interest, and to render more safe the public money intrusted to the care of the Bank.”

Now, sir, the Secretary cannot have examined this matter, or he would have entertained a different opinion. There is no violation whatever of the charter in giving the President authority to appoint the Committee of Exchange, or in authorizing that committee to transact the business of exchange, or even to discount, if such a power should be deemed expedient.

The Secretary appears to rely on the fourth fundamental law of the corporation, which enacts, that “ 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 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.” By *transaction* of business, the Secretary would seem to understand exclusively the *execution* of business; the carrying of a direction, order, or law, into act and effect. But this is not the restricted meaning of the word in this place, for several satisfactory reasons. 1. Such a restriction upon the execution of the various business of the Bank, as that not less than seven directors should form a quorum to do it, would render the execution of business impossible. Not a deposit could be received or paid, or the simplest operation of business performed, without the presence of such a quorum. 2. Accordingly, the charter, by the use of a different term, in a different place, shows that this is not the meaning of the words *transaction of business*. The tenth section gives to the directors for the time being “ 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.” 3. The word, in its proper sense, includes both execution and direction. 4. The authority of the *Board*, as would naturally occur to most people, is *legislative*; and although they can also execute and perform definitively any business they please, it must depend upon the law which they prescribe to themselves, or which is prescribed for them by the charter and by-laws, what part they will perform in person, and what they will commit to others. The *quorum* is appointed for the exercise of authority as a Board—for legislation, and not for the execution of the laws or directions of the Board. The body is, by the very name of its office, *directive* and not *executive*. 5. This is clearly implied from the provision which gives to a substituted director the power to transact all the necessary business belonging to the office of Pre-

sident, during the continuance of the President's sickness or necessary absence. What is the necessary business belonging to the office of President? The charter does not declare it. Perhaps the only business which it allots to him, expressly, is that of signing notes of a certain description to give them a certain effect. Whence, then, can he get it, except from the Board of Directors, or the by-laws and regulations of the Bank? And if he gets it from the Board, they must have power to authorize and direct, and the President, by virtue thereof, must have power to execute.

Sir, the power of making by-laws and regulations for the government of the Bank has been wholly overlooked by the Secretary. The seventh section of the charter gives to the whole corporation, the stockholders, the power to "ordain, establish, and put in execution such by-laws, 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 the present situation of this power is thus: It has been settled for a century, that where a charter commits the power of making by-laws to the whole body of the corporation, the general mass of corporators, they may delegate the power to a select body, who then represent the whole body in their acts of legislation. The contrary of this is held to be the law when the power is given by charter to a select body, for they cannot delegate their power to any other body. Now, sir, the whole body of the corporation of the Bank of the United States, the stockholders, at a general meeting held on the 6th January, 1817, did delegate their power of making by-laws and regulations to the Board of Directors, after passing a few by-laws not affecting the present inquiry. The act by which this was done declares, "that the directors shall have power to make such further rules, regulations, and by-laws, as they shall deem necessary and convenient for the government of the Bank of the United States, not contrary to these ordinances, nor to the act of incorporation, nor to the laws of the United States." Consequently, the directors have, since that time, possessed and exercised, and do now possess and exercise, the legislative power of the corporation, by the gift and delegation of the stockholders; and the laws and regulations made by the Board of Directors, whether for the government of their own body, or of the business of the Bank, not being contrary to the constitution, the laws of the United States, or the by-laws made by the stockholders, are good and valid, either by virtue of their own charter authority as directors, or the authority delegated to them by the whole corporation.

