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SPEECH

OF

THE HON. WILLIAM WILKINS,

ON THE SUBJECT OF

THE REMOVAL OF THE DEPOSITES;

DELIVERED

IN THE SENATE OF THE UNITED STATES,

FEBRUARY, 1834.

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SPEECH OF MR. WILKINS.

On motion by Mr. CLAY, that it be resolved—

1st. That, by dismissing the late Secretary of the Treasury, because he would not, contrary to his sense of his own duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion, and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States, not granted to him by the constitution and laws, and dangerous to the liberties of the people.

2d. That the reasons assigned by the Secretary of the Treasury for the removal of the money of the United States deposited in the Bank of the United States and its branches, communicated to Congress on the 3d day of December, 1833, are unsatisfactory and insufficient.

Those resolutions being the special order of the day, Mr. WILKINS rose and addressed the Senate—

MR. PRESIDENT: It is in the history of our country, that more than forty years ago, upon an occasion not unlike the present, Mr. Madison observed: "The present is a question which ought to be conducted with moderation and candor, and, therefore, there is no occasion to have recourse to those tragic representations which have been adduced. Warmth and passion should be excluded from the discussion of a subject which ought to depend on the cool dictates of reason for its decision."

I shall endeavor to profit by the admonition of this great statesman, whose life an overruling Providence seems to prolong, that he may witness the universal homage paid to his wisdom and his patriotism.

I have little hope of being able so to carry myself to-day, as to make atonement for the absence of ability on my part to throw light upon a subject already exhausted by the research, the arguments, and the talents of those who have preceded me. Wide and unnecessarily as the field has been enlarged, skillful and industrious gleaners have gone over every "land" of it, and there is scarcely a grain left for my feeble hands to pick up.

I declare to you, sir, in the fulness of sincerity, that I throw myself into this debate with great reluctance. Not that I am inclined to shun responsibility—but from an almost insurmountable indisposition to tax the patience and the complaisance of the Senate. For the truth of this, I might appeal to the positive proof afforded by the fact, that since I have had the honor of a seat here, I have adopted, and endeavored to carry out, the character of a listener, and not that of a debater. Upon assuming this novel department, and embarking in this deeply interesting discussion, it only remains for me to be cautious, and draw but sparingly upon the vast amount of capital stock of good feeling and courtesy which is to be found in this body, and to avoid "all rapid and vexatious curtailments."

The aspect given to this discussion, and the deep and solemn questions thrown up by it in reference to the Bank of the United States, render my own attitude, and that of Pennsylvania, somewhat peculiar, and demand from me a preliminary word or two, explanatory of the course heretofore pursued by that State and her representatives.

In 1831, during the first session of the 22d Congress, the Legislators of Pennsylvania, with the light and the facts then before them, instructed my colleague and myself to vote for a bill to recharter the Bank of the

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United States. I did not hesitate to obey those instructions; because my early impressions upon the constitutional question had given way to the usage of the country—to the practical construction of the constitution by the various departments of the Government, and apparently acquiesced in by the American People. And believing at that time that the Bank had kept itself within its chartered limits, and had accommodated itself to the wants of the country and the usage of the Government, I felt myself free to act upon the question of expediency, in obedience to the instructions of the Legislature; and it gave me pleasure upon that occasion, as it would do upon all others, to abide by the wishes of the constituent body. The unanimity which distinguished that body at the period to which I refer, so favorable to the continuance of the Bank, will be sought for in vain hereafter—for the ambitious and oppressive conduct of its Directory, subsequently so plainly developed, is rapidly changing public sentiment, and I have not foresight sufficient to tell what power will be strong enough to impede its progress.

Consistency is a matter of essential importance to every man of honor; and the consistency of my State cannot be less dear and interesting to me. I cannot conceive that I am now about to pursue a course exposing either myself or Pennsylvania to the charge of inconsistency, or at all likely to come into collision with the instructions of a former Legislature, to which I have alluded, because new facts have given a new character to the case; and it is admitted on all sides of the house, that the question of a National Bank is laid on the shelf, and by some honorable members it is said that the present controversy has no reference to the recharter of the present institution. I am, therefore, left free, and without danger of coming in conflict even with formerly expressed public sentiment, to enforce my own opinions upon this occasion, and to pursue my own course in reference to the resolutions of the Senator from Kentucky. The present is an insulated inquiry arising out of a matter of detail—an incident in the administration of the affairs of the Bank and the finances of the Government, having nothing to do with the great question of “Bank or no Bank.”

Before I proceed to the direct discussion of those resolutions, I would again deprecate the degree of warmth which has been displayed in connexion with the subject. Upon each side of us we have tragic representations and frightful pictures of the present and approaching condition of the country. We are told that we are “in the midst of a revolution”—that the constitution is prostrated and lying bleeding before us—that the rights of the People are disregarded and trampled under foot—of the usurpations of principles by the Executive “hitherto bloodless”—that the gloom of the winter of ’76-’7 is fast spreading over our convulsed country! In the fore-ground of this terrifying picture, and in bold relief, is depicted an ambitious President, grasping at all power—sinking the Legislative and Judicial departments of the Government in that of the Executive—a despot fast ascending the throne, with the purse in one hand and the sword in the other—a public robber of the rights and the treasure of the People! All this is to be found in the fore-ground, whilst the principles and proper merits of the question are faintly traced and obscured in the back-ground of the picture. If gentlemen judged of political by physical phenomena, there might be some reason to apprehend that the evils thus presented to us, might visit our happy land. If it were true that a political storm was always preceded by a calm, gentlemen were right in their views, and might well foretel the approach of convulsions. For, until the present debate commenced, and subsequent to the removal of the deposits, there was an entire calm throughout the country; the confidence in the administrator of the Government was almost unparalleled; and if, in that confidence, there was any change, it was only known by its increase. What is the

little material out of which this frightful picture is sketched and colored by the cunning pencil of those awakening and terrifying artists over such an extended canvass? Nothing but the simple fact referred to in the second resolution of the Senator from Kentucky. That resolution, as well as the report presented yesterday by the Committee on Finance, admitted the power of the Secretary of the Treasury to transfer the public deposits. Neither of them allege an infraction of the charter, nor a breach of contract. The national money is all safe, diminished not one cent, all unembzzled, all ready to answer any appropriation by Congress. There is the People's purse—confined by the same knot—tied by the same hand which has ever held it. What, then is the matter? Why a change has been ordered of almost as little consequence of itself as if you had merely changed the color of the string which bound the purse! If to touch a hair of the head of this angry and powerful corporate being, this financial agent is to entail distress and civil commotion upon the country; to revisit us with the gloom of '76-'77; to afflict us with disorders from which we can hardly hope to be extricated without serious convulsions, gentlemen will have to hesitate much and deeply to deliberate, if ever they are called upon to give their votes to revive or continue the existence of that corporation. I hope, before that day arrives, the Bank will relax in its policy and ease off the screws with which it is now torturing an unoffending community; and if ever it gains a re-charter that it may be with such salutary restrictions as the severe lesson we are now receiving, may teach us to be indispensable, and calculated to avoid a recurrence of the present distracted state of the country.

Let me here, sir, take occasion to speak for a moment of this much talked of "union of the sword and the purse" in the person of our Chief Magistrate. There is no danger of—there cannot be, any such thing. Our constitution, and the very nature of our political institutions, forbid it as long as the People remain free and enlightened. If it were intended that corruption should take hold of the People, such corruption as the Bank has used, then indeed might you well dread a union of the purse and the sword. But where is even the power over the sword to be found? It is, in fact, hardly any thing more than nominal in the hands of the President. To prove this, I need not turn to the laws and constitution to show his continual responsibility to the People, and the rigid and numerous restrictions upon his powers. The President is, indeed, "the commander-in-chief of the "army and navy of the United States, and of the militia of the several "States, when called into the actual service of the United States." At this moment we have no militia in actual service, and his command over the army and navy are so entirely under the control of Congress that the title of commander-in-chief is almost an empty name. What can he do? What use can he make of this military power? He can neither declare war nor make peace. He can raise no men. He can neither arm, clothe, nor pay a single man, nor appoint a single officer of the lowest rank, without the consent of Congress. Even the very subsistence of the President himself depends upon the will of Congress. If he dare to overstep his powers, he is liable to impeachment by a body of representatives entirely independent of him, and to trial by a tribunal whose term of office exceeds his, and forms a co-ordinate branch of the Government. But now to come down to the particular fact in proof against him, and now under discussion, his interference in the removal of the deposits; how far does it manifest any attempt at "a union of the purse and the sword?" And, first, as to what he says. In his "cabinet paper" of the 18th September, 1833, the President casts from him, in express language, all idea of uniting the public treasure with the Executive powers. He declares that Congress are the peculiar and constitutional guardians of the public purse, and regrets the surrender by that body of its control over it to the Secretary of the Treasury.

He admits that the resolution of the House of Representatives, at their last session, would have been conclusive upon him, had not new and strong facts since come to light, disclosing the conduct and character of the Bank. So much for his *declarations*. But what do his *actions* themselves, in the present instance, prove? That he threw off power from the Executive—that he literally separated the sword from the purse—that he was opposed to the union of the powers of the Executive with the influence of money. But do him the injustice to suppose for a moment that the present Chief Magistrate, at the period of life at which he has now arrived; after having reached that high political eminence to which there is no parallel, and beyond which none but a madman would ever think of looking—that he should abandon his patriotism and turn his back upon all his high honors, and the interests of a people who have voluntarily bestowed them on him, and be governed by a low, sordid, grovelling ambition of obtaining the influence of gold. Whither would he go? To what point would he turn his attention? To the Bank of the United States. Would he have gone to the local Banks? Not at all. He would have courted that Bank which pretends to rule the nation—that Bank capable of producing all the sensations, all the influence, which are now perceived throughout the country. He would have resorted to that tremendous institution which has its powerful advocates in the Senate, and in the other branch of the Legislature—an institution possessing such vast influence by its millions of coin, in the commercial transactions of the country, over the entire trading community, possessing a power, to control which, requires all the virtue and energies of the People—to that institution which vauntingly avows that the local Banks, moving without concert and unity of action, live only by its forbearance!

So far as the interference of the President has gone, in this transaction, it proves his patriotism—his disinterestedness. “No,” said he to the Bank of the United States, “Begone from me—I know your weight—your influence; but I court no union with you—injurious to my country.” Had he sought such a coalition, his constitutional power in the enactment of laws, gave him an argument and an influence, could he have forgotten his duty to his country for one moment, which would have brought the Bank to his own terms and views.

Upon the threshold of this debate we are met with the inquiry as to the source of our information—for the Secretary of the Treasury, in deciding upon the transfer of the deposits, acted upon two distinct grounds: first, the face of the law of Congress, incorporating the Bank of the United States; and second, the high-handed and illegal transactions of the Directors of that institution. It has been truly observed, that if the information was false, and proceeded from an impure source, not recognised by the law, the Secretary ought to have cast it from him, and was wrong to make it any part of the ground of his official action. This leads me to speak of the “Government Directors,” properly so denominated, because they are appointed and commissioned by the Government, and are placed at the Board in contradistinction to those Directors who are elected by the Stockholders. The President pursued, in every view of the subject, the rightful course to obtain information of the errors and mischiefs of the Bank, to enable him to discharge his public duty; and the Directors acted correctly, both in a moral and official light, in communicating the information. I have already, when engaged upon Executive business, referred to the views, discussions, and arguments, in Congress, in 1815, '16, to show the character attached by all parties to the office of “Government Director,” and which positively justify our impressions of the course pursued by those public agents. The clause in the charter instituting those five Directors, was introduced by the friends of the bill, that the Government might have sentinels at the Board, to watch over the conduct of the institution—to guard

the public interests and the public money; and for that very reason *the opponents of the law* resisted their introduction—resisted it upon the very ground that their duty would be to communicate with the Executive, and disclose those very mischiefs of which the Bank has been guilty.

I have examined, sir, with particular attention, the various clauses of the charter, and I feel fully convinced that the President resorted to the only mode within his power, of obtaining information necessary to the discharge of his executive duties. If you deny him this source of information, and seal the lips of the Government Directors, the important duty imposed on him is useless and nugatory.

The peculiar exigency of the country in 1815, '16, produced the charter of the present Bank. There was a jealousy of it, and a fear of its political influence, and that it would become a political engine. Whether those fears have been realized, or not, the present attitude of the Bank distinctly manifests. It is, nevertheless, obviously true, that for some time past it has been at war with the President and his administration, and in this hostile position, how was the Chief Magistrate, solemnly bound by his oath of office to watch over the execution of the laws, to gain information as to any alleged infraction of them by the Bank? Ask it as a favor of the whole Board? The reply would have been an affront, and, in his person, an insult to the whole nation! He turned to the charter for the means of obtaining information, and found that it contained many, but only *one* to which he could resort. It contains distinct provisions, pointing out the channels by which the Stockholders, the House of Representatives, and the Secretary of the Treasury, may demand and obtain information; but the President, upon whom is devolved the high and responsible duty of directing a *scire facias* upon an alleged forfeiture of the charter, is to be left in the dark, unless he is authorized to apply to the Government Directors. Cast your eye over the clauses of the charter. The 5th fundamental article provides that sixty Stockholders, owning not less than one thousand shares, may call, at any time, a general meeting of the Stockholders. This call is not in the power of the President, and it would have been useless in him to have appealed to the Stockholders to convoke such a meeting.

The 13th fundamental article provides that once in every *three* years a statement shall be laid before the Stockholders merely of the *debts* remaining unpaid, and of the surplus of the profits, if any. Of course this provision could not be resorted to by the President.

The 15th fundamental article directs that the officer at the head of the Treasury Department, shall be furnished, as often as he may require, with "statements of the amount of the capital stock, and of the debts due to the corporation, of the moneys deposited therein, of the notes in circulation, and of the specie in hand, and shall have a right to inspect such general accounts in the books of the Bank as shall relate to such general statements." It is true that the President would have access to whatever limited information these "statements" would furnish; but it is well and universally known what a "statement" means. That it merely exhibits the general condition of the money transactions of the Bank; it is nothing more than the restricted information which the Cashier of the Bank lays before the Board of Directors at their usual periodical meetings. If, therefore, the President had turned to this 15th fundamental article, it would be in vain as any source of information.

