

Here then we have the concurrent authority of President Washington, of the Senate, and the House of Representatives, numbers of whom had taken an active part in the convention which framed the constitution, and in the State conventions, which adopted it, that the President derived an unqualified power of removal from that instrument itself, which is "beyond the reach of legislative authority." Upon this principle the Government has now been steadily administered for about forty-five years, during which there have been numerous removals made by the President or by his direction, embracing every grade of Executive officers, from the Heads of Departments to the messengers of Bureaus.

The Treasury Department, in the discussions of 1789, was considered on the same footing as the other Executive Departments, and in the act establishing it, the precise words were incorporated indicative of the sense of Congress, that the President derives his power to remove the Secretary from the constitution, which appear in the act establishing the Department of Foreign Affairs. An assistant Secretary of the Treasury was created, and it was provided that he should take charge of the books & papers of the Department, "whenever the Secretary shall be removed from office by the President of the United States." The Secretary of the Treasury being appointed by the President, and being considered as constitutionally removable by him, it appears never to have occurred to any one in the Congress of 1789, or since, until very recently, that he was other than an Executive officer, the mere instrument of the Chief Magistrate in the execution of the laws, subject, like all other Heads of Departments, to his supervision and control. No such idea as an officer of the Congress can be found in the constitution, or appears to have suggested itself to those who organized the Government. There are officers of each House, the appointment of which is authorized by the constitution, but all officers referred to in that instrument, as coming within the appointing power of the President, whether established thereby or created by law, are "officers of the United States." No joint power of appointment is given to the two Houses of Congress, nor is there any accountability to them as one body: but as soon as any office is created by law, of whatever name or character, the appointment of the person or persons to fill it, devolves by the constitution upon the President, with the advice and consent of the Senate, unless it be an inferior office, and the appointment be vested by the law itself, "in the President alone, in the courts of law, or in the Heads of Departments."

But at the time of the organization of the Treasury Department, an incident occurred which distinctly evinces the unanimous concurrence of the first Congress in the principle that the Treasury Department is wholly Executive in its character and responsibilities. A motion was made to strike out the provision of the bill making it the duty of the Secretary "to digest and report plans for the improvement and management of the revenue, and for the support of public credit," on the ground that it would give the Executive Department of the Government too much influence and power in Congress. The motion was not opposed on the ground that the Secretary was the officer of Congress and responsible to that body, which would have been conclusive, if admitted, but on other grounds which conceded his Executive character throughout. The whole discussion evinces an unanimous concurrence in the principle, that the Secretary of the Treasury is wholly an Executive officer, and the struggle of the minority was to restrict his power as such. From that time down to the present, the Secretary of the Treasury, the Treasurer, Register, Comptrollers, Auditors, and Clerks, who fill the offices of that Department, have, in the practices of the government, been considered and treated as on the same footing with corresponding grades of officers in all the other Executive Departments.

The custody of the public property, under such regulations as may be prescribed by legislative authority, has always been considered an appropriate function of the Executive Department in this and all other Governments. In accordance with this principle, every species of property belonging to the United States, (excepting that which is in the use of the several co-ordinate Departments of the Government, as means to aid them in performing their appropriate functions,) is in charge of officers appointed by the President, whether it be lands, or buildings, or merchandise, or provisions, or clothing, or arms and munitions of war. The superintendents and keepers of the whole are appointed by the President, responsible to him, and removable at his will.

Public money is but a species of public property. It cannot be raised by taxation or customs, nor brought into the treasury in any other way, except by law; but whenever or howsoever obtained, its custody always has been, and always must be, unless the constitution be changed, intrusted to the Executive Department. No officer can be created by Congress for the purpose of taking charge of it, whose appointment would not, by the constitution, at once devolve on the President, and who would not be responsible to him for the faithful performance of his duties. The legislative power may undoubtedly bind him and the President, by any laws they may think proper to enact; they may prescribe in what place particular portions of the public money shall be kept, and for what reason it shall be removed, as they may direct that supplies for the army or navy shall be kept in particular stores; and it will be the duty of the President to see that the law is faithfully executed—yet will the custody remain in the Executive Department of the Government. Were the Congress to assume, with or without a legislative act, the power of appointing officers independently of the President, to take the charge and custody of the public property contained in the military and naval arsenals, magazines, and storehouses, it is believed that such an act would be regarded by all as a palpable usurpation of Executive power, subversive of the form as well as the fundamental principles of our Government. But where is the difference in principle, whether the public property be in the form of arms, munitions of war, and supplies, or in gold and silver, or bank notes? None can be perceived—none is believed to exist. Congress cannot, therefore, take out of the hands of the Executive Department, the custody of the public property or money, without an assumption of Executive power, and a subversion of the first principles of the constitution.