Upon what principle is it, then, that a regulation of the Board authorizing the President to appoint committees, (a necessary power in every legislative body,) or that authorizing a committee to take order upon the purchase and sale of exchange, or to perform any other act of banking which the charter does not require to be done by somebody else, is denounced as a violation of the charter, and of the *plain words* of the charter? Sir, the power exercised by the Committee of Exchange is known by all who know any thing of

practical banking, as it is now conducted in our cities, to be not only usual, but almost indispensable; and, to the due management of the parent Bank, entirely so. To require a quorum of seven to be present at every such operation, occurring as they do every day, would be to say that the Bank of the United States should not give the facilities to exchanges which the interests of trade require. The question of expediency is, however, for the Board, when its legal quorum is present, to decide; and they have decided it, and the stockholders have never questioned the decision. As to the *right*, though from convenience, as well as from the regular recurrence and magnitude of the operations, the discounts of promissory notes are directed by the Board of Directors in person, there is no legal difference between discounts and exchanges, or any other branch of banking business, which makes them necessarily subject to different rules. The Board may regulate the whole as it deems best for the Bank.

But, sir, this alleged violation of the charter is connected, in the mind of the Secretary, with a design to "conceal certain important operations of the corporation from the officers of the Government." The particular operations concealed are not suggested, but the concealment is alleged as an inference from the mode of appointing and instructing the committees in violation of the charter.

There are some points of fact adverted to in the Secretary's letter, and in the argument of the honorable member from Tennessee, which it is my intention to leave to those who think that they are still worthy of additional notice. I am not of that opinion. These matters regard the particular items of expense for printing and publication by the Bank, and the old affair of the 3 per cents, both as to the suspended payment from July to October, and the contract by the Bank with certain holders of that stock. If, after the volumes printed by the order of this House at the last session of Congress, upon these and other kindred questions, something more is required to be said, I am sure it may be said more profitably by others than by myself. So, also, sir, as to the discovery which the honorable member from Tennessee thinks he has made, of a contradiction between the amount of printing expenses of the Bank in 1831, returned by the Bank to the Senate under a resolution of that body, and the amount for the same year stated in the pamphlet which he is pleased to term the manifesto of the Bank—the former being, as I understand, the sum of \$9,775, and the latter the sum of \$21,708 53. That discovery may not prove to be as important as it is supposed to be, if gentlemen will advert to the fact that the call of the Senate embraces only the expenses paid by the Bank for *printing* and to *editors*; and the expenses in the pamphlet are the whole amount paid by the Bank for publications of every kind, by whomever printed, and not merely the portion paid by the Bank to printers employed by itself, and to *editors of newspapers*.

These, sir, are minor points; but the question of concealment involves great considerations. It would appear that the charge implies a general concealment, from the omission to appoint any one of the

Government directors upon the Committee of Exchange; and particular concealment, from giving to the Committee on the Offices a power to modify the resolutions of the Board for reducing the business of the institution as they should deem expedient, and refusing to order them to make a report to the Board; and, also, from refusing to the Government directors a copy of the resolution indicating the course of policy proper for the Bank to pursue under present circumstances, and which the Government directors thought should be transmitted to the Secretary of the Treasury. In regard to the Committee on the Offices, I find it difficult to comprehend that branch of the alleged concealment, as by their letter of the 22d April, 1833, to the President, it appears that one of the Government directors was at that time a member of that committee. Possibly, however, there may have been a change, and I shall so consider it.

Sir, these questions are of great importance to all banks, and to the Bank of the United States in particular. The *right* of the Government directors to the station they aspire to, or to demand that the Board should make the orders which the Board have refused to make, has not the least foundation. Their right to be members of any committee has no more legal support, than the right of a member of this House to be upon a committee appointed by this House. It depends, in this House, upon the good pleasure of the House; or, what is constructively the same thing, upon the pleasure of the Speaker, chosen by the House. In the Board of Directors it depends on the pleasure of the Board, either directly or indirectly, as they make the appointment themselves, or give the power of appointment to the President of the Board. The right to require that a committee shall make a report to the Board, is the right of the Board, and not of any member of it. The right to take a copy of the minutes, for any purpose, depends on the will of the Board by whom they are made, or ordered to be made, as the charter does not contain any direction upon the subject. It would be the same in this House, if the constitution did not require a journal to be kept by each House, and to be published from time to time; though even this is subject to an exception, depending on the will of the House.

