

GAZETTE.

VINCENNES.

SATURDAY, DEC. 28, 1833.

We learn from the last Indianapolis paper, that a petition praying the incorporation of a Company to establish a RAIL ROAD, from Evansville, via Princeton, and Vincennes to Lafayette, has passed both Houses of the Legislature.

In our columns of to-day's paper will be found the first part of the response of the Committee appointed by the United States Bank to that part of the President's Message in which that Institution has been assailed. It is a most luminous, convincing and irrefutable paper, scattering the slanders which have been promulgated against it, like the leaves of autumn before the resistless power of the hurricane. We hope it will be read with that attention which it so well deserves. We shall continue to extract from the Bank Report until we have published the whole. It is right that both sides of the question should be heard. The poisonous calumnies against the Bank have been read with a greedy eye; we now refer our readers to the antidote.

The editor of the Sun has not forgot to rail at Henry Clay. The thick honors which have of late been showered upon him, (not by office holders nor expectants of office, but spontaneously rendered by the voice of the people,) has, we suppose, stirred up his bile. He may be quiet, Mr. Clay is far above the shafts of his invective. His patriotic efforts disarm party rancor and hireling malice of their sting. Mr. Clay was right (the authority of the Sun to the contrary notwithstanding) when he maintained that the Constitution did not give to the President ten days for the consideration of a Bill except in the long session. The reason is obvious. The short session expires necessarily on a fixed day in March, and the President knows as well as the whole nation what day that is. Not so in the long sessions, when no specific time is fixed for the adjournment of Congress, and when the President is very properly allowed ten days to approve or veto Bills delivered to him by both Houses of Congress. Such has been the invariable practice under all previous administrations. But it seems we are now to learn a new lesson from the oracles of Kitchen Cabinet wisdom. Mr. Clay's Land Bill was handed to the President near the close of the last session, which was the short one. As the President had acknowledged in his Message to that Congress, that the settlement of the land question was one of the utmost importance, why did he not approve or refuse then, and send it back to the same Congress with his reasons, in case of his rejection of it, for their consideration? Why? simply because he was afraid that the action of the same (which was emphatically a Jackson Congress,) would veto his veto and pass the Bill in spite of him. And now the same ground must be travelled again by a new Congress, (for the same illustrious statesman has introduced a new bill not differing materially in its features from that of the last session) and thousands of the people's money must be expended to gratify the whim and caprice of a superannuated and imbecile old man, who, guided by the powers behind the throne, chose to keep the Land Bill of Mr. Clay in one his "seven pockets" until the meeting of the present Congress.

REPORT

OF A COMMITTEE OF DIRECTORS
OF THE

BANK OF THE UNITED STATES.

The Committee to whom was referred on the 24th of September, a paper signed "Andrew Jackson," purporting to have been read to a Cabinet on the 18th, and a warrant for suggesting the views of the also another paper signed "H. D. Gilpin, administration to the Bank of the United States than to the Supreme Court of the M'Elerry," bearing date August 19th, 1833—with instructions to consider the same, and report to the Board "whether any, and what steps may be necessary on the part of the Board in consequence of the publication of said letter and report," beg leave to state—

That they have carefully examined these papers, and will now proceed to report the result of their reflections in regard to them.

In order, however, to render them more intelligible, it will be proper to recall to the attention of the Board, the actual relations which the Bank had for some years past borne to the Executive.

Since the establishment of the Institution it has devoted itself anxiously and exclusively to the purposes of its creation, the restoration of the currency, the maintenance of the general credit, and the accommodation of the internal and foreign trade of the country. That it has not

failed in these objects—that it has indeed realized more than the anticipations of the most sanguine, is attested by all parts of the community. It was in the midst of this career of inoffensive usefulness, when soon after the accession to power of the present Executive, the purpose was distinctly revealed that other duties than those to the country were required—and that it was necessary for the Bank in administering its affairs, to consult the political views of those who had now obtained the ascendancy in the Executive. It is understood that soon after that event a meeting was held in Washington of the principal chiefs, to consider the means of perpetuating their new authority, and the possession of the Bank was among the most prominent objects of the parties assembled. The first open manifestation of this purpose was in June, 1829, when a concerted effort was made by the executive officers to interfere in the election of the Board of Directors at Portsmouth. At the head of this attempt was Mr. Levi Woodbury, now a member of the present Cabinet at Washington, who did not hesitate to avow in a letter to the Secretary of the Treasury, which, though marked "confidential" was subsequently ordered to be published by the Committee of Investigation in 1832—that he wished the interference of the Government to remove the President of the Branch at Portsmouth, of whom he says:—

"The new President, Jeremiah Mason, is a particular friend of Mr. Webster, and his political character is doubtless well known to you;"—and he requests the Secretary of the Treasury to communicate with some of the Directors of the Mother Bank in favor of such a change."