We then come down to the 23d, the last section in the act of incorporation, which enacts "that at all times it shall be lawful for a committee of either House of Congress, to inspect the books, and *examine into the proceedings* of the corporation, and to report whether the provisions of the charter have been violated or not." And this section gives the power either to Congress or the President to order a *SCIRE FACIAS*. Here it is well

worthy of remark, that to enable *Congress* to judge whether the charter has been violated or not, previous to directing a *scire facias*, they have the special right, by a committee of the House, "to examine into the proceedings of the corporation," but the *President* upon whom in the very same section of the law is thrown an equally responsible duty, cannot resort to the same means of examination. The exercise of that right of examination depended on *Congress*—not on the *President*, and could only be made during the session of the National Legislature. But, if a necessity for an inspection of the books and the examination of "the proceedings" of the Bank should occur during the recess of *Congress*, to what power was the *President* to apply? Not to a meeting of the Stockholders—nor to a triennial statement of their affairs—nor to the monthly statements furnished by the Cashier to the head of the Treasury; and delay would be injurious to the public interests. There was left to him but the one authority to which to apply—the Government Directors; otherwise it was vain and nugatory to impose upon him a duty the performance of which depended upon his information of the secret proceedings of the Bank. Thus, it will be perceived, that all who are interested and have a right to inquire, have sources of information, save the *President* of the United States, whose duty is as high, and runs parallel with, that of *Congress*. Suppose he had been censured for overlooking abuses which amounted to a forfeiture of the charter, and were ruinous to the interests of the people, would it have become him to have answered, "I had no way of obtaining information."—"I had no right to communicate with those public officers commissioned by myself." To sustain us in the character which we give to these Directors, I would refer to the letter of Mr. Secretary Crawford, dated on the 3d of July, 1817, but a very few months after the Bank of the United States went into operation, in which that officer and statesman exclusively corresponds with the five public directors as the proper organ of communication and information between the Executive and the Bank, and the proper channel through which to convey his sentiments and opinions for the correction of the abuses of the Bank. The *President* therefore was right as to his authority to call upon those Directors for information of deep concern to the public, and it was their duty to answer that call, and impart to him the knowledge they possessed. How has that authority been exercised? The country was full of intimations of the mischievous proceedings of the Bank, and of its hostile attitude towards the Government. In this posture of affairs, the Chief Magistrate of the Union, aware that he had a public duty to perform, addressed his letter of the 14th of April last, to the three Government Directors residing in Philadelphia, making the inquiries necessary to enable him to judge how far those proceedings demanded executive interference.

It is a mistake that there was any secrecy enjoined or concealment sought. This charge upon him vanishes upon a moment's reference to that paragraph of his letter upon which the imputation alone rests. In that paragraph he simply remarks, that he did not wish to have the desired information "extended beyond the personal knowledge" of those to whom he directed his letter. He wished the information, which was intended for his own satisfaction, and which might be made the foundation of official action, to be authentic, and hence he cautiously confines it to the personal knowledge of the Government Directors. He did not wish it to depend on rumor or vague newspaper accounts. Such was the true and obvious meaning of the letter, and those who construed it into an injunction of secrecy were mistaken. Those Public Directors, stationed by the law where the *President* found them, and called upon them, like faithful sentinels, have given the alarm—like honorable men have told the truth, and like men of capacity and intelligence, have given their information in a manner which justifies their confirmation to office by the Senate of the United States. All the facts dis-

closed by them were proper to be laid before the public, and to be known by the People, the owners of one-fifth of the capital stock of the Bank.

Suppose for a moment that the individual Stockholders had sought information, would not that portion of the Directors elected by them, have been obliged to disclose similar information? If they had believed that there was a breach of the charter committed, would it not have been their duty to give the intelligence to their constituents? And what more have the public directors done towards their constituent? Independent of those transactions of the Bank, which so deeply affected the public weal, there were many serious and aggravated acts of injustice towards the Public Directors themselves, contained in their memorial to us. A prominent and important one of which was, that they were literally excluded from all participation in the proceedings of the Board, and frequently from all knowledge of what was doing.

There was another act of fresh occurrence—one committed since the commencement of this debate, to which, at this moment, I desire to refer—the refusal of the Bank of the United States to transfer to the Banks of deposit, the books, papers, and funds relating to the payment of the pensions (as they are commonly called) to the surviving officers and soldiers of the revolution. This is another and a new link in the chain of hostility, by this fiscal agent against the Government that created it. The Directors of the Bank pretend to justify this refusal upon the ground that the Executive has no authority to make such order: thus setting up their own judgments in opposition to that of the Executive, and withholding from the Government its own funds. These books and papers contain the evidence of the periods for which the pensions have been paid; and without them, it is impossible to tell with accuracy what payments have been made, as many changes may have occurred since the last return. Payments to pensioners must, therefore, be suspended until those books and papers are procured, or made at such great risk and uncertainty as hardly to justify the measure. The bank says that the business is of no consequence to them—they only withhold the money and books that they may see that the laws are faithfully executed. This was taking upon themselves the constitutional province of the Executive of the United States! Was it just that they should tell the Government, and those veteran creditors of the Government, “You must wait—payments shall be suspended until a law suit terminates this new strife.” The change contemplated by the order of the Secretary of War, was but a limited one, for he only sought a transfer of the funds in those places where banks had been selected to receive the public deposits, intending thereby to avoid the inconvenience of reconveying from them to the Bank of the United States, the requisite sums of money. If there was not a determined spirit prevailing with the Bank, to oppose and to rule, why not, at all events, surrender the books and the papers, in order that the payments might proceed? Why not give up the money? They neither pretend to disburse it themselves, nor will they permit the Government to use it. If the authority of the Secretary of War, and the construction of the laws, for a moment, could be thought even doubtful, benevolence and gratitude to those aged and patriotic claimants, should have indicated a different course. But no! they manifest a spirit which every man in the country is bound to resist—a spirit which will not spare even this holy remnant of the officers and soldiers of the Revolution! I would invoke all who are left of that renowned corps—I would implore them to infuse their spirits into their descendants—to assemble them together, and say to them, “In vain have we encountered the toils and the perils of the revolution; in vain have we shed our blood, and borne our wounds; in vain have we achieved glorious victories, and gained a political prize for you beyond all value, and greater than ever fell to the lot of nations; in vain have we overthrown the oppressor

of one ruler, if you now submit to the ambition of an oligarchy which struggles to rule in the very city where stands our hall of independence!"

Mr. President, I will now proceed to take up in their order, and examine the two resolutions under discussion.

The first resolution involves the question of political power, and in the abstract, has really no bearing upon the most interesting branch of our present inquiry. It contends for no corruption in the President of the United States: it simply charges him, if you analyze it, with entertaining particular political views; having peculiar sentiments and opinions as to his executive duties; and that he assumed powers not granted to him by the constitution and laws of the country, because he removed one man from office and appointed another in his stead, (but not corruptly,) for the purpose of having the laws executed agreeably to those honest sentiments and opinions. If even corruption had been the cause of the removal from office of the former incumbent, it would not restore him, nor vacate the appointment of his successor, or at all invalidate any of his official acts. I take this first resolution, and shall treat it as presenting two points for distinct consideration: 1st. The dismissal of the late Secretary from office. 2d. The appointment of the present incumbent as his successor.

In the progress of this debate, I had thought that the constitutional right of removal from office was generally admitted to be vested in the President: that the Senate were inclined to acquiesce in the early decisions of our statesmen, and the continued usage of the Government—an acquiescence every day manifested by our acting upon Executive nominations to fill the vacancies occasioned by the exercise of that very power of removal. Still, to my surprise, the power is assailed by arguments upon this floor; is denied in the resolutions and proceedings of public meetings, and in many of the memorials presented to us. With regard, sir, to Mr. Duane, it must be obvious to all, by disclosures which he has himself voluntarily made, particularly in his Orleans letter, that there were many things so peculiar in his situation, opinion, and temper towards the President, that every public and private consideration rendered his removal unavoidable. He came into office, holding towards the President the most unjust sentiments. He believed him unfit for the high station to which the People had called him; that he was the victim of passion and arbitrary feeling; that he was guided, not by his own judgment, but by a secret cabal of irresponsible advisers; that he had never carried out, and never intended to carry out, any political opinion which he had possessed. How was it possible for the Chief Magistrate to act and proceed in harmony, with any hope of benefit to the country, with a Secretary, called to aid him as one of his confidential counsellors, and harboring in his breast such unjustifiable sentiments and impressions. Support from such an adviser, having no confidence in the integrity and purity of his principal, was not to be expected. But this is not all: the ex-Secretary, losing sight of all that decorum and respect due to the first officer of the People, and regardless of every thing like grateful remembrance of that kindness which had placed him in a high and distinguished position in the Government, tells the President, in one of his official letters, that the contemplated measure of the removal of the deposites was insisted upon, not from public considerations, but from vindictive and arbitrary motives. Such was the indecorous and insulting language accompanying his remonstrance against the Executive act, called for by public duty and the general welfare. I wish I could stop here. When serious difficulties had arisen in the councils of the nation, and it became apparent that there could be no coincidence of opinion between the President and the Secretary, the latter gratuitously promised to resign, and thereby remove the obstacle in the way of a measure honestly believed to be for the public benefit; but so perverse and hostile was he in his sentiments towards

the President, that this promise was disregarded, and he obstinately refused to leave a cabinet wherein his presence only produced dissension. And why? His two reasons, far from excusing himself, positively justify the President in the step which he immediately adopted: the first was,—that when he gave his promise to resign, he thought he would *not be called upon to fulfil it!* and, in the second place,—that he determined to remain in office that he *might fix upon the President the charge of interfering with his official duties!* With such sentiments and such views, he ought not to have been retained one moment in office. Every personal consideration, aside from public duty, urged his removal. I do not desire to use one harsh word towards Mr. Duane personally; but, it may be asked, was it candid—was it fair, with such sentiments, to take office under any administration, and then to retain the post with a view to overthrow the head of it?

I shall proceed to show that the act of removal from office was, independent of the personal considerations I have mentioned, constitutional and lawful—was not an assumption of power, nor dangerous to the liberties of the People. Impressed as the Chief Magistrate was, with the conviction that the removal of the deposits was demanded by the public interest, it was his duty, and his official oath required him, to take the step he did. Not to have done so, would have been shrinking from responsibility, one of the very qualities sought for by the unity of the executive powers in one man. This right of removal from office has always been yielded and admitted upon that constitutional command upon him that “he shall take care that the laws be faithfully executed.” A high and delicate responsibility, which he could hardly ever meet if the executive officers of the Government were not under his control and supervision. But, it is argued that the Secretary of the *Treasury* is not the head of one of the *Executive* departments of the Government, and, therefore, does not fall under the supervising power of the Chief Magistrate—that he is alone responsible to the *Legislative*, and not to the Executive Department of the Government. This is a doctrine of entire novelty; for I am sure that in all our laws, and in the political history of the country, no other character was ever given to him than that of an Executive officer, subject to the supervision of the President. He is a member of the Executive Cabinet; appointed and liable to removal by the President. He is, it is true, the superintendent of the public purse and the finances of the nation, and these are under the exclusive control of the legislation of Congress. But when that branch of the Government has acted and passed laws and imposed duties to be performed in relation to those finances, then attaches the Executive power, and then arises the jurisdiction of the President—the duty to see that the laws be faithfully executed immediately brings him into action. In the present instance, Congress, on the 10th of April, 1816, had passed a law imposing a care—a duty—on the Secretary of the Treasury, in reference to the deposits, the public finances of the country; and the execution of that statute, and the duties arising under it, as in all other cases, are intrusted, by constitutional obligations, to the watchfulness of the Chief Magistrate. The Treasury certainly belongs to one of the three great departments of the Government, and the moment you classify them, it can fall no where but under that of the Executive. In the law of 1789, creating the Treasury Department, the omission of the word “Executive,” is wholly accidental, and is too light a circumstance on which to rest the construction of a statute. This is indeed apparent, by turning to the very next law in the same volume, passed but a few days afterwards, by the same Congress, in which is fixed the salary of the head of the Treasury as one of the “*Executive officers of Government.*” The learned Mr. Rawle, in his Commentaries, in enumerating and commenting upon “the *four Executive Departments,*” includes that of the Treasury. The 2d section of the 2d article of the con-

stitution of the United States has the clause: "He [the President] may require the opinion in writing of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices." It is under this authority that the Secretary of the Treasury has always been viewed as the principal officer of one of the Executive Departments, and in this character was Alexander Hamilton called upon in 1791 by General Washington, to give his opinion as to the constitutionality of the Bank charter of that day. In reference to this inquiry, Judge Story, in the 3d volume of his Commentaries, asks, "What would become of the public interest, if, during the recess of Congress, the President could not displace an unfaithful head of a Department?" It was argued by Mr. Madison and others, "What would become of the public interests if, during the recess of the Senate, the President could not displace a corrupt ambassador, or head of Department, or other officer engaged in the finances or expenditures of the Government?" The authority is to be found in the very nature of Executive power. The convenience and necessity of its exercise must be apparent—it is indispensable to prevent the failure and non-execution of the laws. It is very true, that like all other power, it is liable to be abused; and it is equally true, that the abusers of it would be liable to punishment—for no one doubts that removals from office, made from bad and corrupt motives, or with a view to bestow the office upon dependants, favorites, or sycophants, would be an impeachable offence, and would subject the Chief Magistrate to removal from his own high trust. It is not a little remarkable, that when we are enforcing this right of removal, to find in the 7th section of the act of 2d April, 1789, the very law creating the Treasury Department, the provision "that whenever the Secretary of the Treasury shall be removed from office by the President of the United States, or in any other case of vacancy in the office of Secretary," the assistant shall have the charge of the records of the office.

Mr. Secretary Dallas, in his proposition relating to the national circulating medium in 1815, says: "The acceptance of the notes of Banks which are not established by the federal authority, in payments to the United States, has been properly left to the vigilance and discretion of the Executive Department."

It appears to me, then, manifest and undeniable, that the Treasury is one of the Executive Departments of the Government, over which the constitution gives to the President the supervising power, and requires him "to take care that the laws," falling within the province of the Secretary, shall not only be generally executed, but shall be executed in the proper manner, and at the proper time.

Let us, in carrying out this position in entire justification of the President, turn to one or two other provisions of the constitution. Section 3 of article 2, contains the injunction that "he shall take care that the laws be faithfully executed." What is the meaning of this constitutional command? What is the meaning of the word "care"—and what is the extent of the power conferred by it? When the functions and authority of the Chief Magistrate assume and are confined to a military cast, the modes of executing them are well defined and understood; but in reference to those duties merely civil, the constitution is silent, because a particular and detailed description of the various modes and manner of executing them was entirely impracticable. But, surely, the power and the duty "to take care that the laws be faithfully executed," is not suspended until some open rebellion shall have broken out against the Government; nor to be applied and called into action, only in cases of insurrection and forcible resistance. This general executive care and power of supervision is necessary to every well-regulated free Government. However virtuous the

People may be, the laws will not execute themselves, and unfaithful ministerial officers may be found at all times and in all countries, who require to be watched and moved by the superior superintending authority.

This injunction to see that the laws be faithfully executed, is connected with the Chief Magistrate's oath of office, which binds him "to preserve, protect, and defend the constitution." And in the exercise of it he is justified in consulting the happiness, good order, safety, and morals of the People.

Chancellor Kent, in his Commentaries upon the Constitution and Laws of the country, distinctly maintains the position for which I am contending, and declares, that "the appointment of the officers concerned in the administration of the laws is, with propriety, given to the President, for the very reason that he is bound to see that the laws are faithfully executed, and because he is charged with all the powers and responsibility of the Executive Department."

