

ly, he is to follow no guide but his own sense of the interest of the people, he might feel bound to counteract the operations of this dangerous monopoly, diminish its circulation, curtail its means, and prejudice its credit. To accomplish these very purposes, and these alone, he might withdraw the deposits. The power given him by Congress would thus be used to defeat the will of Congress in one of its most important acts, by discrediting, and otherwise injuriously affecting an institution which Congress has seen fit to establish, and which it has declared shall continue, with all its powers, to the expiration of its charter.

The power conferred on the Secretary is a trust power, and like other trust powers, in the absence of express terms, setting forth the occasions for its exercise, is to be construed according to the subject and object of the trust. As in other cases of the deposit of moneys in banks, the primary object sought to be accomplished by Congress, by that provision of the charter now under consideration, is the safe keeping of the public money — The Secretary's trust, therefore, primarily and principally, respects the safe keeping. But another object is distinctly disclosed in the charter, which object is intimately connected with the fund, and that is its transfer and exchange from place to place, as the convenience of Government might require. The Secretary's trust, therefore, respects also this other object thus connected with the fund; and when either of these objects requires a removal, a removal becomes a just exercise of his authority. To this extent, none can doubt the existence of his power. If, in truth, the money is believed to be unsafe; if, in truth, the bank will not grant the facilities which it has promised, in consideration of receiving and holding the fund then, certainly, it ought to be removed. But here the power must stop or else it is altogether unbounded. Here is a just and reasonable limit, consistent with the character of the power, consistent with the general duties of the Secretary, and consistent with the nature of the remedy provided.

The charter of the bank is the law; it is the expressed will of the legislature — That will is, that the bank shall exist, with all its powers, to the end of its term — That will, too, as the committee think, is, that the public deposits shall continue in the bank, so long as they are safe, and so long as the bank fulfills all its duty in regard to them. The Secretary assumes a broader ground. He claims a right to judge of the proceedings of the bank on all subjects. Admitting the fund to be safe, and admitting that the bank has performed all its duties in regard to it, he claims an authority, nevertheless, to remove the deposits whenever he shall form an opinion, founded on the conduct of the bank, in any particular whatever, and however unconnected with the public moneys, that the general interest of the people requires such removal. If, in his opinion, it discounts too little, or discounts too much; if it expands or contracts its circulation too fast or too slow; if its committees are not properly organized; if it claims damages on protested bills, which it ought not to claim; if, in his opinion, still, it is guilty of a wrong meddling in politics, or if it do any thing else; not consistent with his sense of the public interest; he has a right to visit it with a withdrawal of the public money from its custody.

If this claim of power be admitted, it would seem to the committee to be a fair result, that the Secretary has power to withdraw the deposits, for no other reason than that he differs with congress upon its constitutional authority to create any bank, or upon the constitutionality of this particular bank, or upon the utility of continuing it in the exercise of its chartered powers and privileges, till its term shall expire.

The committee, therefore, are of opinion that it was not the intention of the Legislature to give to the Secretary of the Treasury a general guardianship over the public interest in all matters connected with the bank; but that his power is a limited one, and is confined to the safety, and the proper management of that portion of the public interest to which it expressly relates; that is to say, to the public moneys in deposit in the bank.

But the extent of the Secretary's discretion, as asserted by himself, reaches even farther than the wide range which the committee has here described. It is not confined to the protection of all the various interests which the Government and the country have in the bank, or to a supervision and control over all the conduct of the bank, but it embraces all branches of the public interest, and touches every thing which in any way respects the good of the people. He supposes himself rightfully to possess the power of removing the deposits, whenever any causes, springing up in any part of the whole wide field of the general interest, may appear to him to call for such removal. Notwithstanding he may suppose all the great interests confided to the bank to be perfectly safe; notwithstanding he may have no occasion to complain of any part of its conduct; notwithstanding, even it may so have demeaned itself as to have become the object of his favor and regard; yet, if his construction be admitted, he may remove the deposits simply because he may be of opinion that he might place them, with a prospect of still greater advantage, in other hands. If he be of opinion that the commerce of the country, or its manufactures, would be benefitted by withdrawing the public money from one bank and placing it in many, that would be an exercise of authority entirely with

in the limits which he prescribes to himself. It would be a case in which he would only follow his own sense of what the general interest and convenience of the people required. He might think, too, that by withdrawing all the public treasure from the Bank of the U. S. and placing it in the hands of twenty or thirty State banks, to remain there during his pleasure, and to be drawn thence, again, at his will, he might be enabled effectually to advance certain other objects which, whatever others might think of them, he might consider to be essential to the good of the people. All this, if he be right, is within his just authority — A power necessarily running to this extent, is a power, in the opinion of the committee, which can never be admitted.

