

GAZETTE.

VINCENNES.

SATURDAY, FEB. 8, 1834.

During a week before last, at the same time that the editor of the "Sun" mistook penny-weights for pounds of gold, we understand he discovered that the Bank of the United States was insolvent; that it had upwards of seventy millions of paper in circulation, and only about ten millions of specie, and specie-paying bank notes, to pay it with.

This was a brilliant discovery for the Squire. Now the fact is, the Bank never had seventy millions in circulation. The Bank never owed seventy millions unless its thirty-five millions of capital was counted as part of the debt. It is proper to do this, when the question is between the Bank and its Stockholders; when the question is as to the value of shares; then the capital should be included as a debt in the estimate, because at the winding up, it is to be refunded to the Stockholders. But it is not necessary nor proper, when the question is as to the ability of the Bank to redeem its notes and to pay its deposits, because this must be done before the Stockholders are entitled to any thing.

The public now know by authority the situation of the Bank on the 1st day of Jan., 1834.

The Bank of the United States is able to refund every dollar of its deposits, to redeem every dollar of its notes, by giving two for one, \$10 for \$5, and then have the small amount of only fourteen and a half millions for its Shareholders. Or, the Bank owed on the 1st day of January last, for Bank notes in circulation,

\$19,203,379.90

And for all other claims against it - - - - - 10,291,620.10

\$29,500,000

To pay this it has in cash, debts, and property, only - - - - - 73,500,000

Leaving a balance for its Stockholders of only - - - - - \$44,000,000

But it owes for its capital, - - - - - 35,000,000

Hence there is a surplus over every possible demand of - - - - - \$9,000,000

They are "gentle critics," Squire Stout, they are "moderate critics," that Bank of the United States, and Squire Bidwell, they not only never draw two; but they always stand patrick—Patrick Kounts himself.

The fact is, that the management of the Bank of the U. S. by its president Bidwell and private directors has been most excellent. The beneficial influence of the institution have been exerted as far as its safety would permit. Notwithstanding the withdrawal of the deposits, the actual amount of the decrease in its loans is \$17,236,184.00 less than the amount of deposits withdrawn. It has avoided the dangers of either side, the whirlpools and the quicksands. With an even million of circulation it has ten millions of specie. An unprecedented amount! Indeed, especially when compared with the situation of Mr. Van Buren's Safety Fund Banks, the Pet Bank, or any State Bank, not even excepting the Bank of Louisville, which has only been in operation about nine months; not time enough to have extended its circulation; and which makes its glittering exposition of last week, immediately after the fall of deposits from the Indiana and Illinois Land Offices.

It has steadily held its course; true to the helm, and that, unwavering. It is disgraceful to the nation, it is disgraceful to the administration, that the Government Directors have had no part in this splendid management. That the five directors, selected by the President and confirmed by the Senate, should have been mere drones in the midst of a scene of banking operations and of financial arrangements, which have enabled a more corporation to set at defiance the rivalry of competition, the confidence of stockholders, the cunning of Mr. Van Buren and the hostility of a President, mightily in possession of the confidence of a great majority of the people. But so it is; the Government Directors have taken no part in the direction of the Bank. They were unwilling or they were unqualified; in either case they were unfit for the station; in either case their appointment was disgraceful.

The Bank has steadily held its course; until it has seemed the admiration of all but embittered partisans and venal sycophants: until it has even enlisted the feelings of many, opposed to its institution on constitutional grounds. And this is natural and proper. Talent, knowledge, wisdom, steadiness, moral courage, separately command our admiration; combined, deserve and secure our esteem.

The constitutionality of the Bank charter is a question which has always divided the most eminent men of our country. The President is only opposed to the present Bank charter, as he himself has often told the public. What cause there is, for the old democrats to take sides now with the President against the Bank, there is none. The supporters of the administration have been driven from objection to objection in the controversy, until at last Mr. Van Buren, in the Louisville Advertiser of the 23th and 30th January, makes the sum total to consist in this, that the Bank does not loan as much and circulate as many notes as the situation would permit. In other words, that Mr. Bidwell and the Directors are too wise and too prudent to trust the Bank to the tender mercies of Amos Kendall!—That in stormy times, the Bank is prepared for storms. "This curtailment has been effected when bills on Europe were at a discount of three and a half per cent." And what does that fact prove? That money is plenty and not scarce, as he here insinuates, and as he some days before asserted. Not at all. It proves precisely the contrary. Why are bills on the east at Louisville now cheaper than in any past year?