The President of the United States, governed by a settled and conscientious regard for the public welfare, in his desire to produce a transfer of the deposits, did not interfere with the national Legislature—that had acted—and the law had passed from under the hands of Congress, and had become the object of his constitutional and official "care." That law gave to the Secretary of one of the Executive Departments the power of removing the deposits of the money of the United States "at any time" that he might think proper to order. The time—the condition, and proceedings of the Bank of the United States, and public sentiment towards it—rendered every thing connected with it the object of deep and intense national solicitude, and awakened in the President an anxious attention and demanded of him "to take care" that the law should not only be executed, but executed in the proper manner and at the proper time. The act of Congress had conferred the unrestricted authority to remove the deposits, but was silent as to the *exigency*, the *time*, or *occasion*—leaving it to be ordered whenever, in the view of the Executive, public convenience required it. The vigilance and the exercise of this supervising Executive power is called for, in a decided manner, in reference to the laws touching the revenue, the finances of the Government.

As a further example to elucidate my argument, let us turn for a moment to the Post Office Department. In its organization the Postmaster General is vested with the power of the appointment of all deputy Postmasters, and yet, have not all our Presidents supervised that establishment, and examined how the officer at the head of it exercised that power? Have they not, in their Executive supervision, taken "care" that fit and capable persons were appointed, upon all proper occasions, and in the proper time? And, if I am not mistaken, an instance has occurred in the history of that department, of the resignation, or the removal from office of the head of it, in consequence of an appointment, objectionable to the President, of a deputy in one of our great commercial cities.

Let us suppose that Congress, upon the present occasion, should order the Secretary of the Treasury to restore the public deposits to the possession of the Bank of the United States, would it not be the duty of the President, in the exercise of that very executive and civil function which we claim for him, to interfere? And if the Secretary of the Treasury should refuse to comply with the requisition of the Legislature, or should omit to act at the proper time, what would you do with him? You might impeach him; but would it be wise or expedient to wait the result of that proceeding? The country, and all Congress, with one voice, would imperiously call upon the President to remove the refractory officer! And in such case, is it likely his adversaries would charge upon him, as they now do, in the language of the first resolution, that he had "assumed the exercise of a power over the Treasury of the United States not granted to him by the constitution and

“laws, and dangerous to the liberties of the people?” Suppose that during the past season the universal opinion of the country had called for the removal of the deposites on the first of October last, and an unyielding or unfaithful Secretary had turned a deaf ear to the unbroken voice of the whole community, and persisted in his refusal to make the transfer? to whom would you appeal? Whose responsibility—whose administration would have to answer the censure and indignant condemnation of the People? The President—the President alone would be responsible. In such case he dare not fold his arms in cold indifference and say “the Secretary of the Treasury is not an ‘*executive officer*’—‘he belongs to Congress’—he is not under my supervision!” No, sir, the position to my mind is perfectly clear, that the Treasury is one of the “*executive departments*” of the government, and of course, in the discharge of his civil functions, falls under the supervision of the President, and that the removal of the late Secretary was justifiable upon every personal and political consideration.

The second branch of the first resolution, upon which, in part, rests the charge against the President, of the unconstitutional and illegal assumption of power, refers to the appointment of the successor of the lately displaced Secretary of the Treasury. By the removal of Mr. Duane, the office became vacant—and it must be filled. The President had a great administration measure to execute, one which he conscientiously believed essential to the public welfare and purity of our political institutions. With such an object in view, and under such impressions, it would have been unwise—absurd—nullifying, in fact, his own civil functions, to have selected a successor—a cabinet counsellor, not holding, upon cardinal questions, the same principles and opinions with himself. The political propriety of this coincidence of opinion between the responsible head of the government and the Secretaries of the chief executive departments, has always been admitted and uniformly practised upon. The exemplary private character of Mr. Taney, and his well known high qualifications as a jurist and a statesman, would, it was confidently believed, have secured his appointment against all liability to objection. But private and public virtues have not afforded him a shield. It is a mistake to suppose that he crept into office by a corrupt suppleness and pliancy to Executive will. His principles and opinions as to the Executive measure under discussion, were not of mushroom and sudden growth. It is well known that he had long before entertained and expressed a conviction of the propriety of the measure which he has since carried out, and advocated the necessity of the removal of the public deposites with a view to the winding up of the concerns of the Bank. He went into a perplexing office, without desiring it, to execute his own purpose; and the honest agreement of opinion between himself and the President, neither affected his appointment in a moral or political light. Having incurred, at an early period, the responsibility of the advice, his honor obliged him to incur the responsibility of its execution. He could not shrink from a duty, the impulse of which carried him into an office, out of which he would gladly have remained, if his private wishes and the possession of another high station harmonizing with the pursuit of his profession, could have prevailed.

Upon taking up, and proceeding to the direct consideration of the second resolution offered by the Senator from Kentucky, it must not escape observation that that resolution, the report of the Committee of Finance just presented to us, as well as the memorial of the Bank of the United States, admit, that the removal of the public deposites had been made by the Secretary of the Treasury himself. They, also, not only acknowledge the general control of that Executive officer over those deposites, but that his authority, reaching beyond the right of merely suspending the operation of the 16th section of the charter, extends to the withdrawal of the money actually upon deposit in the Bank. This second resolution, therefore, unlike

the first, charges no assumption of unlawful power; but, as I have always said, tenders the true and legitimate question arising out of the 16th section, and the action of the Secretary upon it. It is, Was the act of the Treasury Department expedient—justified by the existing circumstances—by the emergency? Believing this to be the proper issue, I have all along been unwilling to embarrass, or obscure it; and hence, at an early day in this debate, I voted against the amendment offered by my honorable friend from Missouri.

This 16th section, which seems to have been received without concern, when introduced into the charter as an amendment, now awakens universal attention, and its true construction becomes, at this moment, an object of deep national and political attraction. I take up this section, and in my construction of it, I assume the three positions:—1st. That the *power* of the Secretary of the Treasury over the public depositories, is absolute and unqualified. 2d. That the *manner* in which he has executed that power, is unobjectionable: and 3d. That his *reasons* are satisfactory and sufficient.

Upon the first position: The 16th section, when closely examined, in connexion with the history and usage of the Treasury Department, will be found not to restrict, but to be an explicit confirmation, of the unqualified power which had, without interruption, uniformly been acknowledged and exercised by the head of that Department.

That section divides itself into two paragraphs—the first declaring that the depositories of the money of the United States shall be made in the Bank of the United States and its branches, unless the Secretary of the Treasury shall “*at any time* otherwise order and direct.” Thus distinctly declaring that, upon all occasions, the funds shall not only be placed in those depositories, but shall remain there at the will of the Secretary.

The second paragraph of the section goes no further than merely to impose upon him the duty of reporting his reasons to Congress for the order, let the occasion be what it might upon which the authority was exercised. This duty of reporting “his reasons” to the Legislature, does not in any manner control the unqualified power granted by the first branch of the section; nor in the slightest degree diminish its force, or restrict it as to the occasion or “time” upon which it should be exercised. It simply says, in plain language, to the Secretary, “Exercise your undoubted control over the depositories as usual: but when you do act, all that we require of you is, to give your reasons to Congress, in order to enable that body to decide whether any legislation may be necessary upon the subject.” The extent of the authority is distinctly defined and determined by the first branch of the section, independently and without restriction, by the language that follows. The one gives the authority, and the other imposes an incidental duty.

It is difficult to ascertain how, and for what object, this section, now become, in its construction, so interesting to the nation, had crept into the charter of the Bank. I have taken some pains to examine and trace its history, and I am yet left to conjecture as to its object, or the cause of its origin. There is no reason to believe that this amendment was ever intended to change the rule, or impair that salutary control over the public finances always vested in, and exercised by, their superintendent. It is conjectural, to be sure, but I think it not improbable, that it was a provision sought by the friends of the Bank, who may have been more inclined to continue under the control of the Secretary of the Treasury, than to be thrown into the hands of Congress, upon whom popular influence and a combination of the State Banks might be brought to bear under particular circumstances to the prejudice of the institution. The provision is not to be found in the original draft by Mr. Secretary Dallas, nor in the original bill. Upon pursuing my inquiry, I find the amendment to be in the hand

writing of a gentleman then a Representative in the House from New Hampshire, and now a distinguished Senator upon this floor; it passed with a mass of other amendments; does not appear to have attracted any attention; produced no debate, but was adopted in a way plainly manifesting that it must have been well understood to produce no new rule nor change in the practice of the Treasury Department. The section may have been designed as a benefit to the Bank, but it is obvious it was a contingent one, entirely depending on the mere volition of the Secretary.

Standing upon the argument that no diminution of authority, nor change in the usage of the Treasury Department, were intended by the introduction of this 16th section into the Bank charter, it is material to go back and ascertain from our political history, the extent of that authority, and the precedents arising under the exercise of it. It will be found that every page of that history not only sustains the rights claimed by the Secretary of the Treasury, but distinctly marks out the two channels in which run the separate and well-defined duties of those two officers, the Secretary of the Treasury and the Treasurer of the United States. Commencing with the continental ordinance of 1776, the first on the subject of the establishment of a Treasury Department, and running through the many mutations in regard to the management of the finances, you will find that it has always been the indispensable policy of the country to put under the responsible head of the Treasury, an unqualified control and superintendence over the deposits. The only law which, in definite and precise words, speaks of the disposition and the place of deposits of the public money, besides this 16th section, is the ordinance of the 30th of July, 1779, wherein one duty imposed on the "*Board of Treasury*" was "*to deposit in proper offices, all moneys arising from loans, taxes, and lotteries;*" and therein it was enjoined upon "*the Treasurer, to receive and keep*" the moneys that might be so raised. Trace the subject from our earliest day down through the administration of the Department by Robert Morris, Alexander Hamilton Albert Gallatin, William H. Crawford, and all others, and you discover nothing but an acknowledged and uninterrupted exercise of the authority upon the principles claimed by the present Secretary. Setting out in the pursuit of this subject from another point, and passing through another channel of inquiry, the Bank charters, you will find that, until the hour this amendment was made, although these bank charters were always granted upon the belief of their necessity as fiscal agents in the management of the finances of the country, yet there is not a single legislative provision, nor a line introduced, impairing the unqualified control of the Secretary of the Treasury over the public deposits. All the bank bills, beginning in December, '81, with that of the Bank of North America, are silent on the subject, because public policy and expediency forbid legislative interference with this necessary power of the Secretary. The proposition of Mr. Dallas, in 1814, went upon the same principle; and the bill of that year passed the two Houses of Congress without a word upon the subject. In the bill of the following session, this 16th section was introduced in the way I have mentioned, partaking something of the character of an interpolation, without producing any sensation, because, to my understanding, and apparently in the consideration of Congress, it left the subject just where they found it.

What construction, sir, has been put upon this 16th section, and how has its power been exercised by the predecessors of Mr. Taney in office? There is distinct evidence every where scattered through our documents, that Mr. Crawford used the power, and frequently threatened to exert it to correct the abuses of the Bank, and to promote the public interests and the commercial convenience. He did not confine the use of the power to his exertions to restore specie payments—nor to the resolution passed with a view to that object on the 30th of April, 1816—nor to the money on deposit in

the State Banks, when the Bank of the United States went into operation—but he asserted the authority frequently, subsequent to the adjustment of all disorders in the currency of the country, and always under the 16th section of this charter. The instance prior to that period, testified by his letter of the 3d July, 1817, valuable as a precedent upon many points of the present controversy, shows distinctly the views he entertained of the weight of the influence held over the Bank by this power to remove the deposits, and that he would promptly use it to correct any contemplated mischief by the Bank. Mr. Secretary Ingham gave the same construction to the power.

The committee of investigation in 1819, was composed of Messrs. Spencer, Lowndes, McLane, Tyler, and Burwell, and they *all* agree in saying—

“They have not recommended the adoption of any immediate measures to correct the may evils and mischiefs they have depicted, excepting that of the bill before mentioned, because, by the provisions of the charter, the Secretary of the Treasury has full power to apply a prompt and adequate remedy”—and that “remedy,” upon which the members of the committee united, was the application of the power to “remove the deposits.”

In the history of the present Bank, you will find that the advocates for striking out the provision to appoint five Government Directors, all depended for control over the Bank in the power of the Government. “to withhold the public deposits.” The gentleman then representing the State of Delaware in the House of Representatives, opposed to the bill on the ground that it was to be a Government Bank, declares in one of his speeches: “The Hercules is in the system—in the power that the Government proposes of continuing or withholding its deposits.” And the late much lamented Mr. Lowndes, in March, 1819, remarks: “The charter had given to the Government powerful means for restraining the errors and controlling the conduct of the Bank”—and one is, “the withholding the public deposits.” The member of the committee of investigation in 1819, from Virginia, (Mr. Tyler,) speaks repeatedly of the control of the Secretary of the Treasury over the deposits; of his power to select a safe depository; and, in one instance, uses the phrase, “the Secretary of the Treasury would find a place of deposit.”

And Mr. McDuffie in his report of 13th April, 1830, says: “The Secretary of the Treasury, with the sanction of Congress, would have the power to prevent the Bank from using its power unjustly and oppressively, and to punish any attempt on the part of the Directors to bring the pecuniary influence of the institution to bear upon the politics of the country, by withdrawing the Government deposits from the offending branches. But this power would not be lightly exercised by the Treasury, as its exercise would necessarily be subject to be reviewed by Congress; it is in its nature a salutary corrective, creating no undue dependence on the part of the Bank.”

The very plain and distinct admission in this report, every position of which was sustained by the advocates of the Bank, goes further than I contend for in one particular; for it not only admits the power in the Government to withdraw the public deposits as a punishment for any attempt at “political influence” on the part of the Bank, but admits that the power may be “lightly exercised by the Treasury.” And Mr. Crawford, in his letter of July 31, 1820, says, that the duty of reporting to Congress was “to prevent the exercise of the power capriciously.” Thus it is, that whilst every authority and precedent admit the unqualified extent of the power, these two authorities acknowledge that the same power may be used to check political interference—may be exercised “lightly,” and even “capriciously!” But, at the same time, construing the second paragraph of the

16th section as I do, maintain that the "*duty*," distinct from the "*power*," which obliges the Secretary to report his reasons to Congress, will always restrain his discretion and render him cautious, for the sake of his own reputation, how he exercises the power. It is for Congress to review the proceeding of the Secretary of the Treasury. The Bank itself has no right to complain. It is no infringement upon their charter. They took the deposits, knowing the contingency that they were held by an uncertain tenure, the will of a Secretary.

The argument advanced by the honorable Senator from Maine, (Mr. Sprague,) as applied to the present case, is fallacious. He maintains, (what I do not pretend to deny) that you cannot make a bank for commercial purposes alone: it is only as a *fiscal* agent, and must continue as such to the end of its charter: remove its fiscal agency, and you do what Congress has not the power to do. I admit, that upon this "fiscal agency" in the charter, alone depends its constitutionality; but, that agency still exists: it is not destroyed, nor the principle in any way affected, by the removal of the deposits. Their contingent liability to be removed, was spread upon the face of the charter: and the character of fiscal agent still continues, whether the Government may have more or less of its funds in the Bank.

