CAROLINA WATCHMAN.

BY HAMILTON C. JONES. SALISBURY, N. C. SATURDAY, JANUARY 21, 1837. VOL. V—NO. 27.—WHOLE NO. 235.

SPEECH OF MR WEBSTER,

(of Massachusetts.)

On the Specie Circular.

WEDNESDAY, Dec 21, 1836.

The Senate having again proceeded to the order of the day, which was the consideration of the following resolutions, heretofore moved by Mr. EWING of Ohio:

Resolved by the Senate and House of Representatives, &c. That the Treasury order of the eleventh day of July, Anno Domini one thousand eight hundred and thirty-six, designating the funds which should be receivable in payment for public lands, be, and the same is hereby, rescinded.

Resolved, also, That it shall not be lawful for the Secretary of the Treasury to delegate to any person, or to any corporation, the power of directing what funds shall be receivable for customs, or for the public lands; nor shall he make any discrimination in the funds so receivable, between different individuals, or between the different branches of the public Revenue.

Mr. WEBSTER addressed the Senate as follows:

Mr. PRESIDENT: The power of disposing of this important subject is in the hands of gentlemen, both here and elsewhere, who are not likely to be influenced by any opinions of mine. I have no motive, therefore, for addressing the Senate, but to discharge a public duty, & to fulfil the expectations of those who look to me for opposition, whether availing or unavailing, to whatever I believe to be illegal or injurious to the public interests. In both these respects, the Treasury order of the 11th of July appears to me objectionable. I think it not warranted by law, and I think it also practically prejudicial. I think it has contributed not a little to the pecuniary difficulties under which the whole country has been, and still is laboring; and that its direct effect on one particular part of the country is still more decidedly and severely unfavorable.

The Treasury order, or Treasury circular of the 11th of July last, is addressed by the Secretary to the receivers of public money, and to the deposite banks. It instructs these receivers and these banks, *after the 15th day of August then next, to receive in payment of the public lands nothing except what is directed by existing laws, viz: gold and silver, and, in the proper cases Virginia land script; provided, that till the 15th of December then next, the same indulgence heretofore extended as to the kind of money received, may be continued, for any quantity of land not exceeding 320 acres to each purchaser who is an actual settler or bona fide resident in the State where the sales are made.*

The exception in favor of Virginia scrip is founded on a particular act of Congress, and makes no part of the general question. It is not necessary, therefore, to refer further to that exception. The substance of the general instruction is, that *nothing but gold and silver shall be received in payment for public lands;* provided, however, that actual settlers and *bona fide* residents in the States where the sales are made may purchase in quantities not exceeding 320 acres each, and be allowed to pay as heretofore. But this provision was limited to the 15th day of December, which has now passed; so that, by virtue of this order, gold & silver are now required of *all* purchasers and for all quantities.

I am very glad that a resolution to rescind this order has been thus early introduced; and I am glad, too, since the resolution is to be opposed, that opposition comes early, in a bold, unequivocal, and decided form. The order, it seems, is to be defended as being both legal and useful. Let its defence then be made.

The honorable member from Missouri (Mr Benton) objects even to giving the resolution to rescind a second reading. He avows himself of his right, though it be not according to general practice, to arrest the progress of the measure at its first stage. This, at least, is open, bold, and manly warfare.

The honorable member, in his elaborate speech, founds his opposition to this resolution, and his support of the Treasury order, on those general principles respecting currency, which he is known to entertain, and which he has maintained for many years. His opinions some of us regard as altogether ultra and impracticable; looking to a state of things not desirable in itself, even if it were practicable; and, if it were desirable, as being far beyond the power of this Government to bring about.

The honorable member has manifested much perseverance, and abundant labor, most undoubtedly, in support of his opinions; he is understood, also, to have had countenance from high places; and what new hopes of success the present moment holds out to him, I am not able to judge, but we shall probably soon see. It is precisely on these general and long known opinions that he rests his support of the Treasury order. A question, therefore, is once raised between the gentleman's principles and opinions, on the subject of the currency, and the principles and opinions which have generally prevailed in the country, and which are, and have been, entirely opposite to his. That question is now about to be put to the vote of the Senate. In the progress, and by the termination of this discussion, we shall learn whether the gentleman's sentiments are, or are not, to prevail, so far at least, as the Senate is concerned. The country will rejoice, I am sure, to see some declaration of the opinions of Congress on a subject about which so much has been said, and which is so well calculated, by its perpetual agitation, to disquiet and disturb the confidence of society.