It money was plenty in New York, there would be a demand for bills on England; speculators would have the means and would use them; bills would be in demand and above par. And thus too, in Louisville. The scarcity of money rendered individuals unable to purchase bills for cash. The holders therefore, were compelled to sell them to the Bank of Louisville, at a lower rate than usual; hence its exchange business has exceeded its other discounts about one hundred thousand dollars.

To the Honorable

WILLIAM WALLACE.

Sir—You have deigned to look down from the elevated station to which you have been raised, to give a response to a brief article in our columns. We shall for the sake of convenience copy the manner though not the bitterness of Janitor, and address you in the second instead of the third person. This you will acknowledge, is more respectful, and we would not be found wanting in deference to a high, conspicuous and exalted dignity, like yourself. Indeed we could have imagined that you would have condescended to have indicated upon our humble pages so long an article as that which appeared under your signature in the columns of the last Western Sun. We will not sir, do you tie in justice to suppose that you had so little humanity as to compose that John Horn Took-kind of essay against us, although through your unassisted wisdom you may have written it. You say, Sir, that we wish to affect you in the estimation of your constituents? By no means Sir. You have sufficiently affected yourself for our session. You call our "publication ill-natured and libelous." What a great mistake. We

are the best-natured souls in the world, and withal given to a little fun occasionally. Why sir, do you complain that we observed that you offered your Resolution "without any explanatory remarks?" Have you not heard it said sir, a thousand times, that "still water runs deep," and judging you by this old fashioned proverb, you are the very sublimity of *bathos*. You strike hard at "the speech making politicians." That's a good one. It is a palpable hit at Clay, and Calhoun, and Southard, and Binney, and Polk, and Cambreling, and *somebody else*. A Senator ought not to use his mouth too much in making speeches, for it might wear out, and then, how could he eat you know? You say sir, "it is no evidence of a want of independence to be in a minority of FIVE." We differ from you in sentiment. It was a collar vote sir, and we are really apprehensive that it has affected your popularity. The independent Jackson men could not join you in that vote. Your vote in this particular was any thing but an independent one. You were, however, supported at the polls as a collar man, and why not vote as such? A few demagogues who were instrumental in electing you would be disappointed if you were to swerve from a certain line. We are sorry to see you wielding all the powers of your mind against the right of instructing our Senators in Congress, on any point on which the Legislature have a right to instruct. Would you take from them the right of instruction and make us slaves, and give us the go-by on the ground that the President is responsible to the people? Why do you subject yourself to the charge of hypocrisy, by affirming in the latter part of your communication, that you "have no complaint to urge against the Editor of the Gazette," and by accusing us of being "disturbed and illiberal" in the first part? Held up your head sir, and answer to that. Why, again, do you complain of us for passing judgment on you as a public man? Have we not a right to speak of our public Senators in their public capacities? Would you re-establish the "eng law" and muzzle the press, the great palladium of our rights and guardian of liberties? O, tell it not in "Sonnets," nor let the sound reach by the way of "Forcett." We give you many thanks for your manuscript, and would merely observe, that if a certain Senator were as capable of composing what passes under his name, as we are of conducting our editorial columns without the "aid" of any one, a certain people might be more honorably and usefully represented.

We learn from the New Orleans Argus of the 6th January, that snow fell on the night of the 4th sufficiently deep to admit of the running of sleighs, which were seen on the morning of the 5th in every direction, a novelty to which the inhabitants of New Orleans are not accustomed. So sudden was the change, that many unfortunates, whose poverty exposed them to the inclemency of the weather, perished. The citizens of that place, as well as the west generally, have also deeply to deplore the entire loss of the orange trees, and almost every variety of vegetable.

The subjoined is from a red-hot Jackson-Van Buren Kendall newspaper, viz. the Indiana Palladium, and emanated from the pen of the Editor, David V. Culley.—Straws show which way the wind blows, and we rather think Major Wm. T. Barry, "our efficient Postmaster General," thus censured in a newspaper which advocates his principles, will shortly return to his domicile in Kentucky, from Washington—dismissed or removed; mark our words. Who is responsible for the 350,000 borrowed by him on the credit of the Post Office Department? Is it we the people?

Owing to the swollen state of the streams, we have not received our usual supply of Eastern news the present week. We do wish Major Barry would attend more strictly to his business."

We have received a speech of the Hon. Amos Lane, which occupies, perhaps, a sixteenth part of a column. It is presented in the Globe, and for its terseness, pungency and brevity, deserves to be recorded. We have unfortunately mislaid the precious document.