Sir, an honorable Senator from South Carolina, opened the statute book, and making a particular reference to the charter, assumed the argument that the deposits formed a part of the charter; were one of the benefits conferred, for which the *bonus* was given, and could not be removed without a violation of the contract. I readily admit that the deposits were one of the benefits conferred by the law upon the Bank; but they were, as I have already maintained, a *contingent* benefit, of a very frail nature, relying entirely for their value upon the will of the head of the finances. I admit, too, sir, that the charter of the Bank is a contract, not to be infringed upon without a violation of the pledged faith of the Government; but, I deny that these deposits ever entered into the "*consideration*" of that contract, or imposed any obligation on the part of the Government. There was an error in referring to the sections of the charter, when the 15th and 16th were quoted as connected and running into each other, and as containing the obligation and consideration between the Government and the Bank. These are contained in the 14th and 15th sections. In the former, the Government engage to take the notes of the Bank, "in all payments to the United States; and, in the latter, (the 15th,) in consideration thereof, the Bank agrees to transfer the public money wherever required. This is very briefly stating the substance of these two consecutive sections: but, the next, (the 16th section,) is an insulated one, substantially declaring that the deposits shall be made in the Bank of the United States, subject to be removed whenever the Secretary may direct it. No consideration is given, nor could any be asked by the Government, because there was no mutuality—the deposits being altogether contingent—subject to the will of an officer entirely independent of the Bank. Further, sir,—the 14th section provides that the bills or notes shall be "*receivable in all payments to the United States, unless otherwise directed by act of Congress.*" Nothing short of a *law* of Congress can prevent the "*bills or notes*" of the Bank from being taken in payment of the revenue to the Government. But this detached, unconnected 16th section, treating the public deposits as a less important matter, and as one not entering into the consideration of the contract, leaves the power and direction with the Secretary of the Treasury—left there, too, because Congress did not wish to change the practice of the Government, nor impair the accustomed control over the deposits. If the intention of Congress was otherwise, why were not the deposits, and the bills and notes, placed upon the same footing? If the one entered into the contract as well as the other, why was it not also enacted, that the depo-

sites should remain with the Bank "unless otherwise directed by act of Congress?" Let me observe, too, in the conclusion of this part of my argument, that the Secretary was not even bound, in the first instance, to place the deposits in the Bank. Mr. Crawford, upon the organization of the Bank, in February, 1817, might have altogether refused to give them the possession of the public money, if he had believed it would be unsafe; or, that by withholding it, he could avert mischief, oppression, public inconvenience or embarrassment. And I go further, and affirm that Congress, in the true spirit of our institutions, could not intend, and never did intend, to put the public purse, in any way, under the control of a Bank; nor to enable any such institution, upon any occasion, to say, "We are to be consulted before the Government can make its own disposition of its own funds!"

These are my views of the extent of the power of the Treasury over the deposits; a power sustained by universal usage—by precedent—the opinions of our statesmen, and by the manifest construction of the law.

My next inquiry, sir, is, in what manner has that power been exercised upon the late occasion, by the Secretary of the Treasury? For the answer I might safely content myself with a reliance upon the fact, that he has walked in the footsteps of his predecessors, and pursued the precedent found in the practice of the Government.

The first objection to the mode of transfer, came from the honorable mover of the resolutions, and which was, that the Treasurer of the United States, and not the Secretary, should have selected the new depository for the public money. A strange and novel doctrine, subversive of every principle of the Treasury Department and of the uniform practice of the Government! Foreign to every duty of the Treasurer—an inferior officer who never has had any thing to do with the selection or control over the place of deposite. What has he to do with the transfer? Is that high and responsible officer of the Government at the head of the Treasury, to say to him: "I have determined to remove the public deposits, to what place shall they be carried?" This would be reversing the order of the offices, and making the Treasurer the superintendent of the finances. If you confer upon him the right to select, he would have authority to change the depository. The moment the public deposits are removed from the Bank of the United States, the only place indicated by any law for their reception, the Treasurer would then, according to this doctrine, now broached for the very first time, have an uncontrolled authority over the deposits. He might restore them to the parent Bank, or place them in its branches. If the Treasurer had the power to select the depository, what Secretary would ever incur the responsibility of removing the deposits? There is a particular form of warrant, known to all times, signed and issued by the Secretary, to bring money into the Treasury. The Treasurer makes no deposits—puts no money in the Treasury. The treasure is first collected for him by the head of the Department, and then it is his duty to take care that no money goes out without his warrant. He has nothing to do with the collection of the revenue into any one place—nothing to do with custom-house officers—or merchants bonds—or with the receivers of public money. The treasure is first created for him, and then it becomes the object of his care.

"The Treasury of the United States" is an expression of somewhat indefinite meaning. It does not signify locality; nor any precise and distinct sum of money accumulated in one particular place, or vault, or building. It means, more properly, a credit, a fund, on which the Government, through its appropriate officer, can draw at pleasure. That officer is the Treasurer; and that credit or fund is first created by the Secretary. From 1776 down to the present day, the Treasurer never has had any thing to do with the place of deposite. In all the debates in 1791. in 1811 in 1814.

'15, and '16, and in 1819, the control of the Secretary over the deposits was not only acknowledged, but his right to select the place of deposit was admitted with equal unanimity. In going through our whole statute book you will find that the only law which, in express words, marks the distinction in the duties of those two officers in this very particular, is the old continental ordinance of 30th of July, 1779. It is so singularly applicable, that I again quote its language: "The Board of Treasury shall deposit in *proper offices* all moneys arising from loans, taxes, and lotteries;" and the Treasurer "shall receive and keep." This phrase, denoting the duty of the Treasurer, "*he shall receive and keep*," was afterwards literally incorporated with the law of 2d September, 1789, and has but one obvious meaning, that, after the Secretary has "selected the proper offices," and established the fund, the Treasurer shall then "receive" it from his hands, and "keep" it safe from all drafts not founded on appropriations by Congress.

One word Mr. President, in answer to the argument drawn from his official bond. The penalty of that obligation is no higher than the sum of one hundred and fifty thousand dollars. A penalty that never could have been intended to cover the whole treasure of the United States! can carry with it no such impression, that his responsibility for many millions gives him the right, over the head of the Department, to select the place of deposit. Its limited amount obviously shows that it is intended solely as a security for his own personal fidelity.

The next objection by which the Secretary is assailed for his manner of removing the deposits, arises out of the much debated "contingent transfer drafts."

A recurrence to dates, sums, correspondence, and all the circumstances attending these drafts, will place the conduct of the Secretary far beyond the reach of any merited censure. I regret, sir, that in the warmth and excitement of debate, gentlemen have manifested feelings and adopted an asperity of language towards him, not at all justified by his official conduct. Scrutinize his correspondence and instructions in reference to those contingent drafts, and you will be convinced that he was not only guided by a view to commercial convenience, benefits, and facilities, but by a manifest spirit of justice and liberality towards the Bank of the United States. No one can read this correspondence between the Secretary and the selected deposit Banks, without being struck with his ardent desire to protect the commercial community, and save it from all pecuniary disorders. The form of these transfer drafts, (a copy of which is now held in my hand,) modified and improved by Mr. Secretary Ingham, is the same as that used by the predecessors of the present Secretary. It is drawn by the Secretary, signed by the Treasurer, countersigned by the Comptroller, and recorded by the Register. It is the same form of warrant which originally transferred the public deposits into the Bank of the United States. It was the first intention of the Secretary, in his measures to execute the order of removal, to draw the public money gradually out of the Bank of the United States, as national convenience and the wants of the Government would require; and to manage this matter so gently as to produce no inconvenience or embarrassment in any quarter. But his liberal intentions were frustrated, and his amicable disposition proudly disregarded by the Directors of the Bank. And even then, the sums drawn out by those contingent drafts, were of no importance in amount, and were spread over three of the principal cities of the Union.

It has pleased honorable Senators, in a harsh but undeserved censure upon the Secretary, to charge upon him concealment and desingenuousness in his manner of issuing and using the transfer drafts. One moment's review of the object for which the drafts were given, and the instructions accompanying them, must prostrate this accusation. There was no conceal-

ment; for the drafts were issued as a public official act, passed through all the bureaus of the Treasury, and were registered by the Register; whereby a public record of them was made, to which every individual in the country has access. In the correspondence of the Bank with the Treasurer of the United States, a knowledge of the existence of these drafts is admitted; but the Treasury Department is taken to task for not having given the information through the customary form of communication. And further, sir, as evidence that these drafts were not the lurking and concealed instruments of distrust and confusion, stealing unexpectedly upon a confiding and unsuspecting agent, I refer to the acknowledged fact, that the Bank had been busily engaged in the reduction of its loans, to the amount of millions, for three months before some of these drafts were even presented for payment! Why? For no other purpose than that of being prepared to meet transfer drafts of the deposites.

Again, sir. The Cabinet paper is dated on the 18th, and published in the Globe on the 23d of September last. Of course the Bank of the United States, and the whole country, knew that the measure of removal would go into operation on the first of October. At that period, what was the state of things, and the peculiar position of the selected Banks, in the city of New York more particularly? It is well known that the "*Branch drafts*," (I will not misname them, for the Judiciary have decided they are not "*Bank notes*,") were the principal issues and circulation of the Bank of the United States—that those of other Branches were rejected by the office at New York, and ranged in the pecuniary fluctuations and exchanges of that city, at a discount of a quarter, a half, and at one per cent. In this posture of affairs, with increased means, derived from a rapid reduction of loans by the Bank of the United States, two evils were fairly apprehended immediately after the first of October. One, that the Branch Bank at New York (I take that as an instance) would refuse to receive, in liquidation of balances, the Branch drafts of all other and distant offices. The other, that they would make a rush for specie upon the local Banks. The selected deposit Banks considered themselves perfectly safe; but conceived that by the first of these apprehended evils, they might be so crippled as not to be able to carry out the liberal instructions of the Secretary of the Treasury, and afford those commercial facilities which he was so anxious should be extended to the community. Under these impressions, the Treasury Department, with a view in reality to the defence of the whole community, furnished these much abused and distorted contingent transfer drafts—contingent, because they were only to be used in case of the bad behaviour of the Bank, in rejecting the paper of their sister Branches, or in making a press for coin upon the contiguous local Banks. The fair and ingenuous character of this transaction is manifest, by the Secretary's letters of instructions to the deposit Banks, which I will now present to the Senate. [Here Mr. Wilkins read Mr. Taney's letters to the local Banks.]

Who can read these letters, and afterwards, with any justice, cast reproach upon the act itself, or the temper of mind from which it proceeded? They imperatively enforce upon the selected Banks to be governed by a "disposition to adopt the most liberal course towards other moneyed institutions"—"to afford by means of the public money, increased facilities to commerce"—"to extend their accommodations to individuals generally;" and (without doing injustice to the claims of others) "more particularly to the merchants engaged in foreign commerce." Such was the disposition of the Secretary towards other local institutions and the commercial community. But in reference to the Bank of the United States, a spirit of amity restrained him within limits which the conduct of that institution would have justified him in transcending. In his letter of the 7th of October to the Girard Bank, he advises them that it must be distinctly under-

stood " with respect to the demand that might be made by the Bank of the " U. States on the State Banks, for the payment of balances due by them, " in specie, he had reference only to the *balances* that might exist at the " *time of the removal of the public deposits*, and not to any *future balances* that might arise; and that it will not be required by the Bank of the " United States to receive the branch notes and drafts, unless they have " been received by the deposite Banks *in payment of duties to the Government.*"

Let us, sir, proceed a little further. The 1st day of October fell on a Tuesday, and when the application was made to the branch at New York to know whether it would redeem the branch drafts, they asked delay in the answer until Saturday, and then again until Monday. During this critical interval, what was in contemplation, or what would be the result, no one could tell. The power was held in suspense over the heads of the deposite Banks, and whether it would be used in an attack upon them for their coin, or in a refusal to receive the branch drafts, was an uncertainty which justified the Secretary in arming the Government depositories with those transfer drafts, to be presented only under the restrictions contained in his instructions, and upon the contingency that self-defence might render their use necessary.

The whole amount of those transfer drafts was only two million three hundred thousand dollars, spread over the three great commercial cities of Philadelphia, New York, and Baltimore. At the time they were drawn, the Secretary well knew the condition of the Bank of the United States and its branches; that they then held upwards of nine millions of the public money, and that they had in Philadelphia, and the other two cities, more coin than would have been necessary to meet the drafts. If the whole amount, therefore, had been drawn in specie, it would not have produced any embarrassment. But, sir, the case was very different. Two of the drafts were returned to the Treasury, never having been presented, each for five hundred thousand dollars, leaving but one million three hundred thousand dollars demanded and taken; a great portion of that, too, not for more than a month after the drafts had been issued, and then only demanded when the State Banks were drawn upon for specie; and, finally, that sum, so unimportant to the Bank of the United States, was spread over the three cities; in New York half a million, the same sum in Philadelphia, and three hundred thousand in Baltimore. Here then, sir, you have all the circumstances of this much exaggerated transaction of the transfer drafts! How different has been the conduct of the Bank of the United States in this city within a few days past! By their branch here they accumulated a demand upon the Bank of the Metropolis, a deposite Bank, to an amount exceeding one hundred thousand dollars. In liquidation of it, and in the hope they might produce disorder and embarrass the arrangements of the Government, they refused to take " branch drafts"—refused a check on the parent Bank in Philadelphia—demanded coin, and finally carried off from this deposite Bank, fifty thousand dollars in specie.

Mr. President, I do not like retaliation by the Government, otherwise I might, with great propriety, turn to the decision of the highest judicial tribunal in the country, in the case of the United States against Brewster, reported in 7th Peters; and, if I had the right to advise, tell the Secretary of the Treasury to stand upon that decision of the Supreme Court—to retaliate upon the Bank—to follow their own example, and to reject, in payment of debts to the United States, those illegal "Branch drafts." But, sir, I have no wish to see such order of just retaliation; and there is no foundation in fact for the report that the Secretary of the Treasury means to be governed by any other spirit, or views, than those which will preserve, as far as the public interests will permit, the present condition and

commercial course of the country. This discovers another instance of indulgence to this overbearing institution; for the judgment to which I refer, establishes the principle that a "branch draft" is not a "note or bill," under the 18th section of the charter, and therefore cannot, under the 14th section, fall under the denomination of those "bills and notes" made "receivable in all payments to the United States."

A word of reply, sir, may be necessary to another objection raised by an honorable Senator, to the form of these transfer drafts. It is alleged that their form and character are such, not following the provisions of the 4th section of the law of the 2d of September, 1789, that if the cashier or officer to whom they might be paid, should embezzle the money, it would be to the loss of the Government, and not that of the deposit Bank.

I have in my hand one of these drafts: look at the form of it, and you have at once an answer to the objection. It has to it the signatures of all the requisite Treasury officers; and it is made payable to the order of the President or the Cashier, in his official capacity. The presentation of the draft, and the receipt of the money would, therefore, be a corporate transaction, conducted by the agent, and which would certainly render his principal, the Bank, responsible. If authority can be called for upon a legal principle so plain, I refer Senators to the decision, directly in point, in the case of the Mechanics' Bank against the Bank of Columbia, reported in 5 Wheaton, page 326. The 4th section in the law of '89, to which the Senator referred, and which specifies the duties of the Treasurer, and declares how his warrants shall be drawn, has reference only to warrants of *disbursements*—those for the payment of money out of the Treasury, under appropriations to creditors of the Government, and not to transfer drafts from one depository to another. If it were desired, under the obligation of the 15th section of the charter, to transfer public funds for the use of the Government, from the Bank of the United States, to some distant place where there is no branch, or if it were now desired to restore the public deposits, you would not resort to the 4th section of the law of '89, for the form of the transfer draft, but to the one now before us, adopted by the practice of the Government.

