

would terminate on the 3d of March, 1836.

2d. The public interest required that the deposits of public money should not continue to be made in the Bank of the United States, until the close of its existence; but should be transferred to some other place, at some period prior to that time.

3d. The power of removal being reserved exclusively to the Secretary of the Treasury, by the terms of the charter, his action was necessary in order to effect it, and the deposits could not, according to the agreement made by Congress with the stockholders, have been removed by the Legislative branch of the Government, until the charter to the Bank was at an end.

4th. The near approach of the time when the charter would expire, as well as the condition of the mercantile community, produced by the conduct of the Bank, rendered the removal indispensable, at the time it was begun; and it could not have been postponed to a later day, without injury to the country.

Acting on these principles, I should have felt myself bound to follow the course I have pursued in relation to the deposits without any reference to the misconduct of the Bank. But there are other reasons for the removal, growing out of the manner in which the affairs of the Bank have been managed, and its money applied, which would have made it my duty to withdraw the deposits, at any period of the charter.

It will, I presume, be admitted on all hands, that the Bank was incorporated in order to create an useful and convenient public agent, to assist the Government in its fiscal operations. The act of incorporation was not designed merely as an act of favor to the stockholders, nor were exclusive privileges given to them for the purpose of enabling them to attain political power, or to amass wealth at the expense of the people of the United States. The motive for establishing this vast monopoly, was the hope that it would conduce to the public good. It was created to be the agent of the public, to be employed for the benefit of the people, and the peculiar privileges and means of private emolument given to it, by the act of incorporation, were intended as rewards for the services it was expected to perform. It was never supposed, that its own separate interests would be voluntarily brought into collision with those of the public. And still less, was it anticipated, that it would seek by its money to obtain political power, and to control the action of the Government, either by the favors it can shower, or the fear of its resentment. Its duty was simply that of an agent, bound to render certain services to its principal, in consideration of the advantages granted to it. And like every other public agent or officer, its own separate interests were subordinate to its duty to the public. It was bound to consult the general good, rather than its private emolument, if they should happen to come into conflict with one another. If therefore it sought to obtain political power, or to increase its gain, by means which would probably bring distress on the community, it violated its duty and perverted to the public injury, the powers which were given to be used for the public good. And in such an event it was the duty of the public servants, to whom the trust was reserved to dismiss it, so far as might lawfully be done, from the agency it had thus abused.

Regarding the Bank therefore, as the agent of the United States, and bound by the duties, and liable to the obligations, which ordinarily belong to the relation of principal and agent, except where the charter has otherwise directed, I proceed to state the circumstances, which show that it had justly forfeited the confidence of the Government, and that it ought not to have been further trusted as the depository of public money.

The United States, by the charter, reserved the right of appointing five Directors of the Bank. It was intended by this means, not only to provide guardians for the interests of the public, in the general administration of its affairs, but also to have faithful officers, whose situation would enable them to become intimately acquainted with all the transactions of the institution, and whose duty it would be, to apprise the proper authorities, of any misconduct, on the part of the corporation, likely to affect the public interest. The fourth fundamental article of the Constitution of the corporation declares, that not less than seven Directors shall constitute a Board for the transaction of business. At these meetings of the Board, the Directors on the part of the United States had, of course a right to be present, and, consequently, if the business of the corporation had been transacted in the manner which the law requires, there was abundant security that nothing could be done, injuriously affecting the interests of the people, without being immediately communicated to the public servants, who were authorized to apply the remedy. And if the corporation has so arranged its concerns, as to conceal from the public Directors, some of its most important operations, and has hereby destroyed the safe-guards which were designed to secure the interests of the United States, it would seem to be very clear, that it has forfeited its claim to confidence, and is no longer worthy of trust. In the ordinary concerns of life, among individuals, no prudent man would continue to place his funds in the hands of an agent, after he discovered, that he was studiously concealing from him the manner in which they were employed. The public money ought not to be guarded with less vigilance, than that of the individual. And measures of concealment, on the part of this corporation, are not only contrary to the duties of its agency, but are also in direct violation of the law, to which it owes its corporate existence. And the same misconduct, which, in the case of private individuals, would induce a prudent man to dismiss an agent from his employment, would require a similar course towards the fiscal agent of the Government, by the officer to whom the law has entrusted the supervision of its conduct, and given the power of removal.