From the Indiana Palladium.

Public Deposites.—If all the members of Congress shall occupy as much time on this subject as Messrs. Clay and McDuffie, the pockets of the members will constitute the depository of the public money before the session shall be brought to a close.

We copy the above with "one amendment," and should not have noted the matter, had we not been "inflicted" with the labor of reading Mr. Benton's ponderous speech. "If all the members of Congress shall occupy as much time on this subject as" Mr. Benton, whose speech occupies over 46 octavo pages, "the pockets of the members will constitute the depository of the public money before the session shall be brought to a close."

The Springfield *Somnambulist*, says the Mercantile Journal, has been completely cured, her disorder has its origin in the stomach, though the immediate cause after the paroxysms was a determination of the blood to the head. The cure has been effected wholly by medical treatment.

The Government of Lower Canada has offered a reward of \$400 for the apprehension of William Shuter, for the murder of Living Lane. The deceased was a native of the United States. Shuter is described as a native of the North of Ireland; 25 years of age; it is believed that he fled to the United States, by way of Keenebec road.

Singular Verdict.—An inquest was recently held upon the body of a man found dead in a cellar, where he had taken shelter in Montreal, and a verdict returned by the jury, that he "Died of Slavery."

CONGRESSIONAL.

MONDAY, JANUARY 13.

SENATE.

The Special Order now came up. The question being on Mr. Clay's resolutions in regard to the removal of the Public Deposites.

Mr. CALHOUN then rose, and said, that the statement of this case might be given in a very few words. The 16th section of the act incorporating it, provides that wherever there is a bank or branch of the U. S. Bank, the public money should be deposited therein, unless otherwise ordered by the Secretary of the Treasury; and that, in that case, he should report to Congress, if in session, immediately; and if not, at the commencement of the next session. The Secretary, acting under the provision of this section, has ordered the deposits to be withheld from the Bank, and has reported his reasons in conformity to the provisions of the section. The Senate is now called upon to consider his reasons, in order to determine whether the Secretary is justified or not. I have examined them with care and deliberation without the slightest bias, as far as I am conscious, personal or political. I have but a slight acquaintance with the Secretary, and that little is not unfavorable to him. I stand wholly disconnected with the two great parties now contending for ascendancy. My political connexions are with that small and denominated party which has voluntarily wholly retired from the party strife of the day, with a view of saving, if possible, the liberty and Constitution of the country, in this great crisis of our affairs.

Having maturely considered, with these impartial feelings, the reasons of the Secretary, I am constrained to say, that he has entirely failed to make out his justification. At the very commencement he has placed his right to remove the deposits on an assumption resting on a misconception of the case. In the progress of his argument he has entirely abandoned the first, and assumed a new and greatly enlarged ground, utterly inconsistent with the first, and equally untenable; and yet, as broad as his assumptions are, there is an important part of the transaction which he does not attempt to vindicate, and to which he has not even alluded. I shall, said Mr. Calhoun, now proceed without further remarks to make good these assertions.

The Secretary, at the commencement of his argument, assumes the position that in the absence of all legal provision, he, as the head of the financial department, had the right, in virtue of his office, to designate the agent and place for the safe keeping of the public deposits. He then contends that the 16th section does not restrict his power, which stands, he says, on the same ground that it did before the passage of the act incorporating the bank. It is unnecessary to inquire into the correctness of the position assumed by the Secretary; but if it were, it would not be difficult to show that when an agent, with general powers, assumes, in the execution of his agency, a power not delegated, the assumption rests on the necessity of the case, and that no power in such case, can be lawfully exercised, which was not necessary to effect the object intended. Nor would it be difficult to show that, in this case, the power assumed by the Secretary would belong, not to him but to the Treasurer, who, under the act organizing the Treasury Department, is expressly charged with the safe keeping of the public funds, for which he is responsible under bond, in heavy penalties. But, as strongly and directly as those considerations bear on the question of the power of the Secretary, I do not think it necessary to pursue them, for the plain reason that the Secretary has entirely mistaken the case. It is not a case, as he supposes, where there is no legal provision in relation to the safe keeping of the public funds but one of precisely the opposite character. The 16th section provides that the deposits shall be made in the bank and its branches, and of course it is perfectly clear that all powers which the Secretary has derived from the general and inherent powers of his office, in the absence of such provision, are wholly inapplicable to this case.