The Congress of the United States have never passed an act imperatively directing that the public moneys shall be kept in any particular place or places. From the origin of the Government to the year 1816, the statute book was wholly silent on the subject. In 1789 a Treasurer was created, subordinate to the Secretary of the Treasury, and through him to the President. He was required to give bond, safely to keep, and faithfully to disburse the public moneys, without any direction as to the manner or places in which they should be

kept. By reference to the practices of the Government, it is found, that from its first organization, the Secretary of the Treasury, acting under the supervision of the President, designated the places in which the public moneys should be kept, and specially directed all transfers from place to place. This practice was continued, with the silent acquiescence of Congress, from 1789 down to 1816, and although many banks were selected and discharged, and although a portion of the moneys were first placed in the State Banks, and then in the former bank of the United States, and upon the dissolution of that, were again transferred to the State Banks, no legislation was thought necessary by Congress, and all the operations were originated and perfected by Executive authority. The Secretary of the Treasury, responsible to the President, and with his approbation, made contracts and arrangements in relation to the whole subject matter, which was thus entirely committed to the direction of the President, under his responsibilities to the American People, and to those who were authorized to impeach and punish him for any breach of this important trust.

The act of 1816, establishing the Bank of the United States, directed the deposits of public money to be made in that bank and its branches, in places in which the said bank and branches thereof may be established, "unless the Secretary of the Treasury should otherwise order and direct," in which event, he was required to give his reasons to Congress. This was but a continuation of his pre-existing powers as the Head of an Executive Department, to direct where the deposits should be made, with the superadded obligation of giving his reasons to Congress for making them elsewhere than in the bank of the United States and its branches. It is not to be considered that this provision in any degree altered the relation between the Secretary of the Treasury and the President, as the responsible Head of the Executive Department, or released the latter from his constitutional obligation to "take care that the laws faithfully executed." On the contrary, it increased his responsibilities, by adding another to the long list of laws which it was his duty to carry into effect.

It would be an extraordinary result, if, because the person charged by law with a public duty, is one of the Secretaries, it were less the duty of the President to see that law faithfully executed, than other laws enjoining duties upon subordinate officers or private citizens. If there be any difference, it would seem that the obligation is the stronger in relation to the former, because the neglect is in his presence, and the remedy at hand.

It cannot be doubted that it was the legal duty of the Secretary of the Treasury to order and direct the deposits of the public money to be made elsewhere than in the Bank of the United States, whenever sufficient reasons existed for making the change. If, in such a case, he neglected or refused to act, he would neglect or refuse to execute the law. What would then be the sworn duty of the President? Could he say that the constitution did not bind him to see the law faithfully executed, because it was one of his Secretaries, and not himself upon whom the service was specially imposed? Might he not be asked whether there was any such limitation to his obligations prescribed in the Constitution? Whether he is not equally bound to take care that the laws be faithfully executed, whether they impose duties on the highest officer of State, or the lowest subordinate in any of the Departments? Might he not be told, that it was for the sole purpose of causing all Executive officers, from the highest to the lowest, faithfully to perform the service required of them by law—that the People of the United States have made him their Chief Magistrate, and the constitution has clothed him with the entire Executive power of this Government? The principles implied in these questions appear too plain to need elucidation.

But here, also, we have a contemporaneous construction of the act, which shows that it was not understood as in any way changing the relations between the President and Secretary of the Treasury, or as placing the latter out of Executive control, even in relation to the deposits of the public money. Nor on this point are we left to any equivocal testimony. The documents of the Treasury Department show that the Secretary of the Treasury did apply to the President, and obtain his approval and sanction to the original transfer of the public deposits to the present Bank of the United States, and did carry the measure into effect in obedience to his decision. They also show that transfers of the public deposits from the Branches of the Bank of the United States to State Banks, at Chillicothe, Cincinnati, and Louisville, in 1819, were made with the approbation of the President, and by his authority. They show, that upon all important questions appertaining to his Department, whether they related to the public deposits or other matters, it was the constant practice of the Secretary of the Treasury to obtain for his acts the approval and sanction of the President. These acts, and the principles on which they were founded, were known to all the departments of the Government, to Congress, and the country; and, until very recently, appear never to have been called in question.