The questions of right being thus, let us examine, sir, the questions of expediency and propriety.

Heretofore, in the history of the Bank, the directors appointed by the President of the United States, have mingled in all the transactions of the Bank, mutually giving and enjoying unreserved confidence, and being in no respect whatever distinguished from the other directors. Mr. Biddle himself was a director appointed by the President, for many years, and particularly in the important years of 1829, 1830, 1831, and 1832, as the reports of the last session show; and other Government directors have, from time to time, acted upon all the important committees, including the Committee of Exchange, so as to give to the Bank the benefit of their peculiar qualifications, for it must always have been a question of qualification, and, if a director was not qualified for a particular post, it is not probable, whatever was the source of his appointment, that he would be placed in

it. But, sir, in the time of the present Government directors, a change has come upon us and upon the Bank, of a very important kind, and it is not surprising that it has affected those directors also.

It was vehemently suspected, sir, at the time of their appointment, that their notions of duty and right were peculiar; that they deemed themselves bound or entitled to use their posts for the purpose of making representations to the President of the United States, tending to excite odium against their co-directors, by impeaching their motives and acts, and thus to impair the credit of the Bank; that they deemed themselves at liberty, in the performance of this duty, or in the exercise of this right, to pursue objects which they did not care to avow, and which *they were not permitted to avow*; and, finally, sir, that, in some way, by some unexplained theory of their appointment, they had come to the opinion that they possessed *political powers* in the institution, which they were authorized to use for *political purposes*. All this, sir, was, as I have said, most vehemently suspected; and, if the suspicions were just, the propriety of placing them in posts of trust and confidence in the Bank was not so clear, particularly as, if they were so placed, it might have been difficult to persuade other gentlemen to sit beside them in the occupation of those posts. I say, sir, it might have been extremely difficult to persuade gentlemen of character, having some feelings and reputation of their own, to sit in a post of trust and confidence by the side of directors holding such notions of duty and right, and carrying them out, without avowing their objects, into measures of extreme personal annoyance, as well as of discredit to the Bank.

Sir, what was at that time, perhaps, no more than vehement suspicion, is now, and, for some time past, has been, matter of unquestionable certainty; and the certainty is derived from the best possible authority—the confession of the very party.

Sir, I beg to call the attention of the House to a part of a letter addressed by three of the Government directors to the President of the United States on the 22d of April, 1833, which is annexed to the letter of the Secretary. It is the first that has been exhibited to this House, but not the first in the correspondence of which it forms a part, and which has not been communicated. We know, even now, but in part. The three directors say:

“Without considering any portion of our remarks as falling within
 “the limits of those private accounts, which, as you state, the charter
 “has so carefully guarded, *since the whole relate to the action of the*
 “*Board upon matters fully open, and discussed, before them, and ex-*
 “*tend in no instance to the private debtor and creditor accounts of*
 “*individuals*, yet we may be excused for expressing much gratifica-
 “tion at your assurance that the information requested is for your
 “own satisfaction, *and that you do not wish it extended beyond our*
 “*personal knowledge*. We may be permitted also to add, that the
 “wishes and opinions which we took the liberty of expressing in our
 “former letter have been since more strongly confirmed, *and that we*
 “*should not only feel more satisfaction ourselves, but be enabled to*
 “*convey to you more full and correct information, were we to proceed*

“*in an investigation, WHOSE OBJECT WAS AVOWED, and if we were strengthened by that official sanction which we suggested.*”