Having thus expressed an opinion upon the general extent of the power claimed by the Secretary, the committee proceed to consider the reasons which he has reported to Congress as the particular grounds on which the power has been exercised in the present case.

The first reason assigned by the Secretary, is the near approach of the period when the bank charter will expire — That period is the 4th of March, 1836; more than two years distant; nearly two years and a half at the time of the removal. Three sessions of Congress are, in the mean time, to be held, and inasmuch as the Secretary himself says that "the power over the place of the deposits for the public money would seem properly to belong to the legislative department of Government," the committee think it might reasonably have been expected by him that Congress would not fail to make in season, suitable regulations on a subject thus admitted to be within the just exercise of its authority, and properly one of its duties.

Why, then, should he not have waited till Congress had seen fit to act upon the subject, or had manifested a disposition not to act? The matter of the deposits had been before Congress last session, and Congress then thought no provision to be, as yet, necessary. Its undoubted sense was, that the public moneys should remain where they were. This was manifested by proofs too clear to be questioned. Another session was fast approaching; and why was not the whole subject left where Congress had chosen to leave it at the end of its last session, to await the free exercise of its legislative power at this session? It might have been for the Executive to call the attention of Congress, at this time, to the necessity of some legal provisions respecting the future custody of the public moneys; and it would, doubtless, have been proper for Congress, without such call, to take up and consider the subject at its own suggestion; but the committee see no reason whatever, in the approaching expiration of the charter, for a change so sudden, and producing such important effects, made so long before that expiration, at a time when Congress had recently had the subject before it, and when, too, it was again to assemble, and would naturally have reasonable and full opportunity to adopt any necessary legislative provisions.

The Secretary has stated no reason satisfactory to the committee for not deferring this important step until the meeting of Congress. He sets forth no emergency, no sudden occasion, nothing which, in their judgment, made immediate action by him necessary.

The Secretary supposes it to have been his duty to act on the belief that the bank charter would not be renewed; and he refers to recent popular elections in support of this opinion. The committee believe it altogether unusual for reasons of that kind to be assigned for public and official acts. On such subjects, opinions may be very various. Different and opposite conclusions may be drawn from the same facts by different persons. One man may think that a candidate has been elected on account of his opposition to the bank; another may see, only, that he has been chosen, notwithstanding such opposition. One may regard the opposition, or the support, of any measure by a particular candidate, as having been itself, a promoting cause of the success of his election; another may esteem it as a formidable objection, overcome, however, by more powerful reasons; and others, again, may be of opinion that it produced little or no effect on the one side or the other. But if inferences, less uncertain, could be drawn from such occurrences, the committee still think, that for a public officer to presume what law the Legislature will or will not pass, respecting matters of finance, from the election of a particular person to be Chief Magistrate, implies a consequence from such election which the constitutional independence and dignity of the Legislature do not allow to be admitted.

But if this, or other reasons, the Secretary had persuaded himself that the charter of the bank would not be renewed, still, it certainly did not follow that the deposits ought to be removed before Congress had decided on the hands into which they should be transferred, and had made suitable regulation respecting their future custody. If there were good ground for thinking that Congress would not recharter the bank, for that very reason there was equally good ground for supposing that it would make proper and reasonable provision for the keeping of the public moneys elsewhere. How could the Secretary doubt that Congress would omit to do that which he avers to be one of its appropriate duties? The question is, not what measures Congress might be

expected to adopt — whether the chartering of the bank, or what other measures; but whether it ought not to have been presumed that it would adopt some measure, and that a reasonable and proper one, according to its power and its duties; and whether, therefore, this anticipation of the action of Congress, on the eve of its session, is to be justified.

The bank charter declares that the deposits of the public money shall be made in the bank and its offices and that the bank shall continue till March, 1836 — Where does the Secretary find his power to decide that the deposits shall be so made but for seventeen years from the date of the charter, instead of twenty? — If he may thus withdraw the deposits two or three years before the expiration of the charter, what should restrain from exercising the same authority five years before its expiration, or ten years? A plain and cogent necessity, the existence of a case which admits of no reasonable doubt, and which is too urgent for delay till Congress can provide for it, can alone justify an interference with the public moneys, lodged in the bank by law for the double purpose of safe keeping, and fulfilment of solemn contract.

But supposing it not reasonable for the Secretary to have expected the interposition of Congress, and admitting that he might consider the withdrawing of the deposits as an act which was to be done, at some time, by himself, how can it, nevertheless, be argued, that so early and so sudden a withdrawal was necessary? — The committee can perceive no possible reason for this, in any state of facts made known to them.

The withdrawal of the money, left on deposit, from a bank whose charter is about to expire, is naturally one of the things longest postponed. It is as safe the last day of the existence of the bank, in common cases, as at any previous period. The bank expects the recall of its deposits, near the period of its expiration and prepares itself accordingly. The operation, if made gradually, produces, when thus conducted, the least possible disturbance in the business of the community. Former experience would seem to have held out a salutary light for the guidance of the Secretary in this part of his official duty.