Thus was it settled by the constitution, the laws and the whole practices of the Government, that the entire Executive power is vested in the President of the United States; that as incident to that power, the right of appointing and removing those officers who are to aid him in the execution of the laws, with such restrictions only as the constitution prescribes, is vested in the President; that the Secretary of the Treasury is one of those officers; that the custody of the public property and money is an executive function, which, in relation to the money, has always been exercised through the Secretary of the Treasury and his subordinates; that in the performance of these duties, he is subject to the supervision and control of the President, and in all important measures having relation to them, consults the Chief Magistrate, and obtains his approval and sanction; that the law establishing the Bank did not, as it could not change the relation between the President and the Secretary—did not release the former from his obligation to see the law faithfully executed, nor the latter from the President's supervision and control; that afterwards, and before the Secretary did in fact consult, and obtain the sanction of the President, to transfers and removals of the public deposits; and that all departments of the Government, and the nation itself, approved or acquiesced in these acts and principles, as in strict conformity with our constitution and laws.

During the last year, the approaching termination, according to the provisions of its charter, and the solemn decision of the American People, of the Bank of the United States, made it expedient, and it exposed abuses and corruptions, made it, in my opinion, the duty of the Secretary of the Treasury to place the moneys of the United States in other

[Continued on 2d page.]

## NOTICE To Canal Contractors AND LABORERS.

THEIR will be put under contract, on the FIRST DAY OF MAY NEXT, at Treaty Ground, Wabash county, Indiana, from 20 to 25 Miles in length of the WABASH & ERIE CANAL, Embracing ONE LARGE AQUEDUCT over the St. Mary's River, near the town of Fort Wayne; ONE AQUEDUCT over Clear Creek; TWO DAMS across the Wabash River; SEVEN or EIGHT LOCKS; SEVEN or EIGHT BLUFFS; BANKS; several LARGE CULVERTS; and other heavy works of the Canal Line, between Huntington and Treaty Ground. Plans, Profiles of the route, and specifications of the work to be let, will be exhibited at Fort Wayne, Huntington, and Treaty Ground.

SEALED PROPOSALS for the construction of the work will be received from the 24th to the 29th of April, at Fort Wayne and Huntington, and from the 24th of April to the 1st of May, at Treaty Ground, where the awards of the Contractors will be made. From the large amount of work that is to be let, it is hoped that a general attendance will be given by Contractors, as the amount which will be put under contract, will, in some small degree, depend upon the number of Contractors who may attend the letting.

32 miles of the WABASH and ERIE CANAL, are now under contract, and progressing with considerable activity. The state of Indiana has made provision for an energetic prosecution of the work. During the present year MORE THAN SIXTY MILES WILL BE PUT UNDER CONTRACT; and from

## 2 TO 3000 LABORERS

Will be required for THREE or FOUR YEARS, for the operations contemplated. Almost any number that may come to the line will find ready employment at GOOD WAGES FOR CASH, in a healthy country, where LANDS ARE CHEAP & easy to acquire. The Canal route is mostly located in the centre of a rich body of NEW LANDS, which are sold at low rates, and for three-fourths of the purchase money, on long credit. Many emigrant and native laborers during the last year, from the proceeds of their labor alone, purchased tracts of land of 80 and 160 acres, and became respectable settlers and land holders. Perhaps there is no part of the United States where money can be employed to so great an advantage; where property can be so easily obtained, or where it is so rapidly increasing in value.

On the last day of receiving proposals, at the letting, a few choice Tracts of Land

Will be offered to the highest bidder. They embrace a valuable Mill-Seat, on the Salamanca river, Within Two Miles of the Canal.

