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Letter from the Secretary of the Treasury.

The following letter from the Secretary of the Treasury, contains the answer to the New-York committee in relation to the suspension of suits on custom-house bonds. It will be seen that the indulgence proposed is very limited.

Treasury Department,
May 26, 1837.

Sir—I have been directed by the President of the United States to communicate to you the views of this Department in relation to the request, recently made to him by a committee appointed at a respectable meeting held in the city of New-York. The request was, "that instructions may be given to prevent the commencing of suits in any of the collection districts upon unpaid bonds until after the first day of January next."

With every disposition on the part of the President and this Department to gratify the wishes of the mercantile portion of the community, and with a deep solicitude to alleviate as far as possible the pressure which exists in their pecuniary affairs, it is to be regretted, that instructions cannot be given for so protracted a period, and in so general a manner, without a departure from long established usage, and great inconvenience to the merchants and the Treasury.

By the act of Congress of the 2d of March, 1799, it is provided, that "where a bond for the payment of duties, shall not be satisfied on the day it may become due, the collector shall forthwith and without delay, cause a prosecution to be commenced for the recovery of the money thereon, by action or suit at law."

No authority or discretionary power is conferred expressly to the President of this department to dispense with this imperative direction, given by Congress to the Collectors of the Customs. The general practice has been opposed to either the existence or the exercise of any legal authority, except in Congress, to grant delay in the payment of such bonds, and after an action is instituted or judgment confessed. But after a suit has been brought the Collector's duty has been considered as fulfilled, and this Department, through its proper agents, has in special cases, and in that stage of the proceedings, deemed it lawful to direct some delay to be granted by the District Attorney on certain terms.

No statute forbids such a course, and payment in part is made or additional security furnished, in cases where post-hardship, embarrassments or insolvency is shown to exist, and the application is made in consequence of some of these circumstances, indulgence has frequently been given. But the power of permitting some indulgence before an action is commenced, is supposed by the Attorney General and the Solicitor of the Treasury, to belong to the latter officer under the Act of Congress of May 29th, 1830, and, in times and cases like the present, when the most favorable construction may be legal, should be followed—the Department is disposed, in conformity to the advice and opinion of those officers, to sanction a delay by him under like circumstances and to a like extent before suit or afterwards. Upon the occurrence, therefore, of cases of the character previously described, whether before suit or after, and whether at your post or elsewhere, similar indulgences on similar terms could and undoubtedly would be allowed with pleasure on reasonable application in each case—the extent of the delay being regulated by the facts of each case, and the existing and probable wants of the Treasury at the time it shall be presented.

But should applications of this kind become numerous, or extend to several orders very large in amount, difficulties unfortunately would arise under the existing laws and the present state of the Treasury, not only to the parties but to the public, in postponing payment for any considerable period.

In the first place, all parties and sureties upon bonds unpaid after due, are expressly disabled by the 62d section of the Act before referred to, from having credit upon any other duty bond.

The language is, "No person, whose bond has been received either as principal or surety for the payment of duties, or for whom any bond has been given by an agent, factor, or other person in pursuance of the provisions herein contained, and which bond may be due and unsatisfied, shall be allowed a future credit for duties until such bond be fully paid or discharged." In the next place the condition of the Treasury, during the remainder of the year, will probably be such, whether looking to the public estimates submitted by this department to Congress at the commencement of its session in December last, or to the actual state of things at this time, as to cre-

ate serious inconvenience and embarrassment to the public interests in meeting the public engagements, should the payment of all the duty bonds outstanding in the United States, and amounting to several millions of dollars, be postponed in their collection, either before or after suit, until the time requested by the committee.

This will be very manifest from the following data. The aggregate receipts into the Treasury, during the year 1837, having been estimated in the last annual report at \$24,000,000, and the appropriations asked for by the respective Departments, with the usual anticipated contingent, having amounted to about \$27,000,000, it was then suggested that this would require the expenditure not only of all the estimated accruing receipts, but nearly three millions of the five reserved on the 1st of January, 1837, from distribution among the States.

Congress, however, in the course of the session, appropriated not only those three millions of excess, but over five millions in addition, making an aggregate of more than thirty-two millions, and by this means, a charge was imposed on the Treasury to the extent of eight or nine millions beyond the estimated receipts during the year.