We are now fast approaching the day when one administration goes out of office, and another is to come in. The country has an interest in learning as soon as possible whether the new Administration, while it receives the power and patronage, is to inherit, also, the topics, and the projects, of the past; whether it is to keep up the avowal of the same objects and the same schemes, especially in regard to the currency. The order of the Secretary is prospective, and, on the face of it, perpetual. Nothing in or about it gives the least appearance of a temporary measure. On the contrary, its terms imply no limitation in point of duration, and the gradual manner in which it is to come into operation shows plainly an intention of making it the settled and permanent policy of Government. Indeed, it is but now beginning its complete existence. It is only five or six days since its full operation has commenced. Is it to stand, as the law of the land and the rule of the Treasury, under the Administration which is to ensue? And are those notions of an exclusive specie currency, and opposition to all banks, on which it is defended, to be espoused and maintained by the new administration, as they have been by its predecessor? These are questions, not of mere curiosity, but of the highest interest to the whole country.

In considering this order, the first thing naturally is to look for the causes which led to it, or are assigned for its promulgation. And these, on the face of the order itself, are declared to be 'complaints which have been made of frauds, speculations, and monopolies in the purchase of the public Lands, and the aid which is said to be given to effect these objects by excessive bank credits, and dangerous, if not partial, facilities through bank drafts and bank deposites, and the general evil influence likely to result to the public interest, and especially the safety of the great amount of money in the Treasury, and the sound condition of the currency of the country, from the further exchange of the national domain in this manner, and chiefly for bank credits and paper money.

This is the catalogue of evils to be cured by this order. In what these frauds consist, what are the monopolies complained of, or what is precisely intended by these injurious speculations, we are not informed. All is left on the general surmise of fraud, speculation and monopoly. It is not avowed, or intimated, that the Government has sustained any loss, either by the receipt of bank notes, which proved not to be equivalent to specie, or in any other way. And it is not a little remarkable, that these evils of fraud, speculation, and monopoly should have become so enormous, and so notorious, on the 11th of July, as to require this Executive interference for their suppression, and yet that they should not have reached such a height as to make it proper to lay the subject before Congress, although Congress remained in session until within seven days of the date of the order. And what makes this circumstance still more remarkable, is the fact that in his annual message at the commencement of the same session, the President had spoken of the rapid sales of the public lands as one of the most gratifying proofs, of the general prosperity of the country, without suggesting that any danger whatever was to be apprehended from fraud, speculation, or monopoly. His words were: 'Among the evidences of the increasing prosperity of the country, not the least gratifying is that afforded by the receipts from the sales of the public lands, which amount, in the present year, to the unexpected sum of 11,000,000.' From the time of the delivery of that message down to the date of the Treasury order, there had not been the least change, so far as I know; or so far as we are informed, in the manner of receiving payment for the public lands. Every thing stood on the 11th July, 1836, as it had stood at the opening of the session, in December, 1835. How so different a view of things happened to be taken at the two periods, we may be able to learn, perhaps, in the further progress of this debate.

The order speaks of the 'evil influence,' likely to result from the further exchange of the public lands into 'paper money.' Now, this is the very language of the gentleman from Missouri. He habitually speaks of the notes of all banks, however solvent, and however promptly their notes may be redeemed in gold and silver, as 'paper money.' The Secretary has adopted the honorable member's phrases, and he speaks, too, of all the bank notes received at the land offices, although every one of them is redeemable in specie, on demand, but as so much 'paper money.'

In this respect, also, sir, I hope we may know more as we grow older, and be able to learn whether, in times to come, as in times recently passed, the justly obnoxious and odious character of 'paper money' is to be applied to all the issues of all the banks in all the States, with whatever punctuality they redeem their bills. This is quite new, as financial language. By paper money, in its obnoxious sense, I understand paper, issued, on credit alone, without capital, without funds assigned for its payment, resting only on the good faith and the future ability of those who issue it. Such was the paper money of our revolutionary times; and such, perhaps may have been the true character of the paper of particular institutions since. But the notes of banks of competent capitals, limited in amount to a due proportion to such capitals, made payable on demand in gold and silver, and always so paid on demand, are paper money in no sense but one; that is to say, they are made of paper, and they circulate as money. And it may be proper enough for those who maintain that nothing should so circulate but gold and silver, to denominate such bank notes 'paper money,' since they regard them but as paper intruders into channels which should flow only with gold and silver. If this language of the order is authentic, and is to be so hereafter, and all bank notes are to be regarded and stigmatized as mere 'paper money,' the sooner the country knows it the better.

