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THE UNION—IT MUST BE PRESERVED."

THURSDAY MORNING, DEC. 19, 1833.

FOR GOVERNOR:
J. B. DAWSON.

FOR MAYOR:
JOHN H. HOLLAND.

☞ The Northern Mail, due yesterday, had not arrived when the Post Office closed last evening.

We have the pleasure to lay before our readers this morning, the report of the Secretary of the Treasury, on the removal of the deposits from the United States Bank. It is a powerful and conclusive State Paper, and cannot fail to show at once the propriety of the course adopted by that officer.

To give place to this important document, we have been compelled to omit several advertisements, among others, two notices of sales of Messrs. Hewlett & Bright, of valuable property and slaves at the Exchange to day; we call the attention of our readers, however, to the same.

John F. Canonge, Esq. has been appointed by the Governor, by and with the advice and consent of the Senate, Judge of the Criminal Court, in the place of Felix Grima, Esq. resigned.

Mr. Canonge is a gentleman every way worthy of the trust, and we believe that his appointment will be acceptable to the public generally. He unites the talents and firmness so necessary to the proper discharge of the duties in an eminent degree.

We are authorized to announce Dr. D. AUGUSTIN as a candidate for the Legislature, in the place of Mr. J. F. Canonge, resigned.

The exhibition of the Washington Ball Room, in St. Philip Street, tendered for the benefit of the Orphan boys, succeeded, we understand, to *two hundred and sixty dollars*. Mr. Dupuy deserves high praise for his liberality in opening his room for so creditable a purpose. We hope that his example may not be lost on the managers of our theatres.

An interesting discussion ensued last Tuesday in the House of Representatives upon the propriety of repealing the several acts interdicting the introduction of slaves. The measure, though opposed in every possible shape, finally passed that body. We shall take advantage of the first opportunity, to refer to the subject more particularly. It is one in which Louisiana is vitally interested.

The new play of the *Wife*, written by Sheridan Knowles, the author of several standard modern tragedies, was presented on Tuesday evening last, at the Camp Street Theatre. The composition has some blemishes but many more beauties, and is on the whole a fine performance, very creditable to Mr. Knowles' talents. Mr. *Barrett* was consciendently great in his personation of the character assigned to him, and of his histrionic powers are judged according to the manner in which he there acquitted himself, he holds the highest place in his profession. We cannot for want of room descend into a minute examination of his excellencies, and point out the delicacy and beauty of his conceptions. Suffice it to say, none saw him but with pleasure and delight, as was evidenced by the breathless silence, and then the long and loud bursts of applause that followed.

Mrs. Rowe acquitted herself as the heroine of the piece very handsomely, and evinced much discriminating taste. Mr. Field deserves high encomiums for his performance, and, in fact, shewed an excellence which we were not prepared to expect. The inferior characters were personated not as well as they should be, nor as ill as they might

REPORT

Of the Secretary of the Treasury, on the removal of the Public Deposites from the Bank of the United States. Made to both Houses of Congress, December 4th, 1833.

TREASURY DEPARTMENT,
December 3d, 1833.

SIR: In pursuance of the power, reserved to the Secretary of the Treasury, by the act of Congress, entitled "An act to incorporate the subscribers to the Bank of the United States," I have directed, that the Deposites of the money of the United States shall not be made in the said Bank, or Branches thereof, but in certain State Banks, which have been designated for that purpose. And I now proceed to lay before Congress, the reasons which induced me to give this order and direction.

The sixteenth section of the law above mentioned, is in the following words: "And be it further enacted, that the deposites of the money of the United States, in places in which the said Bank and branches thereof may be established, shall be made in said Bank or Branches thereof, unless the Secretary of the Treasury shall at any time 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 next session, the reasons of such order or direction."