Then, sir, they were not altogether comfortable in their new position; and I do not wonder at it. Then their object *was not avowed*, and they were not permitted to avow it, but were compelled, by their own sense of distress, to ask for an official sanction, under which they might avow it: then, further, they were practising concealment themselves, and trying to prosecute an investigation, without avowing its object, when that object is now known to have been to inculcate the Board, and particularly the gentleman at the head of it, and, by means of the odium thus excited, to justify to public prejudice an act of deadly hatred to the Bank of which they were directors—the removal of the public deposits; and then, sir, I say, in conclusion, that there is not an honorable man in this House, or in this country, who will not respond to the sentiment, that they were treated at least as well as they deserved to be, by not being assisted in the performance of these remarkable labors. With this confession of concealment by the Government directors, to which they were coerced by the Executive, the Secretary of the Treasury arraigns the Board for concealing its operations from them. He charges the Board with concealment, in violation of their charter, and in contempt of the Government, when the head and front of their offence is this only—that they would not consent to be the dupes of concealment that was practised by others.

But, sir, this is not all. The memorial of the Government directors to this House, for the doctrines of which we are, I presume, indebted to the professional gentleman whose name is at the head, cannot be too much adverted to, in connexion with both the charge of concealment by the Board, and another charge, hereafter to be noticed, of a graver description. It is a document that may be considered as a sort of small *martyrology*—a history of the sufferings incident to disappointed efforts and mortified pretensions; and it contains, as is natural, a confession of the faith by which the sufferers have been sustained at the stake where they have placed themselves. I beg permission to exhibit it to the House.—“It has pleased the majority of the Board of Directors,” says the memorial, “in the document to which we refer, in order, we suppose, in some degree to extenuate their conduct, in systematically nullifying the representatives of the Government and the People,” [doubtless meaning themselves,] “to deny that the public directors are seated at the Board in any other relation than themselves; to deny the existence of any difference in the official character and duty of themselves and us. This extraordinary denial, in the face of all experience of the familiar history of the country, and of palpable reasoning, must rather be ascribed to the presumption which moneyed power is apt to inspire, than to the ignorance or wilful misrepresentation of those who make it. Nothing can be plainer than that the PUBLIC DIRECTORS WERE DEVISED AS INSTRUMENTS”—[I beg the House to advert to the felicity of the language—“*were devised as instruments.*”] “Nothing can be plainer than that the public directors

“ were devised as instruments for the attainment of public objects;
 “ that their being insisted upon in the charter itself was in obedience
 “ to the will of those who elected the legislative body by which it was
 “ passed; and *that their appointment was given to the President,*
 “ with the advice and consent of the Senate of the United States,
 “ (not to the mere fiscal representative,) in order to clothe them with
 “ all the character of official representation, and *to exact from them*
 “ a discharge of all the duties, public, *political*, and patriotic, inci-
 “ dent to a trust so conferred. If we are mistaken in this, we ac-
 “ knowledge that our solicitude about the rights and morals, the
 “ practical purity and freedom of our countrymen, has misled us.
 “ But we know that we are not.”

Devised as instruments, and given to the President, to *exact* from them a discharge of all the duties, public, *political*, and patriotic, incident to a trust so conferred! The sense would not have been more complete, sir, though the alliteration would have been more perfect, if they had described their functions as extending to all duties, public, political, patriotic, and *party*, incident to a trust so conferred.

Now, sir, without at present saying whether this theory was true, the other directors had a right to a counteracting theory for themselves; and if it is true that the Government directors were devised as instruments, and that they are, by their creation, *political* directors, the other directors, who have not been so devised, are entitled to consider themselves as anti-political directors, and not bound to assist the political operations of the other branch, but rather, by the momentum of their greater numbers, to keep them from moving the Bank out of place. But, sir, the heads of the memorialists have been made dizzy by their elevation. Their theory has no foundation in reason, or in the charter. I deny that they were *devised* as instruments, whatever they may have made of themselves. There is not a shadow of difference between the rights and duties, the powers, or the obligations, of any of the directors: they are all directors, neither more nor less, and owing the same duties to all the interests confided to them. The directors appointed by the President owe a duty to the nation, and so do the others, and, in my poor judgment, they have performed it. The directors elected by the stockholders owe a duty to the Bank, and so do the directors appointed by the President; but they have neither performed nor acknowledged it. They are not placed there to make inquiries for the President. The President has no authority to direct inquiries to be made by them. This is a question of charter power, of power over a corporation, all of whose privileges are rights of property. The charter gives to the President no such right. It expressly gives to the Secretary of the Treasury a right of limited inquiry, by investigating such general accounts, in the books of the Bank, as relate to the statements which the Bank is bound to furnish to the Treasury Department, but no further. Congress have the power to inspect the books of the Bank, and the proceedings of the corporation generally. These powers have been expressly given, and they have been so given because they would not have been derived by implication from the charter.