To be concluded in our next.

#### THE STATE BANK OF INDIANA.

*Messrs. Douglass and McGuire:* I beg leave to submit, through your columns, a brief sketch of the Charter of the State Bank of Indiana, with such explanation as will, I trust, render it intelligible. Something of the kind appears to be called for, as the charter itself is very long and requires more attention to understand it than many have time to give. The general interest that is felt on the subject occasions more calls for information than can be answered separately, so that this may be considered as a reply to such communications as are not otherwise attended to.

The Constitution of this State prohibits the incorporation of any bank except a state bank and branches, not exceeding one branch for any three counties, and no branch can be established unless there be subscribed and paid in specie by individuals thirty thousand dollars, as part of the stock of such branch. The peculiar situation of this State, it is presumed, has also had its influence in the adoption of the plan devised for the bank. By referring to the map of the state, it will be seen that its commercial business must necessarily take very different directions. The White-water region and eastern part trade, by different routes, to Cincinnati. The southern part are accommodated by the river Ohio, the western have the benefit of the Wabash, and the northern of the Maumee and Lake Michigan. Accordingly there is no point in the state calculated to command the business or extend its acquaintance over any considerable portion of its surface, and it is not a little singular that in locating the branches of our bank only three of them should be situated in the interior of the state, while the other seven are located on its very confines, and it is probable that the two hereafter to be established will be similarly situated. It would therefore have been extremely difficult, under such circumstances, to have constituted such a parent bank as could satisfactorily & profitably, regulate all the movements of the branches. The plan adopted is confidently believed, will not be liable to be effected by local jealousies, or influenced by political considerations.

That the state may, at all times, be able to ascertain the situation of her own interests in the concern, it is provided that the Legislature shall elect the President of the parent board for five years and four Directors for four years, one however going out of office every year. This Board appoint their own Clerk, locate the branches in Districts pointed out in the Charter, appoint Commissioners to receive subscriptions of stock for the branches, appoint three Directors for each branch, and are Commissioners of the Sinking Fund. They also procure the bank paper for the branches, which is to be signed by their President but to be countersigned at the proper branch. All the other duties of the parent bank are performed by the whole Board of Directors, which, with the four above mentioned is composed of Delegates from the branches, each branch electing one, so that the whole number will be fourteen, and hereafter sixteen. The branches being responsible for each other in case of failure, but not participating in each other's profits, the Directors elected by them, as well as those elected by the state, can have no common interest except the welfare and prosperity of the whole concern, and as this Board cannot make discounts they will have no power to exercise any political influence.

This Board may limit the loans of the branches after they exceed one and a fourth the stock paid in, may require reports from branches at least once a month, and oftener if necessary; may adjust the accounts between branches; may permit one branch to loan to another branch; and for refusing to pay debts or mismanagement of any good cause, may suspend the operations of any branch and settle it up as insolvent; they may equalize the state funds and public deposits if obtained; may examine the situation of affairs at the branches, and may make all necessary by-laws to carry their powers into effect.

All the discounts are to be made solely through the branches. Each branch elects its own Directors, except the three before mentioned, and divides its own profits, and when any branch fails it affects Directors who are in any measure culpable are first made liable, then the private stockholders to the amount subscribed, and then the state stock in the branch, and it may then balance still remain due, it is apportioned to be paid equally by the solvent branches.

To furnish the capital for each branch, individuals must subscribe for 1600 shares of \$50

each, of which \$18.75 must be paid on each share previous to the banks commencing operations, and the balance in two annual installments. If the stock required from individuals be subscribed by responsible persons at any of the branches within 30 days after the books are opened, the state will make a loan sufficient to enable it to subscribe for an equal number of shares and pay in \$31.25 on each share, so that each branch on commencing operations will have in its vaults \$80,000, in specie. The state will also borrow the sum of \$40,000 for each branch in one year and the same amount in two years, of which a portion will pay her second and third installments, and individuals subscribing stock may have their second and third installments paid by the state on their securing the state by mortgage of double the value of real estate, without improvements, to pay the amount in nineteen years with interest annually. The capital stock of the branches may be increased by individual subscription of stock, with the assent of the Legislature and the Directors of the State Bank.

The loan made by the state is to be redeemed in not less than twenty nor more than thirty years. The charter is to continue in force until the first of Jan 1859.

Such parts of the state loans as are not applied in payment of stock or loaned to individuals to pay their installments, and all dividends not required to pay interest on the loans, are to constitute a sinking fund, to be loaned out on mortgage of double the value of real estate, without improvements, to pay the amount in nineteen years with interest annually. The capital stock of the branches may be increased by individual subscription of stock, with the assent of the Legislature and the Directors of the State Bank.