This letter of Mr. Woodbury was transmitted to the Bank by the Secretary of the Treasury, who stated that "from some expressions in his letter, it may be inferred that it is partly founded on a supposed application of the influence of the Bank, with a view to political effect"—in consequence of which he deemed it his duty to present it to the Bank, "with the views of the administration in relation to it." At the same time, Mr. Isaac Hill, acting as the Comptroller of the Treasury until rejected by the Senate, and now Senator of the United States, sent a memorial from the members of his political party in the Legislature of New Hampshire, requesting the removal of Mr. Mason. In another communication presented to the Bank, he gave it as his opinion, that no measures short of Mr. Mason's removal would tend "to reconcile the people of New Hampshire to the Bank," and that the friends of General Jackson in New Hampshire, had but too much reason to complain of the management of the Branch at Portsmouth." Finally, the Secretary of War ordered the transfer of the pension fund from the Branch Bank at Portsmouth to another Bank in Concord, an act so obviously in violation of the laws, that it was first resisted by the Bank and then retracted by the Secretary.

It became then manifest to the Bank, that there was a combined effort to render the Institution subservient to political purposes; and that it was necessary to come to some immediate and distinct understanding of its rights and duties. This was done in the correspondence of the President of the Bank with the Secretary of the Treasury, of which the following passages will indicate the general purport:

"Presuming that we have rightly apprehended your views, and fearful that the silence of the Bank might be hereafter misconstrued into an acquiescence in them, I deem it my duty to state to you in a manner perfectly respectful to your official and personal character, yet so clear as to leave no possibility of misconception, that the Board of Directors of the Bank of the United States, and Boards of Directors of the Branches of the Bank of the United States, acknowledge not the slightest responsibility of any description whatsoever to the Secretary of the Treasury touching the political conduct of their officers, that being a subject on which they never consult, and never desire to know the views of any administration."

Again:—"Accordingly the Act of Congress simply declares, 'that for the management of the affairs of the said Corporation, there shall be twenty five Directors.' When these are chosen, the whole administration of the Bank is committed to their exclusive care. Their responsibility for the management of it is to Congress, and to Congress alone; but no Executive officer of the Government, from the President of the United States downwards, has the slightest authority to interfere in it; and there can be no more warrant for suggesting the views of the

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trade of the country. That it has not been defeated before Congress, and disengaged by the community. But now, being relieved from the presence of Congress, and the legal guardian of the public revenue being removed, they have ventured on this last act of violence.

To justify this measure is the purpose of the paper signed "Andrew Jackson"—Of the paper itself, and of the individual who has signed it, the Committee find it difficult to speak with the plainness by which alone such a document from such a source, should be described, without wounding their own self respect, and violating the consideration which all American citizens must feel for the chief magistracy of their country. Subduing however their feeling and their language down to that respectful tone which is due the office, they will proceed to examine the history of the measure, its character and the pretexts offered in palliation of it. Of these in their order.

1st. It would appear from its contents and from other sources of information, that the President had a meeting of what is called the Cabinet, on Wednesday, the 10th September, and there read this paper. Finding that it made no impression on the majority of persons assembled, the subject was postponed, and in the mean time this document was put into the newspapers. It was obviously published for two reasons. The first was to influence the members of the Cabinet by bringing to bear upon their immediate decision the first public impression excited by misrepresentations, which the objects of them could not refute in time—the second was, by the same excitement, to affect the approaching elections, in Pennsylvania, Maryland, and New Jersey. The first design is apparent from the fate which has befallen these counsellors. Whilst something was hoped from their fears, it was expedient to flatter them, keeping in reserve behind these blandishments, the power to punish disobedience. "By the terms of the Charter," the President says—"the public money is to be deposited in the Bank during the continuance of its Charter, unless the Secretary of the Treasury shall otherwise direct." "Unless, therefore, the Secretary of the Treasury first acts, Congress have no power over the subject, and consequently the public money must remain in that institution till the last hour of its existence, unless the Secretary of the Treasury shall remove it at an earlier day;" and again, "the power of the Secretary of the Treasury over the deposits is unqualified."

Having thus argued the Secretary of the Treasury into an exclusive control of the deposits, the President proceeds to give his reasons why the Secretary should remove them concluding with this remark—"Far be it from him to expect or require that any member of the Cabinet should at his request, order, or dictation, perform any act which he believes unlawful, or in his conscience condemns."

Yet notwithstanding these expressions of humility, the moment the Secretary of the Treasury dares to resist this intrusion into his Department, and refuses to do what his conscience condemns, he is immediately dismissed from his office, and denounced in the official Gazette as a "treacherous subordinate." The same official announces to the other two offending ministers, "that however he may regret the difference of opinion," the President still thinks "that the measure is one upon which the members may conscientiously differ from the President and from each other;" that is to say, that they are not yet to be dismissed for expressing their opinions, the President being appeased by the sacrifice of the most contumacious of the opposition.