The expectation of a recurrence of an extraordinary excess of revenue during the present year, which may have been contemplated by some, and have formed the ground on which so large appropriations were made, was never entertained by this Department. Nor does any such expectation, judging from the receipts of the first quarter and the first month in the second quarter of the present year, seem likely to be verified. On the contrary, assuming the hypothesis that a similar amount of unexpended appropriations will remain at the close of the present year, as did at the close of the last, (though in ordinary times they are generally reduced eight millions, and should they become so, would increase the deficiency to that extent) the postponement of the payment of any considerable amount of bonds to the 1st of January next would make a deficiency in the means of the Treasury highly probable.

To postpone the payment of the many millions, falling due at all the ports of the United States, would render this deficiency inevitable. Comparing the present condition of the country with a former period of similar revision in trade when in 1819, from causes somewhat analogous, the mercantile interests were exposed to a pressure so very general and severe, the likelihood seems equally strong in favor of a rapid reduction in the revenue.

The foregoing remarks will explain some of the practical difficulties to be encountered in meeting the wishes expressed by the Committee for the long postponement of the payment of duty bonds, whether granted before or after suit, and whether in view of the consequences to the merchants, or to the Treasury and the public. But indulgence for thirty, sixty and ninety days, not extending beyond the 1st of September, or about the time for arranging the payment of the last instalment of deposits with the States, could doubtless be granted in special cases under the customary terms and circumstances, as before explained, should any parties desire it. But what forbearance the situation of the Treasury may justify in this respect at any future day, cannot now be foreseen with much accuracy. The payment within so short a period as nine months, of such a vast amount to the States as near thirty-eight millions, and which is mostly to be collected through the Deposit Banks, from the mercantile portion of the country, increases the pressure from other causes, on both the Banks and the community, and creates a prospect that the revenue accruing for the rest of the year will much decline, and will generally be, as has been the case in April, less than the current expenditures.

Hence the amount in the Treasury at this time being only about six millions more than is required to be paid to the States, the progress of events may compel a recourse to such other measures as the existing laws authorize, for meeting one of these great crisis, or fluctuations in trade, by which, as well as by other contingencies, our present sources of revenue, from intimate dependence upon them, are so suddenly and largely influenced, and for which it has been the anxious wish of this Department for two years past, that Congress would effectually provide.

How far the powers of the Department under the Deposit and other Acts are now adequate to this end, need not be considered until a necessity to resort to them shall become imperative. But at all events it is manifest, that the present, as well as probably future, condition of the Treasury, must be so doubtful, if not straitened, as to prevent it from

affording so much incidental or direct aid to the mercantile interest, either individually or through the Deposit banks, as it would be highly gratifying to this Department to be able to extend. More especially would it be gratifying to do this, while that interest is suffering under the present severe pressure—a pressure regretted by me as much as any one, and the near and probable approach, as well as principal causes of which, according to my views of the subject, I felt impelled from a sense of public duty, however disagreeable the task, to point out in detail, in the last annual report, so fully as to render a repetition of them on this occasion unnecessary as well as painful.

This Department cannot close the present communication, without requesting you to assure the individuals, connected with the great commerce of your part, of the deep sympathy felt here on account of its embarrassments—of the willingness cherished at this time, as on former occasions, to extend to it every species of relief and indulgence in the power of the Treasury, consistent with the laws and public duties entrusted to its charge—and of the entire conviction entertained, that the high moral character and honorable feelings of the merchants, will not only carry them through the trials of adverse fortune, with their usual scrupulous respect for the laws and constituted authorities of their country, but, by the aid of their accustomed energy, enterprise, and indefatigable industry, will ere long relieve them from most of the sufferings occasioned by those disasters, which have occurred so unexpectedly to some, and so injuriously to many.

Respectfully yours,

LEVI WOODBURY,
Secretary of the Treasury.

Samuel Swartwout, esq. Collector of New York.

P. S. You are requested to give immediate publicity to the above communication.

Mr. Webster's Speech.

Extract from the Speech of Mr. Webster, delivered in the city of New York on the 15th of April.

Gentlemen, I pass to other subjects. The rapid advancement of the Executive authority is a topic which has already been alluded to.