It has been settled by repeated adjudications, that a charter granted by a State to a corporation like that of the Bank of the United States, is a contract between the sovereignty which grants it, and the stockholders. The same principle must apply to a charter granted by the United States, and consequently the act incorporating the Bank is to be regarded as a contract between the United States of the one part and the stockholders of the other; and by the plain terms of this contract, as contained in the section above quoted, the stockholders have agreed, that the power reserved to the Secretary over the deposites, shall not be restricted to any particular contingencies, but be absolute and unconditional, as far as their interest are involved in the removal. The order, therefore, of the Secretary of the Treasury, directing the public money to be deposited elsewhere, can in no event be regarded as a violation of the contract with the stockholders, nor impair any right secured to them by the charter. The Treasury Department being entrusted with the administration of the finances of the country, it was always the duty of the Secretary, in the absence of any legislative provision on the subject, to take care that the public money was deposited in safe keeping, in the hands of faithful agents, and in convenient places, ready to be applied according to the wants of the Government. The law incorporating the Bank has reserved to him, in its full extent, the power he before possessed. It does not confer on him a power, but reserves to him his former authority, without any new limitation. The obligation to assign the reasons for his direction to deposite the money of the United States elsewhere, cannot be considered as a restriction of the power, because the right of the Secretary to designate the place of deposite was always necessarily subject to the control of Congress. And as the Secretary of the Treasury presides over one of the Executive Departments of the government, and his power over this subject forms a part of the Executive duties of his office, the manner in which it is exercised must be subject to the supervision of the officer to whom the constitution has confided the whole Executive power, and has required to take care that the laws be faithfully executed.

The faith of the United States is, however, pledged according to the terms of the section above stated, that the public money shall be deposited in this Bank, unless "the Secretary of the Treasury shall otherwise order and direct." And as his agreement has been entered into by Congress, in behalf of the United States, the place of deposite could not be changed by a legislative act, without disregarding a pledge, which the legislature has given; and the money of the United States must therefore continue to be deposited in the Bank, until the last hour of its existence, unless it shall be otherwise ordered by the authority mentioned in the charter. The power over the place of deposite for the public money, would seem properly to belong to the Legislative Department of Government; and it is difficult to imagine why the authority to withdraw it from this Bank was confided exclusively to the Executive. But the terms of the charter appear to be too plain to admit of question: and although Congress should be satisfied that the public money was not safe in the care of the Bank, or should be convinced that the interest of the people of the United States imperiously demanded the removal, yet the passage of a law directing it to be done, would be a breach of the agreement into which they have entered.

Assuming this to be the true construction of the charter of the Bank, it must be the duty of the Secretary of the Treasury to withdraw the deposites of the public money from that institution, whenever the change would in any degree promote the public interests. It is not necessary that the deposites should be unsafe in order to justify the removal.—The authority to remove is not limited to such a contingency. The Bank may be perfectly solvent, and prepared to meet promptly all demands upon it. It may have been faithful in the performance of its duties, and yet the public interest may require the deposites to be withdrawn. And as that cannot be done without the action of this department, the Secretary of the Treasury would betray the trust confided to him, if he did not cause the deposites to be made elsewhere, whenever the change would advance the public interest, or public convenience.—The safety of the deposites—the ability of the Bank to meet its engagements—its fidelity in the performance of its obligations—are only a part of the considerations by which his judgment must be guided. The general interest and convenience of the people must regulate his conduct.