The member from Missouri, charges those who wish to rescind the Treasury order with two objects—first to degrade and disgrace the President, and, next, to overthrow the constitutional currency of the country.

For my own part, sir, I denounce nobody; I seek to degrade or disgrace nobody. Holding the order illegal and unwise, I shall certainly vote to rescind it; and, in the discharge of this duty, I hope I am not expected to shrink back, lest I should do something which might call in question the wisdom of the Secretary, or even the President. And I hope that so much of independence as may be manifested by free discussion & an honest vote is not to cause denunciation from any quarter. If it should let it come.

As to an attempt to overthrow the constitutional currency of the country, if I were now to enter into such a design, I should be beginning rather at a late day, to wage war against the efforts of my whole political life. From my very first concern with public affairs, I have looked at the public currency as a matter of the highest interest, and hope I have given sufficient proofs of a disposition at all times to maintain it sound and secure, against all attacks and all dangers. When I first entered the other House of Congress the currency was exceedingly deranged. Most of the banks had stopped payment, and the circulating medium had then become, indeed, paper money. So soon as a state of peace enabled us, I took part in an effort, with others, to restore the same currency to a better state; and success followed that effort.

But what is meant by the "constitutional currency," about which so much is said? What species, or forms of currency does the Constitution allow, and what does it forbid? It is plain enough that this depends on what we understand by *currency*. Currency, in a large, and perhaps in a just sense, includes not only gold and silver and bank notes, but bills of exchange also. It may include all that a basis exchanges and settles balances, in the operations of trade and business. But if we understand by currency the *legal money* of the country, that which constitutes a lawful tender for debts, and is the statute measure of value, then, undoubtedly, no thing is included but gold and silver. Most unquestionably there is no legal tender, and there can be no legal tender, in this country, under the authority of this Government or any other, but gold and silver, either coinage of our own mints or foreign coins, at rates regulated by Congress. This is a constitutional principle, perfectly plain and of the very highest importance. The States are expressly prohibited from making any thing but gold and silver a tender in payment of debts, and, although no such express prohibition is applied to Congress, yet, as Congress has no power granted to it, in this respect, but to coin money, and to regulate the value of foreign coins, it clearly has no power to substitute paper, or any thing else, for coin, as a tender in payment of debts, and in discharge of contracts. Congress has exercised this power, fully, in both its branches. It has coined money, and still coins it; it has regulated the value of foreign coins, and still regulates their value. The legal tender, therefore, the constitutional standard of value, is established, and cannot be overthrown. To overthrow it, would strike at the whole system.

But if the Constitution knows only gold and silver as a legal tender, does it follow that the Constitution cannot tolerate the voluntary circulation of bank notes, convertible into gold & silver at the will of the holder, as parts of the actual money of the country? Is a man not only to be entitled to demand gold and silver for every debt, but is he, or should he be, obliged to demand it in all cases? Is it, or should Government make it, unlawful to receive pay in any thing else? Such a notion is too absurd to be seriously treated. *The constitutional tender* is the thing to be preserved, and it ought to be preserved sacredly, on all circumstances. The rest is matter for judicious legislation by those who have competent authority.

I have already said that Congress has never supposed itself authorized to make any thing but coin a tender, in the payment of debts, between individuals; but it by no means follows from this that it may not authorize the receipt of any thing else in payment of debts due to the United States.

These powers are distinct, and flow from different sources. The power of coinage is a general power; a portion of sovereignty, taken from the States and conferred on Congress, for the sake both of uniformity and of greater security. It is to be exercised for the benefit of all the People, by establishing a legal tender and standard of value in all transactions.