Tried by these principles, it will be found that the conduct of the Bank made it the duty of the Secretary of the Treasury to withdraw from its care the public funds.

1st. Instead of a board constituted of at least seven Directors, according to the charter, at

which those appointed by the United States have a right to be present, many of the most important money transactions have been, and still are placed under the control of a committee denominated the Exchange Committee, of which no one of the public Directors, has been allowed to be a member since the commencement of the present year. This committee is not even elected by the Board, and the public Directors have no voice in their appointment. They are chosen by the President of the Bank; and the business of the institution which ought to be decided on by the Board of Directors, is in many instances transacted by this committee, and no one has a right to be present at their proceedings but the President and those whom he shall please to name as members of this committee. Thus loans are made, unknown at the time to a majority of the Board, and paper discounted which might probably have been rejected at a regular meeting of the Directors, the most important operations of the Bank are sometimes resolved on, and executed by this committee; and its measures are, it appears, designedly, and by regular system, so arranged as to conceal from the officers of the Government, transactions, in which, the public interests are deeply involved. And this fact alone furnishes evidence too strong to be resisted, that the concealment of certain important operations of the corporation, from the officers of the Government, is one of the objects intended to be accomplished by means of this committee. The plain words of the charter are violated, in order to deprive the people of the United States of one of the principal securities, which the law had provided to guard their interests, and to render more safe, the public money entrusted to the care of the Bank. Would any individual of ordinary discretion, continue his money in the hands of an agent who had violated his instructions for the purpose of hiding from him the manner in which he was conducting the business confided to his charge? Would he continue his property in his hands when he had not only ascertained that concealment had been practiced towards him, but when the agent avowed his determination to continue in the same course, and withhold from him, as far as he could, all knowledge of the manner in which he was employing his funds? If an individual would not be expected to continue his confidence, under such circumstances, upon what principle could a different line of conduct be required from the officers of the United States charged with the care of the public interests? The public money is surely entitled to the same care and protection, as that of an individual, and if the latter would be bound, in justice to himself, to withdraw his money from the hands of an agent, thus regardless of his duty, the same principle requires that the money of the United States should, under like the circumstances, be withdrawn from the hands of their fiscal agent. And as the power of withdrawal was confided to the care of the Secretary of the Treasury, it was his duty to remove it on this ground alone, if no other cause of complaint had existed against the Bank. The conduct of the Bank, in relation to the three per cent. stock of the United States, is a memorable instance of the power exercised in secret by the Exchange Committee, and the abuses to which it is incident. The circumstances attending that transaction have been so fully laid before Congress and the public, that it is useless to repeat them here. It was a case in which this committee not only managed in secret a monied transaction of vast amount, intimately connected with the interests of the people of this country, but one where the measures of the Government were thwarted by the Bank, and the nation compelled to continue for a time, liable for a debt, which it was ready and desirous to extinguish. Nor is this the only measure of the kind which has come officially to my knowledge. I have the honor to present herewith a report made by three of the public Directors to the President of the United States on the 22d April, 1833, (marked A) in which, in compliance with his request that they would communicate to him such information as was within their personal knowledge relative to these unusual proceedings of the Board of Directors, they disclose the exceptional manner in which the power conferred by law on the Board has been surrendered to the Exchange Committee; that this has been done evidently with the design of preventing a proper and contemplated examination into the accounts of persons whose paper was offered for discount; that a minority of the Board apparently sufficient to have prevented the loan, if the security was bad, were deprived of their votes upon the question; and that the long established bye-laws of the institution were set aside for the purpose of carrying these designs into effect with less difficulty or embarrassment.