The same honorable Senator raised another difficulty on behalf of the disbursing officers and agents of the Government, which, he contends, must proceed from the manner and effect of the transfer of the deposits; and argues that the funds of those officers, placed in local banks, would be upon their own responsibility and risk, and not at that of the Government. In advancing this argument, the 4th section of the act of the 3d of March, 1809, was overlooked. It declares that "public agents shall keep the public moneys in their hands, in *some incorporated Bank*, to be designated "for that purpose by the President of the United States." Of course, if the disbursing officer deposits the public money in any bank, agreeably to the designation of the President, he complies with the law, and the funds are no longer at his hazard, but at that of the Government.

The remaining objection advanced against the *manner* of executing the order of removal by the Secretary, is founded upon the alleged want of authority to make, and the provisions contained in, the contracts made with the new deposit Banks.

At this moment I shall confine myself to the first branch of this objection,—the other being mere matter of detail—and offer very briefly the answer which the laws and policy of the Government so plainly present.

The 6th section of the act of Congress of the 1st of May, 1820, relied upon by gentlemen, which prohibits contracts from being made by the Secretary of either of the Executive Departments, has no bearing upon the present case. It refers to contracts not founded expressly or incidentally upon a law of Congress, and requiring an appropriation to carry them into

effect. But the sound answer to the objection is, that the authority to make these contracts with the local Banks is incidental to, and follows, the right to remove the deposits. That authority arises, in the absence of an act of Congress or positive law, out of the sovereignty of the United States, and because its exercise is indispensably necessary to carry into effect a duty imposed upon one of the Departments of the Government. The power to remove the deposits would be useless and nugatory, without the implied right to make the necessary arrangements for their reception by the new and selected depositories. There are many instances and precedents in the administration of the affairs of the Government for the exercise of these incidental powers. I refer for an explicit judicial decision to be found in the report of the case in 5th Peters' Reports, pages 127, 128, &c. [Here Mr. W. read from the report of the case sustaining him in his argument.]

The removal of the public deposits was not only a rightful exercise of authority, but the *mode* of executing it is sanctioned by invariable usage of the Department; by the opinions of our statesmen, and by the spirit of our laws.

Expediency and public policy, which must be our guides in coming to a decision upon any great Executive measure, bear the Secretary fully out in the reasons he assigns for the transfer of the public money. I justify him, and shall assume these positions:

1st. He is sustained by the attitude of the Bank in reference to the approach of the termination of its charter.

2d. The rapid and unnecessary curtailment by the Bank, as early as the 1st of August, adopted on mere rumor, and without seeking any explanation or negotiation with the Treasury, hastened the action of the Secretary of that Department.

3d. The *State* Banks are the only and proper depositories in the absence of all law and legislative provision creating or pointing out any other.

4th. The present distresses of the country are not the *immediate* and necessary result of the removal of the deposits, but are to be ascribed to the harsh, vindictive, and coercive measures of the Bank of the United States. And, lastly, that the deposits ought not to be restored—because the crisis must be met; again to transfer the public money would only add to the general distrust and increase the disorder and embarrassments complained of.

I shall proceed, sir, to advance my views in support of these several positions in the order in which I have arranged them. And the first is, that the Secretary was justified by the approach of the termination of the Bank charter.

When the head of any of the Executive Departments is about to discharge a duty confided to him by Congress, and deeply affecting the concerns of the country, he certainly finds his justification in the law which directs his action. He must confine himself to what the face of the statute tells him, without being influenced by extraneous matter; by popular reports or current rumors. The Secretary, then, in deliberating upon the *time* which would be expedient for the removal of the public deposits, was bound to look only to the charter of the Bank; and by that instrument it would be seen that the institution would have to close its concerns on the 4th of March, 1836, two years and five months from the time of the commencement of the transfer of the public money.

The Secretary of the Treasury had no reason to suppose that Congress would renew the charter of the Bank, or extend it even for one hour. He knew that the institution had arisen out of the extraordinary emergency of the country at the close of a war. He knew that it had been created solely for the purpose of removing the financial disorders and embarrassments

which then prevailed. He knew that those disorders and embarrassments had passed away, and the emergency, in his opinion, no longer existed to justify the continuance of the charter, and, therefore, he concluded there was no just ground for the expectation that it would be renewed. In looking into the charter of this Bank, it will be perceived that in the very law itself, its *grave-clothes* are placed along side of its *swaddling-clothes*. This fact is indicated by the unusual clause in a Bank charter, allowing them two years "for the final settlement and liquidation of the affairs and accounts of the corporation," and which must have been inserted at the time by the framers of the law under the evident intention that the existence of the Bank should cease at the period specified. And this very 16th section itself contains in its spirit an indication of the same intention, for it gives to the Treasury a power to be exercised upon the distinct notice that the days of the Bank were numbered. Thus, then, the Secretary, bound down and confined to the law which created the Bank, could form no other opinion than that it must shortly close its operations, and that the Government and the country must be put in a posture to meet that event.

But, sir, if it was possible to presume that it was the official duty of the Secretary to overlook the act of Congress, and to direct his eye to public opinion—to political signs—to every speck of popular sentiment which appeared upon the political horizon—upon what conclusion would he have fallen? Every thing indicated to him that the Bank must come to a close? A bill had been introduced into Congress for the renewal of its charter, and had been lost. The same Chief Magistrate by whose veto that measure had been defeated, was subsequently re-elected by the People. And here I will take occasion to observe, that I do not put the common construction upon that political event; and in the inference I draw from it, I differ in some degree from the President and the Secretary of the Treasury. I do not think that result turned upon the question of the recharter of the Bank, nor was it a popular decision of that inquiry. I believe the People, in that presidential election, looked beyond the Bank; and (without meaning any indelicacy towards his distinguished competitor) were governed by higher and more interesting considerations in the re-election of Gen. Jackson. Thousands of voters threw their weight on the side of the successful candidate, who would vote for a National Bank to-morrow. It is not pretended that the re-election of the President gave him any new power. It only told to the world that the People did not *expect* a renewal, during his term, of the charter of the Bank. Every one thought, after the bill had been lost—public opinion settled down in the belief—that there was an end of the Bank of the United States. What said the honorable Senator on my right, from Massachusetts, [Mr. Webster,] in his speech after the veto message came into the Senate in 1832? He declared, "the bill is negatived; the President has assumed the responsibility of putting *an end* to the Bank; and "the *country* must *prepare* itself to meet that *change* in its concerns, which "the *expiration* of the charter will produce!" This sentence is a condensed argument, fully justifying the act of the Secretary of the Treasury. As it comes from high authority, examine it. What is meant when we are told "*the country must prepare*" to meet that state of things to be produced by the extinction of the Bank? It surely means that the community, the Government, and individuals, must all adopt preparatory measures to meet the coming event—the approaching change. In this early preparation it cannot be meant that the Government, so deeply interested, must be the last to act, and to profit, by this timely admonition; the honorable Senator himself made it precisely what the Secretary had made it, a *question of time only*.

You might as well censure Congress for not having given a law for the continuance of the Bank, as to blame the Secretary of the Treasury for the

removal of the deposits; because the act is justified by every presumption that a new charter cannot be obtained. Are we not brought to this point? The charter *is* to be renewed, or is *not* to be renewed? And why does not the Bank come forward at *this* session? For if its charter is *to be* renewed, the deposits ought to be restored; and if *not*, and the deposits were, nevertheless, given back to it, the same scene must again be exhibited at some time before the 4th of March, '36. I repeat the question: Why does not the Bank *now* come forward and try the issue with a new Congress? Why not, within its last two years, ask for that "definitive action," of which they speak in their own memorial?

The Secretary truly says in his report—It is a mere question of "*time*." Two and a half years only remained, which left little time enough to make an experiment which could not be avoided. I admit it to be an experiment, not courted, however, by the administration, but rendered inevitable by the law of the country. I assert too, that this experiment is an important and deeply interesting one. It must decide whether the Government can, or cannot, get along in its fiscal concerns, without the Bank of the United States; and whether our local Banks can be made safe and efficient depositories of the public money. However serious the experiment may be—doubtful if you please—it must be made; and the earlier it is made, the safer for the public interests, and the better even for the Bank itself. If, between this and the 4th of March, '36, the trial shall fail, the Bank ought to be well pleased, and might fairly exult in the opportunity thus afforded of testing its utility. And shame upon it, if it has confidence in its own integrity and usefulness, for not permitting, with a spirit of liberality, the experiment fairly to advance.

The late Secretary, Mr. Duane himself, in his letter of the 23d of July last, says: "The operations of the Bank of the United States, excepting "such as may be necessary for winding up its affairs, will *cease on the 4th of March, 1836.*" And hence he commenced his inquiries preparatory to the removal of the deposits. A paper of much authority yet remains to be referred to, very decisive of the necessity of early preparation to meet "the expected change," and for the country "to seek new channels of business."—I allude emphatically to the memorial of the Bank of the United States, signed by its President himself, and presented to Congress in the session of 1831-'2. I will quote two of its paragraphs: "Unless the question is decided by the present Congress, no definitive action upon it can "be expected until within *two years* of the expiration of its charter, a period *before which*, in the opinion of your memorialists, it is highly expedient, not merely in reference to the institution itself, but to the *more important interests of the nation*, that the determination of Congress "should be known." And again: "If, on the other hand, the wisdom of "Congress shall determine that the Bank must cease to exist, it is still "more important that *the country should begin early to prepare for the "expected change*; and that the institution should have as much time as "possible to execute the duty—always a very delicate and difficult one—of "aiding the community to *seek new channels of business*; and, by *gradual "and gentle movements*, to *press with the least inconvenience on the great "interests connected with it.*" Thus, in his own representations made to Congress two years ago, does the President of the Bank himself advance a complete justification for the act of the Secretary of the Treasury, in seeking "new channels of business," and thus beginning "to prepare for the expected change," because it had been determined "that the Bank must cease to exist."

If, therefore, the proper and expedient *time* had arrived for the exercise of the authority given to the Secretary, it was the duty of the Executive department promptly to take care that it should not pass by to the detri-

ment of the public interests. If there was even a mistake as to *time*, and the most expedient moment had not arrived, this circumstance would not convert the exercise of a responsible and plainly authorized duty into an usurpation, and stamp it as high-handed and despotic.

In the second place, I contend that the removal of the deposites was hastened by the conduct of the Bank itself. Upon this point we are frequently met by the question, why adopt this important measure only two months before the meeting of Congress? To this I reply, that delay would have brought with it, inevitably, positive injury, without giving the National Legislature the opportunity, or the power, to interpose any salutary provision. Congress would have had no authority to interfere with the removal of the deposites. By the charter, they had parted with their power over the subject, and surrendered the control of it to the head of the Treasury department. If Congress attempted to interfere before the Secretary had acted, the Bank would have a right to protest against it as a violation of their charter. The matter rested entirely with the Treasury, and before Congress could again assume jurisdiction over it, the head of that department must first act, and then, by the report of his reasons, give to us the right of legislation upon it. Congress might, indeed, in case of the removal, have appointed the new place of deposite, but could not, until the Secretary had acted, alter one word of the charter, by giving the public money into the keeping of other hands. The new depository is not the essential matter of contention here—its mere indication would not be worth the perilous delay of two months, and it would puzzle Congress to discover any other depositories than those chosen by the Secretary.

It is well known, by the assurance of those whose candor cannot be questioned, as well as by the language of the late Secretary's instructions to the Agent, in his letter of the 23d of July last, that it was not the original intention of the Department to take from the Bank of the United States the deposites at the time they were removed; but an abandonment of that intention was forced upon the present Secretary by the danger and mischiefs of delay which were threatened, and inevitable, by the early and vexatious course of conduct adopted by the Bank. This must be apparent when we recollect that as early as the first of August, two months before the removal, upon sheer rumor, when Mr. Duane was in office, adverse to the measure, the Bank, a mere agent, too arrogant to ask for information or seek negotiation with its principal, commenced a system of enormous curtailments and severe oppression, imperiously demanding of the government all that could be done to check and disarm it. If the public deposites had continued with them, accompanying their rapid reductions, where would we now be, after a lapse of five or six months? Every thing rushing into the Bank, through the two wide channels of public deposites and curtailment of loans, what could supply the *vacuum*? If, in ordinary times, that startling declaration of the President of the Bank were true, that "the State Banks exist but by the forbearance of the Bank of the United States!" what would now have been their condition and the condition of their debtors? The extraordinary reduction, from the 1st of August to the first of October, of upwards of four millions, shows they were as oppressive *before* as *after* the removal. If those early curtailments urged immediate action, the curtailments *since* the 1st of October prove the wisdom of the measure.

My third position, sir, that the State Banks are the only and proper depositories for the public money, when it may happen to be removed from the Bank of the United States, is assumed, because propriety, public opinion, the uniform practice of the Government, all point to them in the absence of Legislative provision upon the subject. Where else would you carry the public money? Not to brokers, stockjobbers, or private bankers? There was no new national depository provided. The charter of the present

Bank, although it expressly provides for the removal of the money, is entirely silent as to the new depository to which it shall be transferred, because Congress thereby intended to leave the subject where they had found it, in the hands of the Treasury Department. And it is equally silent as to any new depository upon the termination of the charter. In the whole financial history of the country, from the continental establishment of the Treasury Department, in September, '76, down to the present day, the deposits have been left under the exclusive control of the head of the Treasury, by whom the State Banks have always been employed since our first knowledge of them. Follow our history for a moment on this subject. In the charter of the Bank of North America, granted by Congress in December, 1781, there was no injunction that in that institution the deposits of the public money should be made. There is the same absence of all provision of the kind in the charter of '91, given to the old Bank of the United States: and during the existence of that Bank, the State Banks participated with it in the enjoyment of the deposits. From '91 till the year 1800, the merchants' bonds for duties, were not even directed to be deposited in the old Bank for collection, until a special law, of the latter year, changed the practice as to six of our chief commercial cities. In 1811, when the old Bank went down, no new Legislative regulation was made; and the fall of that institution was softened by the assurance that the local Banks would, of course, become its substitutes and the safe depositories of the public money. An honorable gentleman now upon this floor joined in that assurance: and a veteran statesman and experienced merchant, then a representative from Maryland, carried his opinion so far, as to declare that the State Banks were the safest depositories. In 1819, during the discussion in the House of Representatives, when the present Bank was in much trouble and peril, no Legislative action, designating new depositories, was at all proposed; all seemed to unite in the opinion that the State Banks would necessarily become the holders of the public money. I will now refer to an extract from the opinion of a gentleman, then a member of the House, and now a distinguished Senator on this floor, (Mr. Tyler.) He asked, "Would it be a task of any great difficulty, to substitute another system for this? I submit to honorable gentlemen to say whether, in the event of the Government selecting a Bank in each State, notoriously solvent, in lieu of the present, we should not be precisely situated as we now are? You take a Bank in Baltimore, Philadelphia, New York, Boston, Richmond, &c., known to be solvent, and bestow on them the same countenance you bestow on the branches of this Bank, limiting the reception of the revenue to their notes or specie, and giving them the public deposits. Will gentlemen assign any good reasons for supposing that the notes of such Banks would not circulate as currently, and as uniformly, as those of this institution?" And again, "There is no necessity for alarm about the safety of the public deposits." And the same gentleman then proceeds to point out for security, the very mode adopted by the present Secretary of the Treasury in his arrangements with the State Banks. Upon that occasion, also, General Smith, of Maryland, declared: "The control over the State Banks will be greater than over the Bank of the United States." And in another part of his speech, he says, "You will have a much greater control over the State Banks, because you are under no obligation to put money in them, and you may change them whenever you think proper. The danger of losing the public deposits will always be a sufficient control over them."