But when Congress lays duties and taxes, or disposes of the public lands, it may direct payment to be made in whatever *medium* it pleases. The authority to lay taxes includes the power of deciding how they shall be paid; and the power granted by the Constitution to dispose of the territory belonging to the United States carries with it, of course, the power of fixing not only the price, and the conditions, and time of payment, but also the *medium* of payment. Both in respect to duties and taxes and payments for lands, it has been accordingly, the constant practice of Congress, in its discretion, to provide for the receipt of sundry things, besides gold and silver. As early as seventeen hundred and ninety-seven, the public stocks of the Government were made receivable for lands sold; the six per cents at par, and other descriptions of stock in proportion. This policy had, probably, a double purpose in view—the one to sustain the price of the public stocks, and the other to hasten the sale and settlement of the lands. Other statutes have given the like receivable character to Mississippi stock, and to Virginia land scrip. So Treasury notes were made receivable for duties and taxes; and, indeed, if any such should now be found outstanding, I believe they constitute a lawful mode of payment, at the present moment, whether for duties and taxes, or for lands.

But, in regard both to taxes and payments for lands, Congress has not left the subject without complete legal regulation. It has exercised its full power. The statutes have declared what should be received, from debtors and from purchasers, and have left no ground whatever for the interference of Executive discretion, or Executive control. So far as I know, there has been no period when this subject was not subject to express legal provision. When the duty act and the tonnage act were passed, at the first session of the first Congress, an act was passed at the same session, containing a section which prescribed the coins, and fixed their values, in which those duties were to be paid. From that time to this, the *medium* for the payment of public debts and dues has been a matter of fixed legal right, and not a matter of Executive discretion at all. The Secretary of the Treasury has had no more power over these laws than over other laws. He can no more change the legal mode of paying the duty than he can change the amount of the duty to be paid; or alter the legal means of paying for lands, with any more propriety than he can alter the price of the lands themselves. It would be strange indeed, if this were not so. It would be ridiculous to say that we lived under a Government of laws, if an Executive officer may say in what currency, or medium, a man shall pay his taxes and debts to Government, and may make one rule for one man and another rule for another. We might as well admit that the Secretary had authority to remit or give in the debt of one, while he enforced payment on the other.

I desire, sir, even at the expense of some repetition, to fix the attention of the Senate to this proposition, that Congress, having by the Constitution authority to dispose of the public territory, has passed laws for the complete exercise of that power; laws which not only have fixed the price of the public lands, the manner of sales, and the time of payment, but which have fixed also, with equal precision, the *medium*, or kinds of money, or of other things which shall be received in payment. It has neglected no part of this important trust; it has delegated no part of it; it has left no ground, not an inch, for Executive interposition.

The only question, therefore, is, what *is* the law, or what *was* the law, when the Secretary issued his order?

The Secretary considers that that which has been uniformly done for 20 years, that is to say, the receiving payment for the public lands in the bills of specie paying banks, is against law. He calls it an "indulgence," and this "indulgence" the order proposes to continue for a limited time, and in favor of a particular class of purchasers. If this were an indulgence and against law, one might well ask, how has it happened that it should have continued so long, especially through recent years, marked by such a spirit of thorough and searching reform? It might be asked too, if this be illegal, and in indulgence only, why continue it longer, and especially why continue it as to some, and refuse to continue it as to others?

But, sir, it is time to turn to the statute, and to see what the legal provision is. On the 33d of April, 1816, a resolution passed both Houses of Congress. It was in the common form of a joint resolution, and was approved by the President; and no one doubts, I suppose, that, for the purposes intended by it, it was as authentic and valid as a law in any other form. It provides, that "from and after the 20th day of February next [1817] no duties, taxes, debts, or sums of money, accruing or becoming payable to the United States, ought to be collected or received otherwise than in the legal currency of the U. States, in Treasury notes, or in notes of the Bank of the United States, or in notes of banks which are payable in specie on demand in the said legal currency of the U. States."

This joint resolution authoritatively fixed the rights of parties paying, and the duties of officers receiving. So far as respects the notes of the Bank of the United States, it was altered by a law of the last session; but in all other particulars, it is, I suppose in full force at the present moment; and as it expressly authorizes the receipt of such bank notes as are payable and paid on demand, I cannot understand how the receipt of such notes is a matter of "indulgence." We may as well say that to be allowed to pay in Treasury notes, or in foreign coins, or indeed, in our own gold and silver, is an indulgence, since the act places all on the same ground.