If proceedings like this are sanctioned by the constituted authorities of the United States, the appointment of Directors on their part is an idle ceremony, and affords no safeguard to the public treasure, in the custody of the Board. And even legislative enactments, in relation to this corporation, are of but little value, if it may, at its pleasure, disregard one of the fundamental articles of its constitution, and transfer to a secret committee, the business which by law, ought to be transacted by the Board. It is scarcely necessary in presenting this document to the consideration of Congress, to notice an objection which has been sometimes put forward against the publication of any proceedings which relate to the accounts of private individuals. The circumstances detailed, are the regular and official transactions of the Board of Directors, nor do they involve the private debtor and creditor account of persons dealing with the Bank, which is alone included in the distinction taken by the charter in regard to private accounts. If the argument thus brought forward were a sound one, there could be no such thing as an examination of any value into the conduct of the Bank.

Because the business of the Bank being with individuals, its misconduct could never have been shown without bringing before the public the individual transaction in which the conduct of the Bank was impeached. And if it could make good the position that such proceedings are never to be exposed to the public, because individuals are concerned in them, it would effectually shut out all useful examination, and

be enabled to apply its money to the most improper purposes, without detection or exposure. If its conduct is impeached, on the ground that it has used its great money power to obtain political influence, the investigation of the charge is in its very nature, an enquiry into its transactions with individuals. And although the accounts brought forward on such occasions, may be the accounts of individuals, yet they are also the accounts of the Bank, and show its conduct. And being the fiscal agent of the Government, with such immense power to be exercised, for good or for evil, the public safety requires, that all of its proceedings should be open to the strictest and most rigorous scrutiny. Its charter may be forfeited by its misconduct, and would be justly forfeited, if it sought to obtain political influence in the affairs of the nation. And yet such attempts on the part of the Bank, can never be proved except by the examination and disclosure of its dealings with individuals.

2d. It is not merely by its concealments that the Bank has proved itself regardless of the duties of its agency. Its own interests will be found to be its ruling principle—and the just claim of the public to be treated with but little regard when they have come into collision with the interests of the corporation. This was but too plainly the case in the affair of the three per cents above mentioned. A recent instance proves its rule of action is not changed in that respect. And the failure of the French Government to pay the bill drawn for the first instalment due by the treaty, has been made the occasion of endeavoring to obtain from the public, the sum of \$158,847.77, to which no principle of justice appears to entitle it. The money for which the bill was sold remained in the Bank. The expenses it incurred were of small amount, and these the Government are willing to pay. But the corporation not content with the profits it was deriving from the millions of public money then in its vaults, and which it was daily using in its discounts, endeavors to convert the public disappointment into a gainful transaction for itself, and demands the large sum above mentioned, without pretending that it sustained any loss or inconvenience, commensurate with the amount it seeks to obtain from the Government. The fiscal agent of the public, attempts to avail itself of the unexpected disappointment of the principal, for the purpose of enhancing its own profits at the expense of the community.

3. There is sufficient evidence to prove that the Bank has used its means with a view to obtain political power, and thereby secure the renewal of its charter. The documents which have heretofore been laid before Congress, and now on its files, will show, that on the 31st December, 1830, the aggregate debt to the Bank, was \$4,402,304.4, and that on the 31st December, 1821, it was \$63,026,452.93, being an extension of its loans in a single year of twenty millions of dollars, and an increase of nearly fifty per cent. on its previous accommodations.

As if to leave us no room to doubt as to the motive of this extraordinary conduct, it continued to add rapidly to its loans and on the 1st of May, 1832, while its petition for the renewal of its charter was yet pending before Congress, they amounted to \$70,488,070.72, being an increase of \$7,400,617.79, in the four preceding months, and making altogether an addition of \$28,057,764.48, in the short space of sixteen months, and being an extension of more than 66 per cent. on its previous loans. Such an increase at such a period of its charter, is without example in the history of Banking institutions. On the 31st of December, 1830, when its loans amounted as above stated to only \$42,402,304.24, the corporation had been in existence fourteen years. The sudden and great increase was made when the charter was drawing to a close, and when it had but little more than four years to run. It cannot be supposed that these immense loans were made, from a confident expectation that the charter would be renewed. On the contrary it is now an historical fact that the Bank itself deemed the chances of renewal so doubtful, that in the session of Congress beginning in December, 1831, it petitioned for a recharter, and the reason generally assigned for pressing for a decision, at that time, was the great extent of its business; and the necessity of preparing to bring it to a close if the charter was not to be renewed. Thus, with but little more than four years to run, with doubtful chances of renewal, and aware of the necessity of beginning to arrange its vast transactions, it increases its loans in sixteen months, more than twenty-eight millions of dollars. Was this imprudence only? It cannot be believed that those who managed its concerns, could have committed such an oversight. Can any proper reason be assigned for this departure from the course which the interests of a monied corporation, as well as that of the country, obviously required. I am not aware that any sufficient justification has been offered. And this extraordinary increase of its loans, made in so short a space of time, at such a period of its charter, and upon the eve of a severely contested election of President, in which the Bank took an open and direct interest, demonstrates that it was using its money for the purpose of obtaining a hold upon the people of this country, in order to operate upon their fears, and to induce them, by the apprehension of ruin, to vote against the candidate whom it desired to defeat. In other words, this great monied corporation determined to enter the political arena, and to influence the measures of the Government by causing its weight to be felt in the election of its officers.