Nor it is less clear, that if the section had terminated with the provision directing the deposits to be made in the bank, the Secretary would have no more control over the subject than myself or any other Senator; and it follows, of course, that he must derive his power, not from any general reasons connected with the nature of his office, but from some express provision contained in the section, or some other part of the act. It has not been attempted to be shown, that there is any such provision in any other section or part of the act. The only control, then, which the Secretary can rightfully claim over the deposits, is contained in the provision which directs that the deposits shall be made in the bank, unless otherwise ordered by the Secretary of the Treasury; which brings the whole question, in reference to the deposits, to the extent of the power which Congress intended to confer upon the Secretary, in these few words "unless otherwise ordered."

In ascertaining the intention of Congress, I lay it down as a rule, which I suppose will not be controverted, that all political powers under our free institutions are trust powers, and not rights, liberties, or immunities, belonging personally to the officer. I also lay it down as a rule, not less incontrovertible, that trust powers are necessarily limited (unless there be some express provision to the contrary.)

to the subject matter and object of the trust. This brings us to the question—what is the subject and object of the trust in this case. The whole section relates to deposits—to the safe and faithful keeping of the public funds. With this view they are directed to be made in the bank. With the same view, and in order to increase the security, power was conferred on the Secretary to withhold the deposits; and with the same view he is directed to report his reasons, for the removal to Congress. All have one common object—the security of the public funds.—To this point the whole section converges. The language of Congress, fairly understood, is—we have selected the bank because we confide in it as a safe and faithful agent to keep the public money; but to prevent the abuse of so important a trust, we invest the Secretary with power to remove the deposits, with a view to their increased security. And lest the Secretary, on his part, should abuse so important a trust—and in order still farther to increase that security, we direct, in case of removal, that he shall report his reasons. It is obvious, under this view of the subject, that the Secretary has no right to act in relation to the deposits, but with a view to their increased security. That he has no right to order them to be withheld from the bank so long as the funds are in safety, and the bank has faithfully performed the duties imposed in relation to them; and not even then, unless the deposits can be placed in safer and more faithful hands. That such was the opinion of the Executive in the first instance, we have demonstrative proof, in the message of the President to Congress at the close of the last session, which placed the subject of the removal of the deposits exclusively on the question of their safety, and that such was also the opinion of the House of Representatives then, we have equally conclusive proof, from the vote of that body, that the public funds in the bank were safe, which was understood at that time on all sides, by friends and foes, as deciding the question of the removal of the deposits.

The extent of the power intended to be conferred being established, the question now arises, has the Secretary transcended their limits? It can be scarcely necessary to argue this point. It is not even pretended that the public deposits were in danger, or that the bank had not faithfully performed all the duties imposed on it in relation to them, nor that the Secretary placed the money in a safer or more faithful hands. So far, otherwise, there is not a man who hears me, who will not admit that the public moneys are now less safe than they were in the bank of the United States. And I will venture to assert, that not a capitalist can be found who would not ask a considerably higher per centage to insure them in their present, than in the place of deposit designated by law. If these views are correct, and I hold them to be unquestionable, the question is decided.—The Secretary has no right to withhold the deposits from the bank. There has been, and can be, but one argument advanced in favor of his right, which has even the appearance of being tenable; that the power to withhold is given in general terms, and without qualification: "unless the Secretary otherwise direct."

Those who resort to this argument, must assume the position—that the letter ought to prevail over the clear and manifest intention of the act. They must regard the power of the Secretary, not as a trust power limited by the subject and the object of the trust, but as a chartered right, to be used according to his pleasure.—There is a radical defect in our mode of construing political powers, of which this and many other instances afford striking examples, but I will give the Secretary his choice, either the intention or the letter must prevail, he may select either, but cannot be permitted to take one of the other as may best suit his purpose.—If he chooses the former, he has transcended his powers, as I have clearly demonstrated. If he selects the latter, he is equally condemned, as he has clearly exercised power not comprehended in the letter of his authority. He has not confined himself simply to withholding the public moneys from the bank of the United States, but he has ordered them to be deposited in other banks, though there is not a word in the section to justify it. I do not intend to argue the question, whether he had a right to order the funds withheld from the United States bank, to be placed in the state banks which he has selected, but I ask, how has he acquired this right? It rests wholly on construction—on the supposed intention of the legislature, which, when it gives a power intends to give all the means necessary to render it available. But, as clear as this principle of construction is, it is not more clear than that which would limit the right of the Secretary to the question of the safe and faithful keeping of the public funds; and I cannot admit that the Secretary shall be permitted to resort to the letter or to construction, as may be best calculated to enlarge his power, when the right construction is denied to those who would limit his power by the clear and obvious intention of Congress.