The honorable member from Missouri has, indeed, himself furnished a complete answer to the Secretary's idea; that is to say, he defends the order on the grounds not only differing from, but totally inconsistent with, those assumed by the Secretary. He does not consider the receipt of bank notes, hitherto, or up to the time of issuing the order, as an indulgence, but as a lawful right while it lasted. How he proves this right to be now terminated, and terminated by force of the order, I shall consider presently. I only say, now, that his argument entirely, deprives the Secretary of the only ground assigned by him for the Treasury order.

The Secretary directs the receivers "to receive in payment of the public lands nothing *except what is directed by the existing laws*, viz. gold and silver, and, in the proper cases, Virginia land scrip." Gold and silver, then, and, in the proper cases, Virginia land scrip, are, in the opinion of the Secretary, all that is directed to be received by the existing laws. The receipt of bank notes, he considers, therefore, but an indulgence, a thing against law, to be tolerated a little longer, as to some cases, and then to be finally suppressed.

Apparently not at all satisfied with this view of the Secretary, of the ground upon which his own order must stand, the member from Missouri, not only abandons it altogether, but sets up another, wholly inconsistent with it. He admits the legality of payment in such bank notes, up to the date of the order itself, but insists that the Secretary of the Treasury had a right of selection, and a right of rejection also; and that although the various modes of payment provided by the resolution of 1816 were all good and lawful, till the Secretary should make some of them otherwise, yet that, by virtue of his power of selection or rejection, he might at any time strike one or more of them out of the list. And this power of selection or rejection he thinks he finds in the resolution of 1816 itself.

I decline to think, sir, that the Secretary will be as little satisfied with the footing on which his friend, the honorable member from Missouri, thus places his order, as that friend, is with the Secretary's own ground. For my part, I think them both just half right; that is to say, both, in my humble judgment, are just so far right as they distrust and disclaim the reasoning of each other. Let me state, sir, as I understand it, the honorable member's argument. It is, that the law of 1816 gives the Secretary a selection; that it provides four different modes or *media*, of payments; that the Secretary is to collect the revenue in one, or several, or all these modes, or *media*, at his discretion; that all are in the disjunctive, as I think he expressed it; and that the resolution, or law is not mandatory or conclusive in favor of any one. According to the honorable member, therefore, if the Secretary had chosen to say that our own eagles and our own dollars should no longer be receivable whether for customs, taxes, or public lands, he had a clear right to say so, and to stop their reception.

Before a construction of so extraordinary a character be fixed on the law of 1816, something like the appearance of argument, I think, might be expected in its favor. But what is there upon which to found such an implied power in the Secretary of the Treasury? Is there a syllable in the whole law which countenances any such idea for a single moment? There clearly is not. The law was intended to provide and does provide, in what sorts of money or other means of payment those who owe debts to the Government shall pay those debts.

It enumerates four kinds of money or other means of payment; and can any thing be plainer than that he who has to pay may have his choice out of all four? All being equally lawful, the choice is with the payer, and not with the receiver. This would seem to be too plain either to be argued or denied. Other laws of the United States have made both gold and silver coins a tender in the payment of private debts. Did any man ever imagine that in that case the choice between the coins to be tendered was to lie with the party receiving? No one could ever be guilty of such an absurdity. And unless there be something in the law of 1816 itself, which either expressly, or by reasonable inference, confers a similar power on the Secretary of the Treasury in regard to public payments, is there, in the nature of things, any difference in the cases? Now there is nothing, either in the law of 1816, or any other law, which confers any such power, on the Secretary of the Treasury, either directly or indirectly, or which suggests, or intimates, any ground upon which such power might be implied. Indeed, the statement of the argument seems to me enough to confute it. It makes the law of 1816 not a rule, but the dissolution of all rule; not a law, but the abrogation of all existing laws. According to the argument, the Secretary of the Treasury had authority, not only to refuse the receipt of Treasury notes, which had been issued upon the faith of statutes, expressly making them receivable for debts and duties, and notes of the Bank of the U. States, which were also made receivable by the law creating the Bank, but to refuse also foreign coins, and the coinage of our own Mint; putting thus the legislation of Congress for five-and-twenty years at the unrestrained and absolute discretion of the Secretary of the Treasury. It appears to me quite impossible that any gentleman, on reflection, can undertake to support such a construction.