The site will be situated at the head of the pool formed by a dam across the Wabash immediately below the junction of the Salamanca, to introduce a Feeder into the Canal, and of course will afford easy access for Canal Boats from the Mill-site to the Canal. A great variety of excellent Lands, in the vicinity of the Canal may also be purchased at private entry, which offers reasonable inducement to Land Buyers as well as Canal Contractors and Laborers to attend the letting.

D. BURR, Canal  
S. LEWIS, Com.  
J. B. JOHNSON, mis'rs.  
Fort Wayne, Feb. 14, 1834. 7-8w

**Dissolution of Partnership.**  
THE partnership heretofore existing between George Tousey, who will attend to the settlement of the business of said firm.

April 9, 1834. GEORGE TOUSEY,  
JACOB P. DUNN.

**Fresh Garden Seeds.**  
A FRESH and general assortment of Garden and Flower Seeds is now offered at the Seed Store of L. W. JOHNSON.

April 9, 1834. 13-1f

**Notice of Partnership.**

THE undersigned have entered into partnership, for the purpose of MERCHANTISING in the town of Lawrenceburg, under the name and style of J. P. DUNN & CO. Old customers and the public generally, are respectfully invited to examine their goods, and extend to them a share of patronage.

JOHN P. DUNN, JACOB P. DUNN.

April 1, 1834.

**Estray Horse.**

STRAYED from the subscriber, residing near Lawrenceburg, on the 21st ult. A M'KINNEY ROAN HORSE; about 5 years old—shod before with steel-toed shoes—white tail—dark head. He was raised on Indian Kentucky, and it is supposed that he has gone in that direction, and is somewhere in Jefferson or Switzerland county. A Reward of \$5 and reasonable expenses will be paid by the undersigned to any person who will return the horse to him.

IRA HILL.

April 10, 1834. 13-6w

TAKEN UP, by James Blauvelt, of Kelso township, Dearborn county, Ind., on the 2d day of April, 1834, a DARK BROWN MARE, 13 hands high, with a star in her forehead, supposed to be 5 years old this Spring, and appraised at twenty dollars, by William S. Ward and Samuel Wright, the 9th day of April, 1834.

I hereby certify the foregoing to be a correct copy.  
ROBT. ROWE, Jr. J. P. April 9, 1834. 14-2w\*

**FARMERS LOOK HERE!!**

THE subscriber desires to inform you and the public generally, that he has, and will continue to keep on hand, a constant supply of first rate IMPROVED PLOUGHES; which he will warrant to be superior to any that have yet been manufactured in the Western country. Also,

**Shovel Ploughs, Harrows,**

**LOG-CHAINS, &c.**

Together with a general assortment of farming implements, which he will sell on reasonable terms.

JOHN WYMOND.

Lawrenceburg, Feb. 18, 1834. 6-3m.

**Removal.**

THE subscriber having removed his TAILORING SHOP to the frame building on the corner of High and Short streets, opposite Mr. Ludlow's new brick house, respectfully informs his old friends and customers that he is ready to execute all kinds of work in his line, with neatness and despatch. He renders his thanks for past favors, and solicits a continued public patronage.

ERASTUS LATHROP.

Lawrenceburg, March 21, 1834. 10-1f

## Clocks, Watches, &c.

THE subscriber has just received direct from the city of PARIS, an extensive and splendid addition to his former assortment of JEWELRY, Table & Tea Spoons, (Silver & common,) ALSO, A CHOICE SELECTION OF Lepine Horizontal, Repeating, Patent Lever & Common WATCHES, and various other articles, not strictly in his line, among which are FANCY ARTICLES (NEW STYLE) Percussion Caps, &c. &c.

And various other articles, not strictly in his line, among which are FANCY ARTICLES (NEW STYLE) Percussion Caps, &c. &c.

April 25, 1834.

## Sheriff's Sale.

BY VIRTUE of an execution to me directed from the clerk's office of the Dearborn circuit court, I have levied upon and will offer for sale, as the law directs, at the court house door in the town of Lawrenceburg, on the 19th day of May next, between the hours of 10 and 4 o'clock on said day, the east half of the north-west quarter of section 20, town 3, range 2 west, in the county of Dearborn—Taken as the property of Michael Cusack, and will be sold to satisfy two judgments—one in favor of John Test, and the other in favor of George H. Dunn.

WILLIAM DILLS, Sheriff.

By D. C. SMITH, Dep'y.

15-1d

15-1d