But here is a power to be implied greater than all, and worse than all—a power to be exercised secretly, and without avowal, *ex parte*, without notice, without opportunity of reply or explanation being given to those whom it affects, and by persons who are holding, to all appearance, the relations of amity with their co-directors, sitting on the same seats, and professing the same general objects. Sir, the Board did right not to aid them; it would have done right to resist them; and I inquire of the members of this House, and ask them to follow out their honorable feelings into the reply—would they consent to sit in committee by the side of men who professed principles like these, and submitted themselves to the direction of another as to the manner in which they should carry them into execution? This question concerns all banks, and this Bank most intimately. A hue and cry is raised against the directors of this Bank, because the Bank will not tell the Government directors, *that they may tell the Secretary*, precisely how they mean to wind up, if they do mean it; and here is a new theory of banking, to place by the side of the new theory of political power—that all which the Bank intends to do for its own defence, is to be told to an enemy, that, if he thinks fit, he may defeat the measure; that it is not sufficient for him to continue to know the precise condition of the Bank, in point of fact, as it actually is, and as he must perceive it to be by the weekly statements, but that he must also know what it is going to be by the operation of measures of defence, that if it is in his power, and he also thinks fit, he may frustrate the purpose. The private directors of this Bank have upon them the responsibility of taking care of all the stockholders—the nation, for its seven millions, included. If others forget this duty, they will not. This House, I hope, will not; nor will they join in censuring these faithful men for refusing, under the challenge of political power, to give up the direction of the Bank, by allowing to any department an inquisition into their concerns, which the charter does not warrant.

Mr. Speaker, it is in connexion with this asserted right of inquiry into the affairs of the Bank, that the contracts, made by the Secretary with the new deposit Banks, become an object of the deepest interest. The 15th fundamental law of the Bank charter enables the Secretary to require of the Bank a weekly statement of the capital stock of the corporation, debts due to the same, moneys deposited therein, notes in circulation, and the specie in hand; and gives him a right to inspect the general accounts relating to it in the books of the Bank, but not the right of inspecting the *account of any private individual*. This ought to have been sufficient for the Secretary, as, in the judgment of Congress, it was sufficient for the safe-keeping of the public moneys. It was enough for safety, which Congress wanted, but not enough for interference and control of the Bank, which Congress did not want. The contracts which the Secretary has made with the deposit banks hold a very different language, as may be seen by that with the Girard Bank. The Bank is bound, not only to make weekly returns of its entire condition, and to submit its books and *transactions* to a critical examination by the Secretary, or an agent duly authorized by him, but it is expressly provided that

this examination may extend to *all the books and accounts*, to the cash on hand, and to *all the acts and concerns* of the Bank, except the *current accounts* of individuals. Sir, I am happy to learn that the stockholders of the Bank of Virginia have disavowed the act of their directors, in giving this power to the Secretary. It is a fearful power, and, with the Treasury interpretation of *current accounts*, (which is not the language of the charter, but *accounts* generally of any private individual,) we may see the extent of control, which, with the aid of the deposits, this clause of the contract will give. It is an authority for universal supervision of all the operations of the Bank, including its discounts, and for granting and withholding accommodations at the pleasure of the Secretary. I humbly submit to all who feel any kindred sympathies with honorable men, whether, in the absence of the mandate of a judicial decision, in a case in which such a decision has been avoided by the power that has a right to invoke it, whether this is a fit occasion to justify the removal of the deposits for violation of charter, because the directors have not adopted or assisted such principles, interpretations, and aims as these?