Its purpose to influence the election is attested by the triumphant exultation of the Official Gazette, that—

"We have received intelligence which authorizes the belief, that, in the late election in Pennsylvania, the Legislature of that State has undergone a change which will give the Jackson party a majority of two-thirds, and the same result has been accomplished in Maryland. We learn from sources to be relied on, that the success of the Jackson ticket in some of the Anti-Jackson counties in Maryland, was secured by the late expositions of the corruptions of the Bank, read by the President to his Cabinet—and we have no doubt that it had its effect on all the recent elections."

2d. The indelicacy of the form of these proceedings corresponds well with the substance of them, which is equally in violation of the rights of the Bank and the laws of the country.

The Bank of the United States was chartered by Congress for certain national purposes; and as it was thought expedient to obtain the skill and vigilance of private interest in managing the institution, the citizens generally were invited to unite their private fortunes with the public capital. They did so, and the charter of the Bank is in fact an act of partnership between the Government and the Stockholders, specifying the rights and duties of each party. In the charter of the first Bank of the United States there was on the part of the Bank no payment of a bonus—no obligation to transfer the public funds—no performance of the Loan Office—while on the part of the government there was no stipulation to give the use of the deposits. This defect was supplied in the charter of the present Bank by positive agreement. Thus the Bank, in addition to its arduous duty of restoring and sustaining the general currency, agreed by the 16th section, "to give facilities for transferring the public funds from place to place within the United States or the territories thereof, and for distributing the same in payment of

the public creditors, without charging commission, or claiming allowance on account of difference of exchange; and shall also do and perform the several and respective duties of the Commissioners of Loans for the several states, or of any one or more of them, whenever required by law."

And again, the 20th section declares—"That in consideration of the exclusive privileges and benefits conferred by this act upon the said Bank, the President, Directors, and Company thereof, shall pay to the United States out of the corporate funds thereof, the sum of one million and five hundred thousand dollars."

Such was the consideration to be given by the Bank. The consideration to be given by the Government, was "that the deposits of the money of the U. S. in places in which the said branches thereof may be established, shall be made in said Bank or branches thereof unless the Secretary of the Treasury shall otherwise order and direct; in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the session, the reasons of such order and direction."

This contract was deemed so unfavorable to the citizens generally, that on the opening of the books, the subscription was not filled, from a belief that the investment upon such terms could not be advantageous—an anticipation too well realized by the fact that the stockholders have never yet received the legal rate of interest on the principal subscribed. But the only temptation by which they could be induced to unite with the Government was, that while on the one hand they paid in advance to the Government a million and a half of dollars, and performed certain stipulated duties, they should have the benefit of the deposit of public funds until they were wanted in the public disbursements. These were the two essential stipulations—nay, they were in fact almost the only ones. This was the opinion of the Committee on Finance of the Senate, when on a proposition to make the Bank pay for the use of the Deposits, they reported on the 21st of April, 1828, that "the 16th section directs that the deposits of the money of the United States shall be made in the Bank and its branches. No change can be made therein without a direct violation of the charter, which the faith of the nation is bound to sustain. No view of that kind could be contemplated by any person, and none, it is presumed, has been contemplated"—and they further declare their

opinion, that in the bonus and the services rendered by the Bank, "the United States have been amply paid for all the advantages derived from the deposits of their funds in the Bank and its Branches." The same views are expressed in another report of the Committee of Finance of the Senate on the 20th of February, 1829. "The Committee repeat their opinion that the charter gives to the Bank the use of the public deposits without any other remuneration than such as are distinctly authorized in that instrument—that the execution of any other would, in the opinion of the Committee, be a direct violation of the charter. The 16th section says distinctly, that 'the deposits of the money of the United States shall be made in the Bank of the United States and its branches.' This is positive and cannot be misunderstood. The 20th section says, 'that in consideration of the exclusive privileges and benefits conferred by this act upon the said Bank, the President, Directors, and Company thereof, shall pay to the United States \$1,500,000.' The Bank was to pay and has paid the million and a half of dollars. For what? For the exclusive privileges and benefits conferred by this act. What are the benefits? The Committee can perceive none except the deposits for which the Bank has actually paid already."

The President himself, in his manifesto, is obliged to allow that "the charter to the Bank is to be considered as a contract on the part of the Government—it is not now in the power of Congress to disregard its stipulations—and by the terms of that contract the public money is to be deposited in the Bank during the continuance of its charter, unless the Secretary of the Treasury shall otherwise direct."