But if the circumstances above stated were not of themselves, sufficient to prove that the Bank had sought, by its money, to obtain political power, and to exercise by that means a controlling influence on the measures of the Government, recent developments have furnished such proof as to leave no room for doubt. I have the honor to transmit herewith an official statement (marked B) signed by four of the public directors in the Bank, showing at the same time the unlawful manner in which its business is conducted and the unwarrantable purposes to which its money has been and still is applied. It will be seen by the proceeding therein stated, that the whole capital of the Bank

is in effect placed at the disposition of the President of that Institution. He is authorized to expend what he pleases in causing "to be prepared and circulated such documents and papers as may communicate to the people information in regard to the nature and operations of the Bank." And he may therefore, under the very indefinite terms of the resolutions, employ as many persons as he pleases, at such salaries as he thinks proper, either to prepare daily paragraphs for newspapers in favour of the Bank, or to write pamphlets and essays to influence the public judgment. And he may even provide for the publications, by salaries to printers, or by purchasing presses and types, and placing them in the hands of agents employed and paid by the Bank. There is no limitation, short of the capital of the Bank, as to the sum of money he may thus expend in different parts of the United States. From the description of articles which appear to have been paid for under this resolution, it seems that the President of the institution has supposed that publications containing attacks upon officers of the government who are supposed to stand in the way of the renewal of the charter, is one of the modes of "communicating to the people information in regard to the nature and operations of the Bank." This construction was, it appears, approved by the Board, as they continued the authority in his hands, unchanged, after the manner in which a portion of the money had been applied was laid before them. And we are left to conclude, that this institution is now openly in the field as a political partisan, and that one of its means of warfare, is the destruction of the political standing of those who are opposed to the renewal of the charter. The sum actually charged to the expenses, under this resolution, is sufficiently striking. How much more may have been already squandered, we are yet to learn and the work of "preparing and circulating" such publications, is still, it is presumed, going on under the last resolution of the Board. It is moreover impossible to ascertain the specific purposes to which the money may in fact have been applied, since vouchers are not required to show the particular service for which it was given. With these positive proofs of the efforts of the Bank to obtain power, and to influence the measures of the Government, I have not hesitated as to the path of duty. If, when this evidence was before me, I had failed to withdraw the deposits of public money from the Bank, it would have been lending the countenance and support of this Department to measures which are but too well calculated to destroy the purity of our institutions, and endanger thereby the liberties of the people. It cannot be supposed that these expenditures are justifiable on the ground that the Bank has a right to defend itself, and the money in question was therefore properly expended. Some of the items accounted for, sufficiently show in what manner it was endeavoring to defend its interests. It had entered the field of political warfare as a political partisan, was endeavoring to defeat the election of those who were opposed to its views. It was striving by means of its money to control the course of the government by depriving from power those who were obnoxious to its resentment. Can it be permitted to a great monied corporation to enter on such a controversy, and then justify its conduct on the ground that it is defending its own interests? The right of such an institution to interfere in the political concerns of the country for any cause whatever, can never be recognized; and a defence like this, on the part of the Bank, could not be tolerated even if the individual stockholders alone were thus using their own money to promote their own interests. But it is not only the money of individuals, which is thus applied. The one-fifth of the capital of the Bank, amounting to seven millions of dollars, belongs to the United States, and the one-fifth of the money which has been expended, and is yet to be expended, under this resolution, is the property of the public and does not belong to private individuals. Yet the Board of Directors assert the right, not only to authorize the expenditure of the money of individual stockholders, in order to promote their individual interests; but have also, by the resolution in question, taken upon themselves to give the like authority over money which belongs to the United States.