I believe there is serious cause of danger from this source. I believe the power of the Executive has increased, is increasing, and ought now to be brought back within its ancient constitutional limits. I have nothing to do with the motives which have led to those acts, which I believe to have transcended the boundaries of the Constitution. Good motives may always be assumed, as bad motives may always be imputed. Good intentions will always be pleaded for every assumption of power; but they cannot justify it, even if they were sure that they existed. It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions, real or pretended. When bad intentions are boldly avowed, the people will promptly take care of themselves.

On the other hand, they will always be asked why they should resist or question that exercise of power which is so fair in its object, so plausible and patriotic in appearance, and which has the public good alone confessedly in view? Human beings, we may be assured, will generally exercise power when they can get it; and they will exercise it most undoubtedly in popular governments, under pretenses of public safety or high public interest. It may be very possible that good intentions do really sometimes exist, when constitutional restraints are disregarded. There are men, in all ages, who mean to exercise power usefully, but who mean to exercise it. They mean to govern well, but they mean to govern. They promise to be kind masters, but they mean to be masters. They think there need be but little restraint upon themselves. Their notion of the public interest is apt to be quite closely connected with their own exercise of authority. They may not, indeed, always understand their own motives. The love of power may sink too deep in their hearts even for their own scrutiny, and may pass with themselves for mere patriotism and benevolence.

A character has been drawn of a very eminent citizen of Massachusetts, of the last age, which, though I think it does not entirely belong to him, yet very well describes a certain class of public men. It was said of this distinguished son of Massachusetts, that, in matters of politics and government, he cherished the most kind and benevolent feelings towards the whole earth. He earnestly desired to see all nations well governed; and, to bring about this happy result, he wished that the United States might govern the rest of the world; that Massachusetts might govern the United States;

and, as for himself, his own humble ambition would be satisfied by governing the little town of Boston.

I do not intend, gentlemen, to commit so unreasonable a trespass on your patience as to discuss all those cases in which I think Executive power has been unreasonably extended. I shall only allude to some of them, and, as being earliest in the order of time, and hardly second to any other in importance, I mention the practice of removal from all offices, high and low, for opinion's sake, and on the avowed ground of giving patronage to the President; that is to say, of giving him the power of influencing men's political opinions and political conduct by hope and by fear, addressed directly to their pecuniary interests. The great battle on this point was fought and was lost in the Senate of the United States in the last session of Congress under Mr. Adams's administration. After General Jackson was known to be elected, and before his term of office began, many important offices became vacant by the usual causes of death and resignation. Mr. Adams, of course, nominated persons to fill these vacant offices. But a majority of the Senate was composed of the friends of General Jackson, and, instead of acting on these nominations, and filling the vacant offices with ordinary promptitude, the nominations were postponed to a day beyond the 4th of March, for the purpose, openly avowed, of giving the patronage of the appointments to the President who was then coming into office. And when the new President entered into his office, he withdrew these nominations, and sent in nominations of his own friends in their places.

I was of the opinion then, and am of the opinion now, that the decision of the Senate went far to unfix the proper balance of the Government. It conferred on the President the power of rewards for party purposes or personal purposes, without limit or control. It sanctioned, manifestly and plainly, that exercise of power which Mr. Madison had said would deserve impeachment; and it completely defeated one great object which we are told the framers of the Constitution contemplated in the manner of forming the Senate; that is, that the Senate might be a body not changing with the election of a President, and, therefore, likely to be able to hold over him some check or restraint in regard to bringing his own friends and partisans into power with him, and thus rewarding their services to him at the public expense.

The debates in the Senate on these questions were long continued and earnest. They were, of course, in secret session, but the opinions of those members who opposed this course have all proved true by the result. The contest was severe and ardent, as much so as any that I have ever partaken in; and I have seen some service in that sort of warfare.

Gentlemen, when I look back to that eventful moment, when I remember who those were who upheld this claim for Executive power with so much zeal and devotion, as well as with such great and splendid abilities, and when I look round now and inquire what has become of these gentlemen, where they have found themselves at last under the power which they thus helped to establish; what has become now of all their respect, trust, confidence, and attachment; how many of them, indeed, have not escaped from being broken and crushed under the weight of the wheels of the engine which they themselves set in motion, I feel that an edifying lesson may be read by those who, in the freshness and fulness of party zeal, are ready to confer the most dangerous powers, in the hope that they and their friends may bask in its sunshine, while enemies only shall be withered by its frown.