It is then admitted on all hands that this is a contract by which the Bank was to pay a sum of money, and to perform certain services, as a consideration for the use of the Government deposits, which the government stipulated should remain in the Bank, unless otherwise directed by a particular officer, the Secretary of the Treasury. The purpose of giving this power was obviously to prevent any loss of the revenue, and it was designed exclusively to enable the Secretary to protect the interests of the Government if the Bank became unsafe. This was the opinion of the Secretary of the Treasury, Mr. Crawford, who, in one of his very first communications to the Bank, in March 17, 1817, declared "that, by the charter, the public money deposited in places where the Bank of the United States, or its Branches, are established, must be deposited in them, except when there are other reasons to the contrary." This was also the opinion pronounced by the Committee of Finance of the Senate, in their report of the 20th of February, 1829. After citing the 16th section, they say:—

"The Committee see, in the power given to the Secretary, a discreet precaution, and the words they believe convey only the idea, that if, at any time, the Secretary shall be of opinion that there will be a danger of loss to the United States, by its money remaining in the vaults of the Bank, he may remove it for safety, and report this reason to Congress. No other construction can, in the opinion of the Committee, be given to that part of the 16th section."

This too was the opinion expressed by the President himself in his Message to Congress on the fourth of December, 1832, in which he recommends an inquiry, in order to allay "the apprehension that it is no longer a safe depository of the money of the people;" and in the same Message he adds:

"Such measures as are within the reach of the Secretary of the Treasury, have been taken to enable him to judge whether the public deposits in that institution may be regarded as entirely safe; but as his limited power may prove inadequate to this object, I recommend the subject to the attention of Congress, under the firm belief that it is worthy of serious investigation."

And the Secretary of the Treasury in his report to the same Congress, in 1832, mentions certain things which "have suggested an enquiry into the security of the Bank as the depository of the public funds."

The subject of the safety of the deposits was thus an object of enquiry by the Secretary of the Treasury, and by Congress—and what was the result? The Agent of the Treasury, after a full investigation, reported as follows:

"Thus far I consider my report as complying with that part of your letter directing the investigation so as to ascertain the security of the public money, and the solvency of the Bank, neither of which, in my opinion, admit of a doubt."

The House of Representatives, after an investigation by the Committee of Ways and Means, resolved by a vote of more than two thirds,

"That the Government Deposits may, in the opinion of the House, be safely continued in the Bank of the United States."

From these it is apparent that, in the opinion of the President, the Secretary of the Treasury, and the Committee of Finance, the question of removing the deposits was a question merely of their safety:

That the Government, through its proper channels, enquired into their safety;

And that through all these channels their safety was made manifest, and so declared by the highest authority.

But supposing this to be less evident than it is—supposing that causes other than the safety of the public funds would justify their removal from the Bank after it has paid a full equivalent for them, still one thing is manifest:

That the Secretary of the Treasury, and the Secretary of the Treasury alone, has the power to remove them—that officer being specially designated to perform that specific duty—and the President of the United States being, by the clearest implication, forbidden to interfere.

The whole structure of the Treasury shows, that the design of Congress was to make the Secretary as independent as possible of the President. The other Secretaries are merely executive officers; but the Secretary of the Treasury, the guardian of the public revenue, comes into more immediate sympathy with the representatives of the people who pay that revenue; and although according to the general scheme of appointment he is nominated by the President to the Senate, yet he is in fact the officer of Congress, not the officer of the President. Thus:

By the act of Congress, of 1789, it was provided, that

"There shall be an Executive Department, to be denominated the Department of War; and there shall be a principal officer therein to be called the Secretary for the Department of War, who shall perform and execute such duties as shall from time to time be enjoined on, or entrusted to, him by the President of the United States."

By the same act it was provided, that

"There shall be an Executive Department, to be denominated the Department of Foreign Affairs, [afterwards changed by the act of September 15, 1793, to the Department of State] with the same provision as to the principal officer."

By the act of 30th of April, 1798, it was declared, that

"There shall be an Executive Department, under the denomination of the Department of the Navy, the chief officer of which shall be called the Secretary of the Navy, whose duty it shall be to execute such orders as shall receive from the President of the United States."

The bill introduced into the Congress of 1789, provided for the establishment of the three Departments—those of War, State and Treasury—under the name of Executive Departments. But Congress made a distinction between them. On the 2d of July, 1793, as the Journals of Congress show, "An engrossed bill for establishing an Executive Department, to be denominated the Treasury Department," was read the third time, and the blanks there-in filled up.

"Resolved, That the said bill do pass, and the title be an *Act to establish the Treasury Department.*"

The same distinction pervades the whole organization of the several departments. The Secretary of the Navy, of State, and of War, are to execute the orders of the President—but the Secretary of the Treasury is not enjoined to execute the orders of the President. Not a single word is there of performing the orders of the President. On the contrary, the act of Congress declares, that it shall be his duty "to make report and give information to either branch of the Legislature, in person or in writing, (as he may be required) respecting all matters referred to him by the Senate or House of Representatives, for which shall appertain to his office."