Is an institution which deals thus with the money of the people, a proper depository for the public funds? When such a right is openly claimed, and acted on by the Board of Directors, can the money of the U. States be deemed safe in its hands? The same principle that would sanction the application of one portion of the public money to such purposes, would justify the like use of all that may come to its possession. The Board of Directors have no lawful authority to employ the money of the United States for such objects. So far as the nation is concerned in the charter of the Bank, the people through their own representatives in Congress, can take care of their own rights, and vindicate the character of the Bank, if they think it is unjustly assailed. And they do not need the aid of persons employed and paid by the Bank, to learn whether its charter be constitutional or not, nor whether the public good requires it to be renewed. Nor have they authorized the President and Directors of that Institution, to expend the public money to enlighten them on this subject.

The resolution in question is, moreover, in direct violation of the act of Congress by which this corporation was established. And it is difficult to imagine how the unlimited and irresponsible power over the money of the Bank, which the Directors have given to the President, can be reconciled to the clause in the charter which requires seven Directors to form a Board for the transaction of business. If the expenditure of money, for the purposes contemplated by the resolution, be a legitimate part of the business of the corporation, the Board could not lawfully transfer it to one of its officers, unless they can by resolution, surrender to the hands of their President the entire power of the corporation, and commit to the care of a single individual, the corporate powers which the law has declared should be exercised by the Board of Directors.

Chief Justice Marshall, in the case of the Bank of the United States vs. Dandridge when speaking of the bonds required to be given by the Cashiers of the Bank, says, "It requires very little knowledge of the interior of banks to know, that the interests of the stockholders are committed, to a very great extent, to these and other officers. It was, and ought to have been, the intention of Congress, to secure the Government which took a deep interest in this institution, and to secure individuals, who embarked their fortunes in it, on the faith of the Government, as far as possible, from the mal-practices of its officers." But the Directors of the Bank seem to have acted on principles directly opposite to those stated by the Chief Justice. And instead of endeavoring to secure, "as far as possible," the public and individuals from the mal-practices of its officers, they place the funds of the Bank under the control of a single officer, from whom neither security, nor specific vouchers have been required. It is true, that in the opinion which the Chief Justice gave in the case from which the

above passage is quoted, he differed from the rest of the Court. But the difference was on the other principles, and not on the one stated. In forming my judgment on this part of the case I have not regarded the short time the charter has yet to run. But by considerations which arise altogether out of the course pursued by the Bank, and which would have equally influenced the decision of this Department, in relation to the deposits, if the Bank were now in the first years of its existence. And upon this view of the subject, the following propositions appear to be fully maintained.

1st. That the Bank, being the fiscal agent of the Government, in the duties which the law requires it to perform, is liable to all the responsibilities which attach to the character of the agent, in ordinary cases of principal and agent among individuals; and it is therefore the duty of the officer of the Government to whom the power has been entrusted, to withdraw from its possession the public funds, whenever its conduct towards its principal has been such as would induce a prudent man in private life, to dismiss his agent from his employment.

2d. That by means of its Exchange Committee, it has so organized its business, as to deprive the public servants of those opportunities of observing its conduct, which the law had provided for the safety of the public money, confided to its care; and that there is sufficient evidence to show that this arrangement on the part of the Bank was deliberately planned, and is still persisted in, for the purpose of concealment.

3d. That it has also, in the case of the three per cent. stock, and of the Bill of Exchange on France, endeavored unjustly to advance its own interests, at the expense of the interests and the just rights of the people of the United States.

If these propositions be established, it is very clear that a man of ordinary prudence, in private life, would withdraw his funds from an agent who has thus behaved himself, in relation to his principal; and it follows, that it was the duty of the Secretary of the Treasury, to withdraw the funds of the United States from the Bank.