The bank is never to have more debts due than twice its capital paid in, but as the branches may accommodate each other, and as the pork season, when the great discounts are needed, comes on at the Ohio river in Nov. and Dec., and on the Wabash in Feb. and March, while in the interior the purchase of hogs and cattle for fattening is generally made still later, and the lake trade does not commence until a subsequent period, there does not seem much difficulty in managing the whole concern with profit to the stockholders and advantage to the state.

No other bank can be created in the state until the year 1857, when our population will in all probability be a million and a half. One additional branch is authorized to be established in one year and another in three years, making only twelve that can exist until the Charter shall expire.

There seems not so much reason for the inquiry why a bank is now created to accommodate a population of half a million, as why the subject has not sooner excited public attention. The experiment will be tried, and for the future credit and welfare of the state, it is all important that it should fall into the best hands.

Ten branches have been located where books will be opened for the subscription of stock from the 7th April to the 10th May inclusive, and where the stock is subscribed, banking operations will commence as soon as the loan is effected, and other preparatory proceedings had, which it is supposed will not be completed until August or September next. Of the places selected for the location of branches, Indianapolis, Lawrenceburg, Madison, Richmond, New-Albany, Vincennes, Terre-Haute, Lafayette, Bedford, and Evansville, six of them contain a population of more than 2000 each; the others have not many inhabitants, but all of them are places of extensive business, and banks have prospered in other states in situations possessing few advantages.

There are no means for estimating with much correctness the amount of business done in the state. In obtaining information for another purpose, a short time since, it was ascertained that in fourteen counties selected promiscuously and containing a population of 106,000, there were one hundred and ninety-one persons engaged in merchandise. This would make about 900 for the whole state. An equal number must be engaged in the river trade and as horse, cattle, and hog drovers. The persons engaged in manufactures are not numerous present, but every year is rapidly increasing their numbers, and the time is not distant when our manufacturing capital will equal the commercial.

These hasty and crude suggestions it is hoped will call the attention of others more capable of communicating useful information.

SAMUEL MERRILL.

#### ASSASSINATION OF PRESIDENT JACKSON!

We have an article, with this caption, in the Republican of yesterday. The Globe has published two anonymous letters addressed to President Jackson, and one to Major Donelson. One is from New York, two are from Philadelphia. They purport to convey intelligence that a plan is formed to assassinate President Jackson, if the U. S. Bank is not rechartered and the deposits restored, in a short time.

This is a poor and most discreditable device. No man, in his sober sense, can believe that any such plan is in agitation. None can have any interest or other object in fabricating such a tale, but the instigators of the present ruin, Amos Kendall & Co. Doubtless the letters are of their contrivance. Their dates, language, and intonations, bear intrinsic evidence of the impress of the same mind. A resort so desperate as to prepare these letters and then give them to the world, as proofs of the existence of the design they impute, was not to have been expected even from those upon whom the infamy of the contrivance must fasten.

Anonymous letters, conveying personal abuse, or threats of outrage, whether addressed to public functionaries or to private individuals, can have no origin other than the double baseness of malice and cowardice united; or the still deeper baseness of being fabricated to be used as a cloak for their contrivance. Their dates, language, and intonations, bear intrinsic evidence of the impress of the same mind. A resort so desperate as to prepare these letters and then give them to the world, as proofs of the existence of the design they impute, was not to have been expected even from those upon whom the infamy of the contrivance must fasten.

We understand that Samuel Smith, (owing to his necessary absence,) and D. S. Bonner have declined acting, and that some other of our citizens will be appointed in their places.

#### VAN BUREN COLORS HAULED DOWN.

The editor of the Providence Literary Subaltern, hitherto a warm stickler for the Magician of Kinderhook, has recently given notice, in compliance with the almost unanimous request of its patrons and the voice of the public, he has been compelled to erase the name of Martin Van Buren from the list of candidates for the Presidency. It is a good thing to have a little sunshiny in the midst of the storms which obscure our political horizon.

#### ANOTHER GLIMPSE OF SUNSHINE.

The Union Bank of Tennessee, the City Bank of Louisville, and the Union Bank of Philadelphia, all pet Banks, have indignantly bailed back the public deposits in the very teeth of Gen. Jackson. They have been convinced that the deposits were removed from the United States Bank contrary to law, and that they participate in the Executive injustice and fraud, by consenting longer to hold them. They think and act correctly. The receiver is no better than the thief. We should not be astonished if the whole array of pet Banks should eventually follow their example and that of the Banks of Virginia that were selected to receive those deposits.

The last accounts from Washington left Congress busily engaged on the exciting and momentous subject of the deposits. The Kitchen