If, during the earlier period of the history of our banking system, the State Banks were considered by Congress, and by all the officers of the Treasury, as safe depositories for the national treasure, why should they not be held in the same estimation now, when the business is better under-

stood, conducted with increased capital under the light of experience, resting upon a firmer basis, with new features thrown into their charters, conferring security and guarding against the suspension of specie payments? It is remarkable, that the *friends* of the old Bank of the United States left the deposits with the State Banks, whilst the *adversaries* of it rested their opposition upon the same confidence in the State Banks; and during the *interval* between the old and the present Bank of the United States, Congress left them there. And let it be remembered, that the *projectors* and *friends* of the new Bank, never thought of any other than the same depositories, or of any change in the usage of the Government—for this 16th section, out of which our controversy springs, was introduced by a gentleman opposed to the bill.

The 14th fundamental article of the present charter itself authorizes, in certain cases, the employment of State Banks, to be first approved by the Secretary of the Treasury. The last instance which I shall cite to show the confidence of Congress and of the Government in State Banks, is to be found in the 4th section of the law of 3d of March, 1809, and which directs that “public agents shall keep the public moneys in their hands, in some “*incorporated* Bank, to be designated for that purpose by the President of “the United States.” The average amount of public money in the hands of disbursing officers of the Government, is very great—essentially they are public deposits. Yet this provision by Congress was made when the old Bank of the United States was in being, and does not order the moneys to be there deposited; and so the statute stands through the time of the present Bank and its many branches, indicating no preference over any incorporated State Banks.

The contracts made with the State banks upon their receiving the public deposits have been critically and severely scrutinized. They can bear the close examination they have received, for they are discreet and cautious, effectually guarding the peoples’ money and the public interests. Look at those arrangements. The Secretary has secured over the selected Banks every salutary control—has assumed to himself every necessary source of information—if not more effectually, at least as great as the charter gave him in reference to the Bank of the United States. In these arrangements he has followed in the foot-steps of Mr. Crawford and Mr. Rush. They are not only prudent and economical—for none of the expenses fall upon the government—but they are liberal, guarding the interests and providing for the accommodations of the merchants, and the convenience of the trading community. But these arrangements are, at any rate, mere matters of detail, open and subject to be regulated at any moment by the interference of Congress.

It has been argued that the People have confidence in the Bank of the United States only; and those who have money to deposit place it there. Not so—this is an error. You may test any where the comparative confidence in State banks and the Branches of the Bank of the United States, and you will discover the fallacy of that position. I will give you an instance extracted from the official returns. By that of the Bank of the United States, it appears that the deposits of individuals in their Branch at New York, on the 23d of December, was

In the Mechanics’ Bank of New York, on the 11th of January, individual deposits were	\$ 1,124,570
In the Manhattan Bank, on same day,	870,478
In Bank of America, 17th January,	670,027
	<hr/>
	\$2,665,075

This not only exhibits the comparative confidence, but it shows the nature of the pressure, represented to exist, by so large a sum lying idle in only three of the city banks of New York!

My 4th position is, that the present distresses of the country, extend as far as they may, are not the *immediate* result of the removal of the public deposits, but are to be directly ascribed to *intervening* measures adopted by the Bank of the United States, from selfish and resentful motives, her great object being the coercion of the country into her own views.

However deeply, upon all occasions, I may deplore any measure of distress, whether partial or general, which may fall upon my fellow-citizens, I cannot resist the impression that our present embarrassments are magnified by political newspapers and by the partisans of the Bank out of doors. They have succeeded, too, in producing panic—distrust—want of confidence—(sure precursors of distress.)—all readily produced when they refer to money—to the purse—to that sensitive thing called "*the money market*"—and all of which we are efficiently but unfortunately continuing and extending by our terrifying forebodings and alarming discussions here. The moment these shall be terminated the panic will subside. And let that termination be as it may, there is strength, elasticity, and enterprise in abundance in the People to accommodate themselves to any condition of things which may succeed this discussion. It must not be forgotten, too, in our attempts to establish the true cause of the prevailing and injurious panic, that the Bank is bound to make good every thing which its friends may allege. To accomplish its purposes, the exertions of its varied and extensive power must go hand in hand with the alarms that are spread, and must instantaneously cause embarrassment to be felt where it is said embarrassment prevails.

In making allusion to the strength and vast resources of our community, proving its ability to extricate itself from real or fancied embarrassments, and of the necessity of throwing itself upon its own powers, I am called upon to notice the frankness and independence of the committee recently deputed by the New York merchants, and who visited this city in opposition to the Executive measure which I now advocate. The report of that committee, and the proceedings adopted upon it by their constituents, afford, to the commercial community, an example worthy to be followed. They distinctly avow the capacity of that community to carry itself through the present embarrassments, to safety and prosperity; and independently resolve to rely upon their own energies, upon their calmness, liberality, and mutual forbearance. The report of that adversary committee merited reference on another account. It overthrows an allegation made upon this floor and elsewhere, well framed to excite in the breasts of citizens of other States, the most sensitive feelings of alarm and jealousy; for it distinctly avows that the secret and ultimate object of the present struggle is to break down the Bank of the United States, and from its ruins and scattered materials to erect a new institution in the city of New York. The committee of that city, well informed and enlightened on the subject, returned to their constituents and distinctly declared there is no such project here. They exonerate the first and second officers of the Government from all such intention. If I could think for one moment that the struggle now going on was with a view to that selfish and interested object; that there secretly lurked under this Executive measure, any such purpose or scheme of State rivalry, I would promptly turn my back upon the whole affair and abandon the proceeding I am now endeavoring to sustain. Whenever the contest shall be between "*Wall street and Chesnut street,*" I will go for Chesnut street. Nay, more; I will never give my vote for a Bank of the United States, unless it is to be placed in the good city of William Penn. The People of Pennsylvania do, indeed, struggle and compete with New York

—but not on the sordid question of the locality of a Bank. We have a higher and more durable object before us; one upon which truly and essentially rests the commercial welfare and prosperity of our State. We aim at, and struggle for the trade of the great West. Upon the interesting and important policy of internal improvements, we carry on and maintain a high and honorable contest, not to be terminated, I trust, until we take from our rivals of the "Empire State," the rich prize held in the neutral hands of our enterprising fellow-citizens of the Western States.

But let me return to the inquiry I have just entered upon.

Where are these distresses found? They are local, not national. They evince no general calamity. I cannot believe that they have fallen so seriously, or to such great extent, upon one class of our citizens, held by me in the highest estimation. I mean the fair American merchants—a high-minded and most excellent portion of our community; who continually add to the honor of their country abroad, and whose enterprise discovers their hand and their impress upon every public undertaking at home—whose hearts swell and expand like the canvass of their ships, and carry their public spirit and their benevolence into every quarter of our country. To avert a calamity from such a community, I would be willing to make almost any sacrifice, save that of the rights of my Government and of the People to the ambition of the Bank.

Trace up these distresses, and I again ask—Where are they to be found? Certainly not in an unusual number of bankruptcies and suspensions—for it is undeniable that they are less numerous than they were within a recent period, when the Bank was undisturbed in the full possession of the public money. Are not those distresses—at all events as yet—limited to your speculators, to brokers, to stockjobbers; to those who live by daily and weekly borrowing; to those who languish and pine away under a continual feverish excitement, in watching every morning's discount of the Banks, and to whom curtailment is another word for bankruptcy?

There has been, in fact, recently, a new epoch in the speculations of our country. I refer to the vast and unusual amount of investments in new banks—in public stocks, canals, rail roads and State securities. These are depressed for a time by that great power which controls the money market; and let the unfortunate sufferers look to that power as the wanton author of their distresses: but, sir, here I stop, and draw the cheering distinction,—the great mass of the People are safe and undisturbed, for the simple reason that the People are not indebted; they are unembarrassed, from the great abundance and recent prosperity of the country: the bone, and sinew, and muscle of the country, are sound and healthy.

I again repeat it, that our embarrassments are *artificial*—for there is no *real* cause for them; because, sir, we have at this moment, within our favored country, all the elements of great prosperity—health—unusually abundant crops, which bear a fair value—general peace amongst our commercial customs abroad—no export demand for our specie, but an influx of it upon us—imports comparatively light—our manufactures, as yet, safely protected, and undisturbed by the agitation of that question of policy so vitally interesting to them; the spirit of internal improvements advancing and giving employment to our industrious laborers; our local Banks all standing firm, and their paper circulation *intrinsically* as good as ever; more coin in the country now than there was on the 1st October last, and the vast accumulation of it lying idle in the vaults of the Bank of the United States, renders her perfectly safe. This happy condition of the country—this abundance, rendered the moment selected by the Secretary of the Treasury, a peculiarly fit one for the transfer of the public depositories.

It is useless, sir, for me to repeat that the money is all in the country, and in the hands of those whose very occupation it is to lend it

out, accompanied, too, by the instructions and the injunction of the Secretary of the Treasury, to dispose of it in commercial facilities. But, the Bank of the United States overshadows us, and yet governs—controlling the wishes, and restricting the actions of the other banks. With this exertion of her power, aided by her alliance with influential newspapers, she has succeeded in extensively spreading distrust and want of confidence. Of course, in public stocks, and in State securities, a depression must follow if she continues her course—failures and suspensions must eventually ensue. Hence, too, in the business of merchandise, there is little done, because the merchants are afraid to buy and sell. Our commission merchants are afraid to seek consignments—domestic sales of Southern crops have been limited, but a recent rise in Europe in the great staple of that section of the Union, whilst this discussion has been going on, shows that the deposits had no influence upon its foreign market. Sufficient time has not yet elapsed to permit a re-investment in this country of the capital withdrawn by the payment of the instalment of the public debt. The very few among us who are disposed, in a moment of general alarm, to let out their money, find a more profitable investment in buying notes and public stocks. There is a general contraction of all engagements to pay money—a “*terrapin system*” adopted—every man draws himself within his shell, and buries deeper, or hugs more closely, the purse which contains the object of his care and continual pursuit.

But, the simple refusal of the Government any longer to keep its accounts in the Bank of the United States was not the *primary* cause of this state of things, nor, in any way, adequate to produce such effects. We have now the same alarm—the same representations—the same drama which was performed upon the going down of the old Bank of the United States in 1811, now in rehearsal by a new company. The alarmists then found their way into the newspapers, into the lobbies and galleries of the halls of Congress; and their successors, following their example, are now exhibiting to us the same scenes. I cannot believe they will terminate in “*deep tragedy*.” What *did*, then, produce the pressure? It is a grave and serious question, to which the People will respond in their indignant condemnation of the Bank. I answer—it was *not* the Government, but the Bank, by yielding to a *spirit of resentment*—of *vindictiveness*—having in view ulterior objects—the repossession of the public money, and the perpetuation of its charter. And, regardless of the happiness of the community, that corporation vexatiously produced the convulsions with which we are now distracted. In the indulgence of this arrogant and resentful spirit, she broke up all amity between herself and the State Banks, and turned her back upon the commercial community, whose convenience and interest she refuses to consult, because she has quarrelled with the Secretary of the Treasury!! The Bank, swelling itself up to a consequence not justified by its character, was determined to contend with its principal, regardless how the innocent might suffer in the conflict. She proudly refuses all communication with the administration, and declines all negotiation with the local Banks. Why so, at a juncture so important to the interests of all? Upon more occasions than one, in her eventful and disastrous history, she had to ask indulgence and to sue for favors from the State Banks, and had to fly to the Executive for safety. Why did she not turn back, in grateful remembrance of the favors she had received, and say to other Banks and to the merchants: “We are badly treated by the Government; the administration is encroaching upon our chartered rights; but this affords no reason for the disruption of all amity between us, and the spreading of distrust and alarm over the country?” Sir, she maintained a good understanding with those institutions and with the Treasury, as long as she thought it was her interest; and the moment that interest was supposed to depend upon a

contrary policy, hostility to all around was immediately commenced. Mr. President, in the examination of this Executive measure, it is natural to turn round and inquire what was the state of the community and the condition of our commercial cities, preceding and at the time of its taking effect.

I believe there is always something in the state of the business in our large cities at the commencement of the winter season, which produces a slight and increased demand for money; but this is hardly worth taking into the present account. A great amount of capital had been abstracted from our chief Atlantic cities and invested in the way I have mentioned, and now, when wanted by the merchants, they have it not, and cannot, upon the emergency, re-possess themselves of it. But I refer more particularly to the new tariff system which went into operation on the 4th of March last, establishing short credits and cash payment of duties. This, in effect, has taken away from our commercial community an immense capital. The credits on some goods, largely imported, were six, ten, and twelve months. This was actually a capital loaned by the Government to the merchants, sufficient to trade upon. By the change in the policy of the country, these loans were withdrawn, and at the moment when the effects of this new system were beginning fairly to be felt and to press upon the commercial community, the Bank of the United States commenced a rapid reduction of its loans. Thus taking advantage of the change in the tariff policy of the Government, and seizing upon it as a favorable opportunity to work out its purpose of resentment, by putting the screws to the People. I am not aware that gentlemen are apprized of the serious and extensive effects, and the increased demand for money by the merchants, produced by this recent change in the tariff. In the city of New York it appears to be acknowledged that the increased demand within the year, would be at least ten millions of dollars. In the city of Philadelphia, by an authentic statement in my hand, from the 4th of March to the 1st of January, it would exceed two millions—in Boston it would be something less; and, I presume, in Baltimore still less. But extend the system through all the importing towns and cities of the Union, and it will be obvious that the augmented demand upon one portion of our community, whose wants or abundance spread alarm or infuse confidence, must have been excessive and of itself a most plentiful source of pecuniary and commercial pressure. At such a moment, with our commercial community in this novel and peculiar posture—the Bank of the United States should have advanced to the very verge of its own safety, to have preserved its own friends and neighbors at least from the first rigorous trials of this new policy. But how was it? In the month of May, 1832, preceding the election, they had run up their loans to the maximum, exceeding seventy millions of dollars, more than double their capital; and that, too, when there approached a payment of an instalment of the national debt, which could only be met by “*removing the deposits;*” yet then, when not so rich and secure in resources as at present, they could, gratuitously, run up their loans to an excess unknown at all other periods! They could then come forward and ask favors, arrangements, accommodation from the Government. Why did they not do so lately? Why not now? To save the commercial community, which was the deceptive excuse then given by the Bank, Mr. Secretary McLane at once and liberally assented to all that was required. They alleged they were prepared to meet the payment of the 3 per cent. stock; but if it was discharged on the first of July, the withdrawal of the amount from their accommodations would bring down a pressure upon the merchants and for that reason, which was readily yielded to, they sued for an extension of the time to the first of October. They obtained it. But how did they use the privilege? Neither to save our honor abroad; nor to accommodate our merchants at home; for their loans, instead of being kept up, immediately began to be curtailed.