The principle was distinctly asserted by Mr. Crawford when he was the Secretary of the Treasury, soon after the Bank obtained its charter. In a postscript to his letter to the President of the Mechanics' Bank of New York, dated Feb. 13, 1817, he says, "The Secretary of the Treasury will always be disposed to support the credit of the State Banks, and will invariable direct transfers from the deposites of the public money in aid of their legitimate exertions to maintain their credit. But, as the proposition of the Bank of the United States excludes the idea of pressure on its part, no measure of that nature appears to be necessary at this time." Other passages of the correspondence of Mr. Crawford with the banks, about the period above mentioned, might be referred to, equally indicating the same opinion, and at that day, no doubt seems to have been entertained of the power or of the duty of the Secretary in relation to this subject. It does not appear to have been then even supposed, that the right of removal depended on the solvency of the Bank, or the safety of the public money committed to its custody. On the contrary, in the passage above quoted, the superior safety of the State Banks is by no means regarded as necessary to give him the right to make a transfer to them. For he declares that he will give the deposites to the State Banks, on account of their weakness, and to protect them from the Bank of the United States, if by means of its superior strength, it sought to oppress them. Nor can any distinction be taken between the transfer of a part, and the transfer of the whole sum, remaining on deposite. The language of the [illegible] recognizes no such distinction, and the [illegible] Mr. Crawford, would have led him [illegible] whole amount of the public money to [illegible] sure on the part of the Bank of [illegible] dered such a measure necessary, [illegible] to support the State Banks in their [illegible] exertions to maintain their credit.

The language of [illegible] therefore, and the usage and practice of the Government under it, establish the following principles.

1st. That the power of removal was intended to be reserved exclusively to the Secretary of the Treasury, and that according to the stipulations in the charter, Congress could not direct it to be done.

2d. That the power reserved to the Secretary of the Treasury, does not depend for its exercise merely on the safety of the public money in the hands of the Bank, nor upon the fidelity with which it has conducted itself, but he has the right to remove the deposites, and it is his duty to remove them, whenever the public interest or convenience will be promoted by the change.

Taking these two principles as unquestionable, I proceed to state the reasons which induced me to believe that it was necessary for the interest and convenience of the people that the Bank of the United States should cease to be the depository of the public money.

The charter of the Bank will expire, according to the existing law on the subject, on the third of March, 1836, and for two years after the termination of the charter, it is authorized to use the corporate name for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate—but not for any other purpose. It is the duty of the Executive Departments of the Government to exercise the powers conferred on them, and to regulate the discretion confided to them, according to the existing laws, and they cannot be allowed to speculate on the chances of future changes by the Legislative authority. Perhaps there may be cases in which the discretion vested in an Executive Department might, with propriety, be to some degree influenced by the expectation of future legislation. But they must be cases in which the principles of justice, or the public interest imperatively call for an alteration of the law, or where some expression of the public opinion has strongly indicated that a change will probably be made. But where nothing of this kind exists, an Executive officer of the Government is not authorized to exercise a discretion, which the law has extended to him, upon the assumption that the law will be changed.

In deciding upon the course which it was my duty to pursue in relation to the deposites, I felt not to be justified in anticipating the repeal of the charter or the passage of a law to continue its existence for a limited period. It was certainly evident that the Bank has no claim to a renewal founded on the merits of its conduct. For, independently of the many serious and dangerous abuses of its charter, which have recently been made public, it was supposed that the grant to the corporation of exclusive privileges, at the expense of the rest of the community, for twenty years, was given in order to induce the stockholders to employ the capital at the disposal of the Bank, in such a manner as would be safe and convenient for the public money. It was deemed necessary that such a course should be pursued, for the purpose of enabling the Department to judge whether they would be safe and convenient depositories for the public money. It was deemed necessary that such a course should be pursued, that the people of the United States might see whether the Bank was such an institution as should be the object of public solicitude and support, and whether it was such a Bank as the Government should be authorized to patronize, in the exercise of its discretion, in the disposition of its patronage. The Bank was established by a law which contained clauses of an unusual character, which were not warranted by the Constitution, and which exhibited a disposition to use the facilities and resources of a powerful moneyed corporation, for the purpose of influencing the people and their rulers in the adoption of the measures which might be adopted by the Government relative to the Bank. Instances of this kind have occurred, in which the Bank has interfered in the political contests of the country, in the exercise of the discretion which it possessed in the management of its concerns, and in the disposition of its patronage. It was also ascertained, that the Bank had, in several instances, violated its charter, by the issue of small notes, payable at places other than its chartered seat