I might here, said Mr. CALHOUN, rest the question of the power of the Secretary over the deposits without adding another word. I have placed it on grounds from which no ingenuity, however great, or subtile, however refined, can remove but such is the magnitude of the case, such my desire to give the reasons of the Secretary the fullest consideration, that I shall follow him through the remainder of his reasons.

That the Secretary was conscious that

the first position which he assumed, and which I have considered, was untenable, we have ample proof in the precipitancy with which he retreated from it. He had scarcely laid it down, when, without illustration or argument, he passed with a rapid transition, and I must say a transition as obscure as rapid to another position wholly inconsistent with the first, and in assuming which he expressly repudiates the idea that the safe and faithful keeping of the public funds had any necessary connexion with his removal of the deposits; his power to do which he places on the broad and unlimited ground, that he had a right to make such disposition of them as the public interest, or the convenience of the people might require. I have said that the transition of the Secretary was as obscure as it was rapid, but obscure as it is, he has said enough to enable us to perceive the process by which he has reached so extraordinary a position, and we may safely affirm that his arguments are not less extraordinary than the conclusion at which he arrives. This first proposition, which, however, he has not ventured to lay down expressly, is, that Congress has an unlimited control over the deposits, and that it may dispose of them in whatever manner it may please, in order to promote the general welfare and convenience of the people. He next asserts that Congress has parted with this power, under the sixteenth section, which directs the deposits to be made in the Bank of the U. S. and then concludes with affirming, that it has invested the Secretary of the Treasury with it, for reasons which he professes to be unable to understand.

It cannot be necessary, before so enlightened a body, that I should undertake to refute an argument so utterly untrue in premises and conclusion—to show that Congress never possessed the power which the Secretary claims for it—that it is a power, from its very nature, incapable of such enlargement, being solely limited to the safe keeping of the public funds—that if it existed, it would be susceptible of the most dangerous abuses—that Congress might make the wildest and most dangerous association the depository of the public funds—might place them in the hands of the fanatics and the madmen of the north, who are waging war against the domestic institutions of the South, under the plea of promoting the general welfare. But admitting that Congress possessed the power which the Secretary attributes to it, by what process of reasoning can he show that it has parted with this unlimited power, simply by directing the public moneys to be deposited in the bank of the United States? Or, if it has parted with the power, by what extraordinary process has it been transferred to the Secretary of the Treasury, by those few and simple words, "unless he shall otherwise order?" In support of this extraordinary argument, the Secretary has not offered a single illustration; nor a single remark bearing the semblance of reason, but one, which I shall now proceed to notice.

He asserts, and asserts truly, that the bank charter is a contract between the government, or rather the people of the United States and the bank, and that it constitutes him a common agent or trustee, to superintend the execution of the stipulations contained in that portion of the contract comprehended in the 16th section. Let us now, taking these assumptions to be true, ascertain what these stipulations are, the superintendence of the execution of which, as he affirms, are jointly confided by the parties to the Secretary. The Government stipulated on its part, that the public money should be deposited in the bank of the United States—a great and valuable privilege, on which the successful operation of the institution mainly depends. The bank, on its part, stipulated that the funds should be safely kept—that the duties imposed in relation to them should be faithfully discharged, and that for this, with other privileges, it would pay to the government the sum of one million five hundred thousand dollars. These are the stipulations, the execution of which, according to the Secretary's assumption, he has been appointed, as joint agent or trustee, to superintend, and from which he would assume the extraordinary power which he claims over the deposits, to dispose of them in such manner as he may think the public interest or the convenience of the people may require.

Is it not obvious that the whole extent of power conferred upon him, admitting his assumption to be true, is to withhold the deposits in case that the bank should violate its stipulations in relation to them on one side, and on the other to prevent the government from withholding the deposits, so long as the bank faithfully performed its part of the contract. This is the full extent of his power, according to his own showing, not a particle more can be added. But there is another aspect in which the position in which the Secretary has placed himself may be viewed.—It offers for consideration not only a question of the extent of his power, but a question as to the nature & extent of duty which is imposed upon him. If the position be such as he has described, there has been confided to him a trust of the most sacred character accompanied by duties of the most solemn obligation. He stands by the mutual confidence of the parties, vested with the high judicial power to determine on the infraction or observance of a contract in which government and a large and respectable portion of the citizens are deeply interested; and, in the execution of this high power he is bound by honor and conscience so to act as to protect each of the parties in the full enjoy-