In page 19 of their own report, they speak of "the *expansive* power, "so valuable in the institution when the *wants* of the country required its "aid." And upon the same page they say, "the Bank enlarged its business to meet the commercial wants of the country, and when those *wants* "were supplied, the business of the Bank of course subsided." And again, in page 21 they say, "Wherever large payments are made by the Government, as it is necessary to withdraw from the use of the community considerable sums, the process requires some delicacy in recalling from distant parts of the United States as much as may answer the immediate exigency, yet not enough to *press disadvantageously on the community.*" Why do they not, sir, upon the present occasion, exercise their functions upon this fair policy? When the rumor about the deposits went forth, why not negotiate with the Government as they did in 1832? Why not in 1833 as well as in 1832, plead the cause of the merchant, and sue for accommodating arrangements? Why not represent in their own former language "the situation of the commercial community"—and that it "would require all the aid and all the forbearance that could be given them?" Had they so conducted themselves in the present crisis, they would have found, as they formerly found, every disposition on the part of the Secretary to go hand in hand with them to relieve the commercial community.

Sir, I have called their curtailments not "gradual," but rapid and oppressive. Allow me to exhibit, to sustain me in this assertion, extracts from their own official returns.

PUBLIC DEPOSITES.		
August 1st,	- - - -	\$7,599,841.47
October 1st,	- - - -	<u>\$9,182,173.08</u>
December 1st,	- - - -	<u>\$5,162,360.63</u>
January 1st,	- - - -	<u>\$4,230,509.63</u>

These sums include the credits to the Treasurer, those of public officers, and redemption of the public debt.

BANK LOANS.		Curtailments.
August 1st,	- - - -	\$64,160,349.14
October 1st,	- - - -	<u>60,094,202.73</u>
December 1st,	- - - -	<u>54,453,104.67</u>
Thus, the <i>curtailment</i> from 1st August to 1st October, is		\$4,166,146.21
And, increase of the public money during the same time, is		\$1,582,331.71
Curtailment from 1st August to 1st December,		\$9,607,244.47
Decrease of public moneys between 1st August and 1st December ONLY		\$2,437,480.82

So, to meet decrease of public moneys in four months, which was only \$2,437,480.82, they curtailed 9 millions 6 or 700 thousand dollars!

Decrease of public moneys between the 1st of August and the 1st of JANUARY, is only \$3,369,331.84.

The Bank curtailed between the 1st August and 1st October, *before* the deposits were removed, in *two months*, near \$800,000, MORE than the whole amount of public money which they paid over *after* they were removed up to the 1st of January last.

But, this is not all: when its discounts were at their maximum, viz.—in May, 1832, they were

Therefore, their reduction from the 1st of May, 1832, to 1st of August, 1833, fifteen months, was only	\$70,428,079.
	\$6,267,721.

Whilst in *four* months from 1st August, '33, to 1st December, '33, it was, as we have seen, 9 millions and between 6 and 700 thousand dollars. That is, during the former period, at the rate of \$417,000 a month, and during the latter period at the rate of \$2,401,811.

In further proof of this rapid and oppressive reduction of loans, cast your eyes over their returns, and see how it has fallen on the branches. I will give you an instance or two.

The Nashville Branch.

Its loans were, on 9th January, 1833, - - -	\$3,710,505
“ on 13th November, 1833, - - -	1,946,415
Reduced in ten months - - - - -	<u>\$1,764,090</u>

The Pittsburgh Branch.

May, 1832, at its maximum, - - - - -	\$1,739,216
Its loans on 24th January, 1833, were - - -	\$1,610,147
“ on 31st January, 1834 - - - - -	1,052,264
Reduced in one year - - - - -	<u>\$557,883</u>

And in the last two months, ending on the last day of January, the sum of - - - - - \$72,850

In the Boston branch, (if I am not mistaken in the extract from the official return,) the reduction of loans in the last six months, is \$3,200,000; leaving in that city now upon loan, only \$1,636,000.

It will be seen that their loans were run up to an excessive amount, just before the veto; then rapidly diminished, until the election of 1832 had passed; then increased until the removal of the deposits was spoken of, and then this excessive reduction made.

I wish we could stop here; but we must proceed and add to the list the reductions which this great controlling institution obliges all the local Banks immediately to make. And you must also throw into this account of the curtailment of discounts, the aggravating circumstance that the panic unjustly impaired confidence in the State Banks, and their issues constantly returned upon them, and thereby diminished the fund upon which they discounted.

There are other facts to be brought up as evidence against the Bank, of its wanton disposition, and its disregard of all appeals to it to save the community. A prominent one is, the refusal of the Directors to join the local Banks in any arrangement for the relief and to ease off the pressure from the public, when they well knew that the administration and the Secretary of the Treasury would cheerfully have concurred in measures to have attained that object. Any liberal scheme of good understanding and mutual forbearance does not suit their purpose; and hence it happens that the State Banks within the immediate range of their influence, memorialize Congress for the restoration of the deposits; because it is only by that measure they can propitiate this angry power, and find peace for themselves.

Another evidence of their refusal to interpose and relieve in any way the wants of those who suffered, by even a partial and temporary exercise of that mighty “expansive power” of which they boast, is to be found in the fact that they even refused “to consider” the resolutions offered at the Board last fall by the public Directors, set forth upon page 23 of their memorial, which had for their object a union and a “concert of action” among the Banks of Philadelphia, in the hope of restoring confidence, and giving ease to the mercantile community.

The last, and certainly one of the most extensively oppressive acts in the

condemning catalogue, is their resolution of the 13th of August last—almost two months before the removal of the deposits—breaking up the domestic exchange between the Atlantic cities and the West, and between the towns of the West and of the interior; and this has been followed by a system of exaction in the increase of the rates of exchange. This one act, throwing aside all others in the series of their conduct, in the days of Mr. Secretary Crawford, as he avows in his letter of the 3d of July, 1817, written upon this very subject of Domestic exchanges, would have left with the Government no alternative, and in the view of that statesman would, of itself, justify the measure of the present Secretary of the Treasury. The whole of the great West have felt this act more sensibly than any other parts of the Union. All the towns of the valley of the Ohio and Mississippi, commencing with the city of my own residence, are so intimately connected in all the pecuniary intercourse, continual interchange in commodities, and correspondence springing from their active, honorable, and enterprising commerce, that this blow fell upon them, in a hidden way, with peculiar severity; but when traced to the arm which inflicted it, the Secretary of the Treasury must stand acquitted from all blame. This business of domestic exchange had been entirely surrendered to the Bank of the United States—a monopoly which it secured to itself by means of its great capital, the occupation of all our chief towns by its branches, the use of the public deposits, and the extensive circulation of its notes; and it suddenly and captiously broke it up, without giving time for the country to prepare for and build up any new system in its stead. There was another injurious effect produced by the resolution of the 13th of August. It invited the purchase of drafts upon the Atlantic cities, thereby increasing the commercial responsibilities there, and adding to the demand for money upon the Eastern merchants. How, then, can we be mistaken about the cause of the distress? The old Bank of the United States, in 1811, refused by Congress a single hour of extension of time, surrendered the public deposits—went down—closed its affairs—without inflicting distress upon the country. The recent death of that successful merchant and benevolent man, Stephen Girard, suddenly closed the doors of his Bank over a discount of business paper, to an amount, I believe, of upwards of four millions of dollars, without producing any shock or consulting the commercial community of Philadelphia.

I admit the Bank of the United States ought to have reduced its discounts; because they had less ability, after the removal of the deposits, to accommodate the community to the extent of the means derived from the possession of the public money, than they had anterior to its transfer. But this reduction ought not to have been disproportioned to the demand likely to be made upon them. That Bank holds the *main-spring* that regulates all the machinery of discounts, domestic exchange, and commercial facilities. This is the great power of the Bank, and it is wielded by one hand and one mind of vast resources, of high ambition, and inflexible in the pursuit of a determined purpose. In the pursuit of that purpose, they suddenly, almost entirely, ceased the business of discount. They oppressively closed their iron doors over their ten and a half millions of specie, and turned their customers adrift, to seek relief by knocking at other doors, which they had also taken care should be closed against them.

There was no necessity to adopt so oppressive a course. Such excessive curtailment could only have been rendered necessary by changing the relative power of the Bank of the U. States and the local Banks, and bringing the safety of the one within the control of the many. Of this no danger did exist; and, from the small amount of capital and separate administration of the local Banks, as well as their entire want of concert of action, never can be brought to exist. The Bank of the United States, covering the whole country; having her twenty-five branches occupying all the strongest commercial positions of the Union; having for eighteen years, with an immense

capital, enjoyed the control of the banking business, holds the discounts of the country in the palm of her hand. She can produce a simultaneous and uniform action throughout our entire empire. When she touches the chord at one end, its vibrations are instantaneously felt through all the ramifications of commerce, the business, and the interests of this enterprising nation. Her hard hand now presses on the chord of contraction, and the only notes that are heard, are those of panic and distress.

In reference to this pressure upon the country, we are asked—What can the Bank do? I answer, every thing. It is rich, secure, powerful, and influential. By a single breath it can dispel the panic and restore confidence. By one morning's discount it can substitute cheerfulness for gloom. It is the ruling power of the country, and ought to take the guidance and lead off in restoring amity and mutual forbearance between itself and the other banking institutions. Let it do this—not for the sake of the Government, but for the community. Let it negotiate, as it has done upon former occasions, not so urgent as the present, out of regard for its debtors, and let its hostile attitude to the Government be no impediment in the way of its usefulness. If the termination of its charter was not near enough to justify the removal of the deposits, it has not approached so near as to excuse persistence in its refusal to forbear. In one word, who can doubt the power of the Bank of the United States to alleviate? It ought to go to the very verge of the precipice, and peril its own safety to give relief. Its circulation cannot be affected, its notes are secured as a legal tender to the annual amount of many millions in payment of debts to the Government. Its wealth, safety, and strength, are well boasted of by its advocates, and yet it will not relax in its rigid policy. To show that it is out of the reach of accident or hostility, I refer to a brief extract in my hand taken from its monthly return, dated on the 3d of the present month. But previously let me observe that, in 1831 the Bank voluntarily parted with 5 millions of specie, called then *surplus*; so that on the *first of March*, 1832, their specie was reduced to six and a half millions, when their *paper circulation* was *greater* than at present, and *foreign exchange* stood on a very different footing.

Statement of the Bank of the U. S. on the 3d February, 1834.

Notes discounted, and Bills of Exchange,	-	\$54,842,973	64
Notes in circulation,	-	19,260,472	90
Specie,	-	10,523,385	69
Due by State Banks,	-	1,386,951	65
Funds in Europe,	-	1,550,000	00
Private deposits remain nearly stationary—and at		6,715,312	60
Amount of <i>public money</i> of all sorts yet on deposit,		3,066,561	72

In the last month they have *decreased* their loans on the line of notes on *personal* security; that is, business paper, more than a million of dollars, and at the same time, have added more than half a million to their specie!

Sir, what is a panic—that sudden terror inspired by a misapprehension of danger—that fright without real cause, which substitutes distrust for confidence, and threatens to overspread our fair land with commercial disaster? I refer Senators, and the public, to an appropriate and happy answer, given by the President of the Bank of the United States himself, on Monday the 30th of April, '32, to a question put to him by the Committee of Investigation, and to be found in your printed documents of that year. You will there discover how admirably well that intelligent gentleman, not only portrays "a panic," but exhibits in himself and in his own institution the very simple and ready means of driving the evil from our continent. He proceeds, and assures us "how little is required to produce a panic," and that the means to allay it are about as trifling. He tells us that the most disas-

trous period in the financial history of England was in the fall of 1825; and that the storm which then broke upon that country was subdued, and the whole kingdom, and the Bank of England (considered now as almost a part of their constitution) saved by trivial means and accidental occurrences bordering on the ridiculous—"the unexpected arrival of about two hundred thousand sovereigns from France, the discovery, in the cellars of the Bank of England, of eight hundred thousand one-pound notes, long before condemned to be burnt, and the intervention of a Sunday." The accomplished financier then describes to us how the same storm which had thus broken upon England passed over this country but a few weeks before—how it had threatened to produce the same results—the same dismay and confusion in all our great interests. And pray, sir, how was this frightful crisis met? The witness answers, and says, "by a resolute and decided step to rally the confidence of the country." By whom? By the Bank and himself. How? By a ride from Philadelphia to New York, after a little trouble, to put the Bank in an attitude of safety, and the increase of its loans by one morning's discount, to the paltry amount of fifty thousand dollars!! This, too, at an unpropitious moment, when the Bank had to make a very large payment of the national debt, and when there was a demand upon them from abroad for their coin. Thus, confidence revived and dismay vanished at the only moment, in our financial concerns, when the moral courage of the President of the Bank seems to have failed him; for he himself declares that he "never felt any uneasiness about the Banks of this country, except on that occasion." Hear a little further his own language, when speaking of this mighty effort, the increase in one day, at the Branch of New York, of its loans to the amount of fifty thousand dollars! He testifies—"From this moment confidence revived, and the danger passed. I then thought, and still think, that this measure, the increase of the loans of the Bank, in the face of an approaching panic, could alone have averted the same consequences which, in a few days afterwards, were operating with such fatal effect upon England. I have never doubted that the delay of a week would have been of infinite injury, and that the prompt interposition of the Bank was the occasion of protecting the country from a great calamity!!" To all this very excellent doctrine, I have only to say—Go, and do in 1834, as you did in 1825—take a ride to New York, and extend your loans!

Mr. President, we hear much upon this floor of "*disorders in the currency.*" I deny their existence—there is no such thing. Because, at this moment, there is not a single note in circulation of any bank in the United States which is not as good, at this moment, as it was before, or at the time of the removal of the deposits. There can be no confusion—no disorders in the paper currency, so long as the State Banks continue to pay specie. Why should there be, whilst they all stand firm, and promptly pay the coin upon presentation at their counters, in fulfilment of the promise carried upon the face of their notes? And, in reference to the notes of the Bank of the United States, you are secure from any disorder, because the law of Congress guarantees their circulation, and secures them from interruption, by the obligation imposed on the Government in the 14th section of the charter. If, during the present absence of amity, and prevalence of dismay, any of the local banks should be crushed, and there should succeed suspensions of specie payments, then, I confess, there would be, indeed, confusion and "*disorders in the currency.*" Those quotations made by Senators from tables of Bank-note exchange, are not entitled to that degree of influence which should govern us in forming an estimate of the effects of any great political measure, or an opinion of the true condition of the country. They are made up by interested persons, who live and fatten upon the very inequality and confusion which they themselves represent to prevail in Bank-note circulation. The truth of the case is, that the difference in

exchange can really never be any thing more than the expense of transmitting the notes for payment, and bringing back the coin. For this reason, distant floating notes—even distant branch notes—have never been received at par. And if, by these interested tables of Bank-note exchange, there appears to be any decrease in the value of distant State Bank notes, it cannot be very well ascribed to the removal of the deposites, for that measure was rather of a character to strengthen those Banks, and to weaken the power which held over them the control and the supremacy.