4th. That there is sufficient evidence to show that the Bank has been, and still is, seeking to obtain political power, and has used its money for the purpose of influencing the election of the public servants and it was incumbent upon the Secretary of the Treasury, on that account, to withdraw from its possession the money of the United States which it was thus using for improper purposes. Upon the whole, I have found myself bound by the strongest obligations, to remove the deposits. The obligation was imposed upon me by the near approach of the time when this corporation will cease to exist, as well as by the course of conduct which it has seen fit to pursue.

The propriety of removing the deposits being thus evident, and it being consequently my duty to select the places to which they were to be removed, it became necessary that arrangements should be immediately made with the new depositories of the public money, which would not only render it safe, but would at the same time secure to the Government and to the community at large, the conveniences and facilities that were intended to be obtained by incorporating the Bank of the United States. Measures were accordingly taken for that purpose, and copies of the contracts which have been made with the selected Banks, and of the letters of instructions to them from this Department, are herewith submitted. The contracts with the Banks in the interior, are not precisely the same with those in the Atlantic cities. The difference between them arises from the nature of the business transacted by the Banks in these different places. The State Banks selected are all institutions of high character and undoubted strength, and are under the management and control of persons of unquestioned prudence, intelligence, and integrity, to ensure the safety of the public money, each of whom is required, and has agreed to give security, that the amount of the deposits shall exceed the half of the amount of the capital actually paid in; and this Department has reserved to itself the right to demand security whenever it may think it advisable, although the amount on deposit may not be equal to the sum above stated. The Banks selected have also severally engaged to transmit money to any point at which it may be required by the directions of this Department, for the public service, and to perform all the services to the government which were heretofore rendered by the Bank of the United States. And by agreements among themselves, to honor each other's notes and drafts, they are providing a general currency at least as sound as that of the Bank of the U. S. and will afford facilities to commerce, and in the business of domestic exchange, quite equal to any which the community heretofore enjoyed.

There has not been yet sufficient time to perfect these arrangements; yet enough has already been done, to show that even on the score of expediency, the Bank of the United States is not necessary, either for the fiscal operations of the Government, or for the convenience of the people; and that every object which the charter to the present Bank was designed to attain, may be as effectually accomplished by the State Banks. And, if this can be done, nothing that is useful will be lost, or endangered by the change, while much that is desirable will be gained by it. For none of these corporations will possess that absolute and almost unlimited dominion over the property of the citizens of the United States, which the present Bank holds, and which enables it at any moment, at its own pleasure, to bring distress upon any part of the community, when ever it may deem it useful to its interest to make its power felt. The influence of each of the State Banks is necessarily limited to its own immediate neighborhood, and they will be kept in check by the other local Banks. They will not therefore be tempted by the consciousness of power to aspire to political influence, nor likely to interfere in the elections of the public servants.

They will moreover be managed by persons who reside in the midst of the people, who are to be immediately affected by their measures, and they cannot be insensible or indifferent to the opinions and peculiar interests of those by whom they are daily surrounded, and with whom they are constantly associating. These circumstances always furnish strong safeguards against an oppressive exercise of power, and forcibly recommend the employment of the State Banks in preference to a Bank of the United States with its numerous and distant Branches. A corporation of the latter description, is continually acting under the conviction of its immense power over the money concerns of the whole country, and is dealing also with the fortunes and comforts of men who are distant from them, and to whom they are personally strangers. The Directors of the Bank are not compelled to hear daily the complaints and witness the sufferings of those who may be injured by their proceedings.

From the nature of man such an institution cannot always be expected to sympathize with the wants and feelings of those who are affected by its policy. A man ought not perhaps to be surprised, if a corporation like the Bank of the United States, when the feeling of rivalry, or from cold calculations of interest or ambition, should deliberately plan and execute a course of measures highly injurious and oppressive, in places where the Directors who control its conduct have no local sympathies to restrain them. It is a fixed principle of our political institutions, to guard against the unnecessary accumulation of power over persons and property in any hands. And the hands are less worthy to be trusted with it, than those of a monied corporation. In the selection therefore of the State Banks as the fiscal agents of the Government, no disadvantages appear to have been incurred on the score of safety or convenience, or the general interests of the country, while much that is valuable will be gained by the change. I am however well aware of the vast power of the Bank of the