The affair of the French bill I shall briefly notice, as I pass to the remaining topic of the Secretary's answer. I will take the history of that bill, as it is given by the honorable member from Tennessee—that it was a bill bought by the Bank, refused payment by the French Government, and, upon protest, the amount was paid by the agent, for the honor of the Bank, to the foreign holder; that the money was not used by the Treasury here; and that the Bank suffered nothing but a few expenses, which the Secretary is willing to refund. I will agree that there is nothing but an *old* statute of Maryland to give damages on the protest, and that it does not include the sovereign of the country. I cannot argue the case, because the honorable member assumes all the law and all the facts, and the Secretary's letter gives us none. I must, therefore, agree to the case as he presents it. But the thing which passes my comprehension is, that a mere *claim* by the Bank—a claim without suit or other act—a claim which it is the privilege of the lowest and poorest to make upon the highest and richest in the land, without incurring either forfeiture or damage—that this should be gravely put forth as a brand of faithlessness upon the Bank, and a forfeiture of her right to the public deposits. Sir, there must be a strange perversion of mind in myself, or in the honorable Secretary, in regard to this conclusion. It would have been the occasion of infinite surprise to me, if the faculty of being surprised had not been recently so much impaired by use, that I am no longer conscious of its existence.

The last reason of the Secretary for removing the deposits is, that the Bank had employed her means with the view of obtaining political power.

I beg permission of the House to say a word concerning the humble individual who has the honor of addressing it. Had I been a director of the Bank of the United States, during the years in which it has been its misfortune not to have received the approbation of the Secretary, I should have been associated with men who are an orna-

ment to the city in which they live, and an honor to their country—men, who, from earliest youth to their present mature age, have been beloved, respected, and honored by all around them, and who are as much the standard of all the virtues, private, social, and patriotic, as the coins of your mint are the standard of your currency, and without any of the base alloy which you mingle in your coins to make them fit for the use and abuse of the world. If I had been called upon to act with such men as these, in regard to measures of any kind, and had differed from them in my judgment, I should have deemed it almost an act of treason against the authority of superior intelligence, or of arrogance, exposing myself to reprehension or contempt. I should have followed them fearlessly wherever they led, and with unshaken confidence that they could not lead me where either wisdom or virtue would be exposed to reproach. But, sir, I had not this honor. I was not a director of the Bank in 1829, nor in 1830, nor in 1831; and, though chosen a director in 1832, I left Philadelphia in January, to pass my winter here, and met the Board but once after my return, to show respect to the Committee of Inquiry appointed by this House. Of the measures now to be adverted to I was not informed, except as the public and this House have been informed. I can speak of them, therefore, without the influence arising from either participation or privity. As to my professional relations to the Bank, I am proud to belong to a profession which has many distinguished members in both Houses of this Congress—a profession which the confidence and affection of this people have raised, in more than one instance, to the highest office in their gift. I will not degrade this honorable profession! I will not degrade my own rank in it, however humble, by condescending to inquire what extent of compensation would induce an honorable man to sell his conscience, and his principles, as slaves, to his client!