The Secretary of the Treasury, in his official report, presents, and in my mind, substantiates the charge against the Bank of the United States of having “used its means with a view to obtain *political* power.”

If this charge has been sustained by reasonable evidence, no one will deny that of itself it afforded sufficient ground, independent of all other considerations, to justify the removal of the deposites.

Upon the purity of our elections—upon the exercise of the right of suffrage without reward and not perverted by corrupt practices, depend the integrity with which the Government will be administered, the preservation of our rights, and the continuance of our political institutions.

It would excite deep and universal condemnation to employ the money of the stockholders alone to influence our elections and “with a view to obtain *political* power”—or, to permit any moneyed corporation, the creature of the Government, to throw itself into our political controversies. But, what would be the indignant judgment of every citizen against that directory that would use the *People's* money to corrupt the People! That would use the Government stock and dividends to overturn the Government! Who would employ the public deposites left with them at the will of an administration to vilify, electioneer against, and destroy every member of that administration!

In all times of our political history, no matter of whom the dominant party might be composed, the interference of Banks in the politics of the country has been universally censured and doomed to public punishment. In 1811, a prominent and distinguished gentleman now upon this floor, advanced to his constituents, as one of his reasons for his essential aid in putting down the old Bank of the U. S., that it had been “reported” it had in a particular quarter of the country interfered in the politics of the day. The committee of the other House, in the report to which I have already referred, of 30th of April, 1830, speaks of the *punishment* to be inflicted on the “directors who would bring “the pecuniary influence of the institution to bear upon the *politics* of the “country.” The present Bank of the United States should be less presumptuous, and endeavor to profit by lessons and examples spread before it. The old Bank of North America, incorporated by Congress in December, 1781, because “the exigencies of the United States rendered it indispensably necessary,” lost its charter granted by Pennsylvania, in 1785, because, in the administration of its affairs, it had “been found to be injurious to the welfare of the State and its tendency incompatible with the public safety.” Of the offence of which I now speak and of its well-merited punishment, there can be but one opinion. The only contested question is—By what evidence is the accusation sustained? I answer, by that kind and weight of proof, full to the point, if you are governed by that rule which requires the best testimony the peculiar and difficult nature of the case will admit. The Directors themselves, aware of the deep impression made by the evidence against them, admit substantially the whole of the facts upon which the charge against them rests, but labor to explain them away—to draw their own inferences to conceal their real intention under the assumed and false argument and pretence of SELF-DEFENCE. In this admission they yield the point; for their self-defence went far beyond answers to the arguments and objections contained in the veto message: bound by no limits in their language and proceedings they aimed at the entire overthrow, personally and politically, of

their adversaries, to whom trusts of deep interest had been committed by the People. Say, for a moment, there is no *positive* proof. Do you ask for it in a case like this? Do you demand it in the instance when the doings of the association are all secret and with closed doors? Do you call for the same direct evidence as if you were trying an issue before a judicial tribunal? Look around you—look every where—cast your eye over the whole country—a Bank atmosphere every where covers the land, full of political interference and influence. Immediately succeeding the presentation of their memorial in '31, '32, they opened their coffers and poured out their money like water. I am adverse to allusion to the individual accounts of any of our citizens. It is sufficient to rely upon the pages of the Bank report made by the Board of Directors themselves, and by a reference to them, it will be perceived that in the execution of those resolutions which placed the whole funds of the institution, public and private, at the uncontrolled disposal of a single officer of the Bank, they disbursed and incurred the expenses, within a short and recent period, to the amount of \$58,265,94—and during the same period the total expenses under the head of “*stationary and printing*” ran up to the sum of \$105,057 73. So much for their own acknowledgments under their own hands! But, the public directors, with all the caution and solemnity which ought to characterize an official memorial to Congress, openly charge upon the Bank a total expenditure in the years 1831 and 1832 upon the same objects of \$81,882 67, instead of \$58,265 94 admitted by the Bank of which in the first *six months* of the year 1831, there was lavishly expended the sum of \$29,979 92; and in the last *six months* of 1832, the sum of \$26,543 72!! For myself, sir, I am willing to yield to the Bank the right of reasonable expenditure for the publication and circulation of “reports to Congress,” of “speeches in Congress,” and for “essays on currency and Banks.” But I can go no further; for we are then brought to the material, important, and culpable class of “publications.” I mean that which the Directors themselves denominate in their report “OTHER MISCELLANEOUS PUBLICATIONS”!! What does this mysterious phrase cover? Not “speeches in Congress,” not “reports to Congress,” nor “essays on Banks and Currency.” Why not specify? Why mystery and concealment by a public, Government institution? They refuse to exhibit an account and to produce vouchers! Why not divulge; more particularly where such enormous expenditures were made in part out of the People’s money by *one* Director alone, and that Director, in fact, forbid by the Board to disclose when public accusation called for light and information!! Let me see this account for “miscellaneous publications,” and if we are in error in the conclusions we have drawn, I will be the very first to acknowledge that injustice has been done. Their concealment justifies the accusatory demand upon them. Let us see this list of “miscellaneous publications!” In these, do they assail, or defend? We may easily conjecture what has been *secretly* done, when we see what they have *publicly* said and laid upon our tables. I refer, sir, to “the Report of the Committee of Directors of the Bank of the United States,” in which a language so reprehensible and so indecorous is held towards our public officers, that finally the only reward of the Bank will be found in a general burst of public reproof. The whole tenor of that Bank production is marked with a degree of bitterness unbecoming a public and exculpatory document, and using the inexcusable language and epithets of “the individual Andrew Jackson,” of whom these Directors “cannot speak without wounding their own self-respect,” of “what is *called* a Cabinet,” and wherein, in the very same paragraph, they place the President of the United States along side of, and upon a level with, the criminal counterfeiters of their notes!!

Mr. President: I shall proceed, in hastening to a conclusion, to answer an argument enforced by our adversaries, and which they allege presents one

general objection, covering the whole ground, to that Executive measure which ordered the removal of the deposits for the purpose of checking the abuses of the Bank, and necessarily preparatory to the approaching termination of its charter. They contend, with one voice, that in any event, the proceeding by *scire facias* ought to have been resorted to by the President, thereby giving to the Bank the right of judicial inquiry, and the trial by jury. No one can hold in more sacred regard than I do, that constitutional right of the trial by jury, and I would at once admit the conclusive force of the position, if that judicial proceeding had been at all adapted to the case, or the fit and effectual remedy for the mischiefs complained of. But, it was not, and could not be, the proper corrective. I shall repel the argument by taking two views of the subject. First, let us suppose that a *scire facias* had been ordered, returnable to the fall session of '33 of the Circuit Court in the Eastern District of Pennsylvania. Does it not immediately strike every one acquainted with the tedious and slow progress of judicial proceedings, that the pleadings, preparation of evidence, trial, and the decision in a momentous cause upon a final writ of error in the Supreme Court of the United States, would at least produce that delay which would carry you to the end of the session of that Court in the winter of 1835-6, and before that, the charter would have fallen by its own limitation. If a *scire facias* had even issued, either by the direction of Congress, or the order of the President, the removal of the deposits must inevitably and immediately have followed. If that process had issued, and the solemn judicial proceeding had been pending upon the avowed belief that the charter was forfeited, would you have continued with the Bank the possession of the public money? Would not the order of removal have been simultaneous with, and justified by, the order of the *scire facias*? What would have been the distrust, embarrassments, and disorders, if that grave and alarming proceeding had been adopted? In such case, would not the Bank, and the Government too, be obliged to prepare for a decision against the corporation? And would not that have been made an excuse for curtailments, and the infliction of distress, to coerce a *discontinuance*, as they now in that way seek a restoration? A *scire facias* followed by a judgment of forfeiture, would have been an *abrupt* termination of their charter, and the *business* of the Bank, whilst the removal of the deposits, adopting the milder course, simply checks its *abuses*, and suffers it to go on, with the credit of its issues unimpaired, to the end of its time. But I take the other view of the subject.

The *scire facias* is authorized by the last section of the charter of the Bank, which enacts that Congress, or the President, may direct that writ to issue in case either shall believe "the provisions of the charter to have been violated." It is, therefore, the statute and proper remedy only in one particular class of cases. Those which arise out of "a violation of the provisions of the charter," and which would bring down upon the institution a judgment of forfeiture. But, it is not the remedy, and it would be useless to resort to it, in very many instances of grave and deep import to the interests of the People, the commerce and business of the nation. Upon these, they might inflict aggravated and lasting injuries and distress, without transcending the limits or violating the provisions of their charter by corruptly, oppressively, and partially carrying their vast banking powers and pecuniary influence to their utmost limits. I might particularize many serious public mischiefs demanding the prompt and energetic interference of the Executive which could not be reached by the process of *scire facias*. For instance: Bringing the influence of their money to bear upon the politics of the country; securing to themselves an unjust monopoly; a wanton pressure upon State Banks, thereby crippling the commercial community and rendering the public debtors less able to pay their government; a vexatious curtailment of loans, with an increase of the public deposits; the case referred to by Mr. Crawford in his letter of the 30th of May, 1823; the

entire disruption of the domestic exchanges, on an oppressive system of gain and exaction, as protested against by the same Secretary in his letter of the 3d of July, 1817; with many other commercial emergencies, or financial exigencies which might be represented; in all which the Bank would laugh at, and defy the process of *scire facias*, whilst the interference of the Treasury Department, if it did not humble and bring them to terms, would, at all events, lessen and check their power to do mischief. I will content myself with one other case to fortify my position. Suppose the Bank of the United States (and the supposition would not have been extravagant upon one or two occasions in its history) to be notoriously insolvent, or to refuse specie payments; neither circumstance would be a forfeiture of its charter; nor a ground for a writ of *scire facias*, and in neither case could the Secretary of the Treasury refuse to take its notes in payment of debts due to the Government; yet, who would say that under the power of this 16th section he ought not to remove the public deposits?

The restoration of the deposits is the great and ultimate object of the Bank of the United States. Must it be gratified! For myself, I answer no! For I am unwilling to yield to measures of coercion preferred by the Bank to the experiment of reason and negotiation. Restoration is but another name for dominion: restore, and the Bank rules now and for ever—restore, and by the same means it must obtain a recharter upon its own terms—a perpetuity of its monopoly! How does it happen that the repossession of the deposits is the only remedy proposed? Will nothing else appease? Restore, and the Bank will not relax. It must still pursue some course of oppression to retain possession, and secure the great and vital object at which its ambition ultimately aims. And is it possible that our country, which we so continually extol as the most happy, abundant, and prosperous on earth, must rely, for a continuance of its blessings, upon the restoration of the deposits, and the will of the Bank of the United States! Can we not, to preserve our independence, turn upon our own resources, our own industry, enterprise, and commercial capital, strengthened by State Bank facilities, and supported by a cordial disposition to cooperate on the part of the Secretary of the Treasury? I am very willing frankly to confess, that I believe there are many with whom the original question is now changed; for, let me, for the sake of the argument, yield for the moment that it was not expedient, on the first of October last, to have removed the deposits, yet, as the measure has been fairly and honorably executed, and an experiment made, which could not be very long postponed, the question is now changed, and presents itself in a new aspect. To return the deposits *now*, would be to add to the present distresses; for, you would thereby throw the State Banks into disorders, and embarrass their borrowers.

And certainly before very long, you would have to commence measures again to take them from the Bank of the United States—because there is no presumption of its being able to obtain a renewal of its charter. Satisfy me of that fact, and I will, at any moment, vote for a restoration of the public money. This state of uncertainty is oppressive upon the local banks and paralyzes their means of usefulness. Speaking for myself, and without undertaking to judge for others, I cannot view the question in any light, with those who vote for a restoration, than as a question of charter or no charter. To my mind there is no escaping from the position. Yes! Let me correct myself. There may be one asylum to which gentleman can fly—emigration! Let them emigrate—not to “the *ancient dominion!*” but, to *modern Virginia!* Where the descendants of a race of noble ancestors have made the wonderful political discovery, that of all Banks in the world, in which to deposit the People’s money, an *unconstitutional* Bank is the best!! A Bank, according to their political scruples, having no legal existence—a mere nonentity!! Why should gentlemen order a restoration, which must be temporary, unless they mean finally to vote for a continuance of the deposits?

Let Senators, let impartial men, take up the prominent acts of the Board of Directors for the last two years, and decide the question, whether it is possible to continue the relation of principal and agent between the Bank and the Government of the United States, with any hope of harmony and utility to the country? Commence with the presentation of their memorial to Congress, in 1831-'2; the interference which immediately succeeded in the politics and elections of the country; their deceptive conduct in reference to the postponement of the instalment of the three per cent. stock in 1832; the damages claimed on the French bill; the expulsion from the Board (it can be called by no other name) of the Public Directors, and of Mr. McCallister, a high-minded Director, chosen by the Stockholders themselves; their disregard of the justice and gratitude of the nation, manifested by their withholding the books and funds appropriated for the payment of a public debt due to the surviving officers and soldiers of the revolution; their infliction of unnecessary distress upon the commercial community; the public insult thrown upon the American People by the language and epithets applied to their Chief Magistrate and his Cabinet, in the Bank Report laid upon our tables.

Take all these into consideration, and they evince a spirit of hostility, so unjust, as to leave no room to doubt on which side the nation will throw itself; and that upon the Bank, the wanton aggressor in the conflict, will fall a judgment of universal condemnation.

Sir, I give way to no political despondency. I do not agree that we are either "in the midst of a revolution," or at all approximating to one. Our constitution and political institutions are all safe, for public sentiment is sound and the People uncorrupted. Executive usurpation is much talked of by those out of power, but never dreamed of by him upon whom the charge is so groundlessly made. The assertion of Bank superiority, and the attempt at Bank control, may produce distress for a time upon an innocent community, but when that institution arrogantly attempts to swell itself up to the importance of one of the co-ordinate branches of the Government, and aims to check the proper action of any of the Executive Departments, it only evinces its own feebleness, and will sink under the derision of the whole nation. Mr. Ingham, in a correspondence with the Bank in 1829, well said, "The Bank cannot avoid the action of the Government in all its legitimate operations and policy, however disposed it might be, after calculating the immensity of its coffers and the expansion of its power, to assert authority, a superiority, or insensibility to such action. The pretension could only excite a smile. *Compared to the Government the Bank is essentially insignificant.*" The sentiment is a noble and patriotic one! And I call upon the People, in the name of their sacred institutions, to carry out the elevated sentiment—to resist this "expansion of power," and this "insensibility," on the part of the Bank to the wants and the comforts of the community. I call upon the country to recollect that the Bank is a mere corporation, one of the implied means simply, convenient to carrying on the fiscal concerns of the Government; not one of the great ends for which our Government was formed—not indispensably necessary—nor to be tolerated because she may think herself indispensably requisite to the operations of the Government. I call upon Congress, sustained by public sentiment, to drive back this usurping institution within its legitimate sphere of banking and fiscal agency. Let it recede within the limits designated by the spirit of its charter. Let it cease its attempts to transcend all authority—abandon its vain and mistaken efforts to conquer and to rule. Let it so conduct itself, and it may check the popular tide which is now setting so strongly against it, and find favor in the eyes of future legislation.