I will not go into the mention of names; I will give no enumeration of persons; but I ask you to turn your minds back and recollect who the distinguished men were who supported in the Senate General Jackson's administration for the two first years; and I will ask you what you suppose they think now of that power and that discretion which they so freely confided to Executive hands? What do they think of the whole career of that Administration, the commencement of which, and, indeed, the existence of which, owed so much to their own great exertions?

In addition to the establishment of this power of unlimited and causeless removal, another doctrine has been put forth, more vague, it is true, but altogether unconstitutional, and tending to like dangerous results. In some loose, indefinite, and unknown sense, the President has been called the representative of the whole American People. He has called himself so repeatedly, and been so denominated by his friends a thousand times. Acts, for which no specific authority has been found either in the Constitution or

the laws, have been justified on the ground that the President is the representative of the whole American people. Certainly this is not constitutional language. Certainly the Constitution nowhere calls the President the universal representative of the people. The constitutional representatives of the people are in the House of Representatives exercising powers of legislation. The President is an executive officer, appointed in a particular manner, and clothed with prescribed and limited powers. It may be thought to be of no great consequence that the President should call himself, or that others should call him, the sole representative of the people, although he has no such appellation or character in the Constitution. But in these matters words are things. If he is the people's representative, and as such may exercise power without any other grant, what is the limit to that power? And what may not an unlimited representative of the people do?

When the Constitution expressly creates representatives as members of Congress, it regulates, defines, and limits their authority.

But if the Executive Chief Magistrate, merely because he is the Executive Chief Magistrate, may assume to himself another character, and call himself the representative of the whole people, what is to limit or restrain this representative power in his hands?

I fear, gentlemen, that if these pretensions should be continued and justified, we might have many instances of summary political logic such as I once heard in the House of Representatives. A gentleman, now not living, wished very much to vote for the establishment of a Bank; but he had always stoutly denied the constitutional power of Congress to create such a bank. The country, however, was in a state of great financial distress, from which such an institution, it was hoped, might help to extricate it, and this consideration led the worthy member to review his opinions with care and deliberation. Happily, on such careful and deliberate review, he altered his former judgment. He came, satisfactorily, to the conclusion that Congress might incorporate a bank. The argument which brought his mind to this result was short, and so plain and obvious that he wondered how he could so long have overlooked it. The power, he said, to create a bank was either given to Congress or it was not given. Very well. If it was given, Congress, of course, could exercise it; if it was not given, the people still retained it, and in that case, Congress, as the representative of the people, might, upon an emergency, make free to use it.

Arguments and conclusions in substance like these, gentlemen, will not be wanting, if men of great popularity, commanding characters, sustained by powerful parties, and full of good intentions towards the public, may be permitted to call themselves the universal representatives of the people.

But gentlemen, it is the currency, the currency of the country—it is this great subject, so interesting, so vital, to all classes of the community, which has been destined to feel the most violent assaults of Executive power. The consequences are around us, and upon us. Not unforeseen, not unforetold, have they come, bringing distress for the present, and fear and alarm for the future. If it be denied that the present condition of things has arisen from the President's interference with the revenue, the first answer is, that when he did interfere, just such consequences were predicted. It was then said, and repeated, and pressed upon the public attention, that that interference must necessarily produce derangement, embarrassment, loss of confidence, and commercial distress. I pray you, gentlemen, to recur to the debates of 1832, 1833, and 1834, and then to decide whose opinions have proved to be correct.

When the Treasury Experiment was first announced, who supported, and who opposed it? Who warned the country against it? Who were they who endeavored to stay the violence of party, to arrest the hand of executive authority, and to convince the people that this experiment was delusive; that its object was merely to increase Executive power, and that its effect sooner or later, must be injurious and ruinous.

Gentlemen, it is fair to bring the opinions of political men to the test of experience. It is just to judge of them by their measures, and their opposition to measures; and for myself and those political friends with whom I have acted, on this subject of the currency, I am ready to abide the test.

But before the subject of the currency, and its present most embarrassing state is discussed, I invite your attention, gentlemen, to the history of Executive proceedings, connected with it. I propose to state to you a series of facts; not to ar-