Sir, the great accusation against the Bank is, that she has endeavored to obtain political power, and interfered with the election of the President of the United States. Grant the design of the Bank, sir; and what then? It has not succeeded. The letter of the Secretary is an argument to show that it has not succeeded, and that the question of re-charter is settled against the Bank by the voice of the People at the last election. The election of the President—the appointment of the Secretary—the elections for this House—were all completed before the deposits were removed; and these are held up to show that the design imputed to the Bank has failed and fallen to the ground. Then I ask, sir, what is the character of that act which has removed the deposits? Is it preventive, or is it vindictive? It is vindictive, sir. It is punishment directed against the Bank for an imputed design that has wholly failed in its execution, and the victim of the infliction is not the Bank, but the country. If it is a matter of grave belief that the purpose of the Bank was that which is imputed, and that the elections have given out the answer of the People to it, what more triumphant refutation can be adduced of the reasons that find either a ground of apprehension, or a motive of punishment, in acts which have thus failed of effect? If the premises be-

long to the case, the true conclusion is, that the people are in no danger from attempts to gain political power by the devices of the Bank, and that she may go on to the conclusion of her charter, performing her constitutional duties to the country, as she has always done, with fidelity and success; leaving the question of renewing the charter to settle the extent of her punishment.

But, sir, I deny the charge. I say the design was not entertained, and that not a particle of evidence has been produced to infer the contrary. The Board have printed and published, and have assisted in printing and publishing, "for the purpose of communicating to the people information in regard to the nature and operations of the Bank, and to remove unfounded prejudices, or repel injurious calumnies on the institution intrusted to their care." This is the declared purpose of all they have done, and they stand upon the sacred principle of self-defence in asserting their right to do it. That there was nothing in the veto message to justify the circulation of the review which the gentleman from Tennessee has noticed, is more than I admit; and when the gentleman shall assert, upon his own authority, that the Board have given currency to a scurrilous pamphlet against any one, he will find me ready either to deny the fact, or to admit its impropriety. The constitution secures to every person, natural and political, the right of printing and publishing, being responsible for the abuse of it. It prohibits Congress from passing any law abridging the freedom of the press. If the charter had inserted a provision to restrain the Board of Directors from printing or publishing, it would have been null and void. An interpretation of the charter to restrain it is equally so. They have the universal right, subject to the constitutional corrective through the judicial tribunals of the country; but to condemn, and then to try them—to punish, and then to hear—belongs not to the tribunals of this earth, nor to the constitution of this country.

Sir, the change of the deposits is an extraordinary mode of preventing their application to the purposes of political power. Before their removal, they were in a Bank not possessing political power, nor capable of using it. They are now wielded by those who possess it, and who are more or less than men if they do not wish to keep it. Then they were in one Bank, under one direction; now they will be in fifty. Then they were in a Bank which political power could not lay open to its inquiries and control; now they are in Banks that have given a stipulation for submitting all their acts and concerns to review. Then, if these deposits sustained any action at all, it was in the safest form for the People—action against power in office; now its action is in support of that power, and tends to the augmentation of what is already great enough.

I say, in conclusion upon this point, if these publications are deemed by this House to have been unlawful, return the deposits till the Bank has been heard. Go to the *scire facias*—give to the Bank that trial by jury which is secured by its charter, and is the birthright of all. Ask the unspotted and unsuspected tribunals of the country for their instruction. Arraign the Bank upon the ground either of

sedition, or grasping at political power. There was ample time for it, and still is; and there is a great precedent for it, which I commend to the consideration of this House.

Sir, in the worst days of one of the worst princes of England, (I mean Charles the 2d,) the love of absolute rule induced him to make an attempt upon the liberties of the city of London, whose charter he desired to overthrow. He complained that the Common Council had taxed him with a delay of justice, and had possessed the people with an ill opinion of him; and, by means of his ministers of the law, and by infamously packing the bench, having promoted one judge, who was not satisfied on the point, and turned out another who was not clear, he succeeded in obtaining a judgment, under which the liberties of that ancient city were seized by the crown. But, when the revolution expelled his successor, and the principles of the British constitution came in with the House of Orange, an early statute of William and Mary reversed the judgment as illegal and arbitrary; and from that time it has been the opprobrium of the bench, and the scorn of the profession.

The account of it which is given by Burnet, is thus:—"The court, finding that the city of London could not be wrought on to surrender their charter, resolved to have it condemned by a judgment in the King's Bench. Jones had died in May; so now Pollexfen and Treby were chiefly relied on by the city in this matter. Sawyer was the Attorney General, a dull, hot man, and forward to serve all the designs of the court. He undertook, by the advice of Sanders, a learned, but very immoral man, to overthrow the charter. The two points upon which they rested the cause were, that the Common Council had petitioned the King upon a prorogation of Parliament, that it might meet on the day to which it was prorogued, and had taxed the prorogation as that which had occasioned a delay of justice: this was construed to be the raising of sedition, and the possessing the people with an ill opinion of the King."—"When the matter was brought near judgment, Sanders, who had laid the whole thing, was made Chief Justice; Pemberton, who was not satisfied on the point, being removed to the Common Pleas, on North's advancement. Dolbin, a judge of the King's Bench, was found not to be clear; *so he was turned out*, and Wilkins came in his room. When sentence was to be given, Sanders was struck with an apoplexy, upon which great reflections were made; but he sent his judgment in writing, and died a few days after." As the only precedent which the books present to us of forfeiture of charter for sedition, or an interference with political power, it is not without instruction.

Sir, these reasons of the Secretary being one and all insufficient to justify the removal of the deposits, the question of remedy is the only one that remains. The state of the country requires the return; but the question of return has nothing to do with the renewal of the charter. If renewal were the object, I should say, do not put them back, leave them as they are; make no provision for the future, and see, at the end of two years, to what relief the people will fly. But,

sir, let us save the country from this unnecessary suffering. Return them, and the mists will clear off from the horizon, and the face of nature smile as it did before. Return them, and make some provision for the day when the capital of this Bank is to be withdrawn from the country, if it is to be withdrawn. Provide some control, some regulation of your currency. The time is still sufficient for it, and the country requires it. If indeed, this Bank is not to be continued, nor another to be supplied, nor a control devised to prevent the State Banks from shooting out of their orbits, and bringing on confusion and ruin, then, I confess that I see no benefit in putting off the evil for two years longer. The storm must come, in which every one must seize such plank of safety as he may cut of the common wreck; and it is not the part, either of true courage or of provident caution, to wish it deferred for a little time longer.

Sir, I have done. I have now closed my remarks upon the question of the public deposits, second in importance to none that has occurred in the course of the present administration, whether we regard its relations to the public faith, to the currency, or to the equipoise of the different departments of our Government. It is with unfeigned satisfaction that I have raised my feeble voice in behalf of the amendment offered by the gentleman from South Carolina, whose enlightened labors in this great cause, through a course of years, have inseparably connected his name with those principles upon which the security, the value, and the enjoyment of property depend; and it will be sufficient reward for me if I shall be thought not to have impaired the effect of his efforts, nor to have retarded the progress of those principles to their ultimate establishment. For myself, I claim the advantage of saying, that, as I have not consciously uttered a sentiment in the spirit of mere party politics, so I trust that my answers to the Secretary will not be encountered in that spirit. If the great and permanent interests of the country should be above the influence of party, so should be the discussions which involve them. It ought not to be, it cannot be, that such questions shall be decided in this House as party questions. The question of the Bank is one of public faith; that of the currency is a question of national prosperity; that of the constitutional control of the Treasury is a question of national existence. It is impossible that such momentous interests shall be tried and determined by those rules and standards which, in things indifferent in themselves, parties usually resort to. They concern our country at home and abroad, now, and to all future time; they concern the cause of freedom every where; and, if they shall be settled under the influence of any considerations but justice and patriotism—sacred justice and enlightened patriotism—the dejected friends of freedom dispersed throughout the earth, the patriots of this land, and the patriots of all lands, must finally surrender their extinguished hopes to the bitter conviction that the **SPIRIT OF PARTY** is a more deadly foe to free institutions than the **SPIRIT OF DESPOTISM**.