But the gentleman relies on a supposed practice to maintain his interpretation of the law. What practice? Has any Secretary ever refused to receive the notes of specie-paying banks, either at the custom-house or the land offices, for a single hour? Never. Has any Secretary presumed to strike foreign coin, or Treasury notes, or our own coin out of the list of receivables? Such an idea certainly never entered into the head of any Secretary. The gentleman argues that the Treasury has made discriminations; but what discriminations? I suppose the whole truth to be simply this: that admitting at all times the right of the party paying to pay in notes of specie-paying banks, the collectors and receivers have not been held bound to receive notes of distant banks of which they knew nothing, and could not judge, therefore, whether their notes came within the law. Those collectors and receivers were bound to receive the bills of specie-paying banks; but, as that duty arose from the fact that the notes tendered were the notes of specie-paying banks, that fact, if not notorious or already known to them, must be made known, with reasonable certainty, before the duty to receive them became imperative. I suppose there may have been Treasury orders, regulating the conduct of collectors and receivers in this particular. Any orders which went further than this would go beyond the law.

The honorable member quotes one of the by-laws of the late Bank of the United States; but what has that to do with the subject? Does the honorable member think that the by-laws of the late bank were *laws* to the People of the United States? The Bank was under no obligation to receive any notes on deposite except its own. It might, therefore, make just such an arrangement with the Treasury as it saw fit, if it saw fit to make any. But neither the Treasury, nor the bank, nor both together, could do away with the written letter of an act of Congress; nor did either undertake so to do.

But, sir, what has been the gentleman's own opinions on this subject heretofore? Has he always been of opinion that the Secretary enjoyed this power of selection, as he now calls it, under the law of 1816? Has he heretofore looked upon the various provisions of that law only as so many moveable and shifting parts, to be thrown into gear and out of gear by the mere touch of the Secretary's hand? Certainly, sir, he has not thought so; certainly he has looked upon that law as fixed, definite, and beyond Executive power, as clearly as other laws; as a statute, to be repealed or modified only by another statute. No longer ago than the 23d of last April, the honorable member introduced a resolution into the Senate in the following words.

"*Resolved*, That, from and after the — day of ——, in the year 1836, nothing but gold and silver coin ought to be received in payment for public lands; and that the Committee on Public Lands be instructed to report a bill accordingly."

And now, sir, I ask why the honorable member moved here for a bill and a law, if the whole matter was, in his opinion, within the power of the Secretary of the Treasury?

The Senate did not adopt this resolution. A day or two after its introduction and when some little discussion had been had upon it, a motion to lay it on the table prevailed, nobody opposed, I think, except by the gentleman's own vote. A few weeks after this disposition had been made of this resolution, the session came to a close, and, seven days after the close of the session, the Treasury order made its appearance.

But this is not all. There is higher authority than even that of the honorable member. Looking to the expiration of the charter of the Bank of the U. S., the President, in his annual message to December last, said it was incumbent on Congress to discontinue, by law, the receipt of the bills of that bank in payment of the public revenue. Now, as the charter was to expire on the 3d of March, there was nothing to make its bills receivable after that period except the law of 1816. To strike the provision respecting notes of the bank out of that law, another law was indeed necessary, according to my understanding; but I do not conceive how it should be thought necessary, upon the construction of the honorable member. Both Houses being of opinion, however, that the thing could not be done without law, an act was passed for that purpose, and was approved by the President. Here, then, sir, is the gentleman's own authority, the authority of the President, and the authority of both Houses of Congress, for saying that nothing contained in the law of 1816 can be thrust out of it by any other power than the power of a subsequent statute. I am therefore of opinion that the Treasury order of the 11th July is against the plain words and meaning of the law of 1816; against the whole practice of the Government under that law; against the honorable gentleman's own opinion, as expressed in his resolution of the 23d of April; and not reconcileable with the necessity which was supposed to exist for the passage of the act of last session.

On this occasion I have heard of no attempt to justify the order on the ground of any other law, or act, but the act of 1816. When the order was published, however, it was accompanied with an exposition, apparently half official, which looked to the dates as the Secretary's source of power, and which took no notice at all of the law of 1816. The land law referred to was the act of 1820; but it turns out, upon examination, that there is nothing at all in that law to support the order, or give it any countenance whatever. The only clause in it which could be supposed to have the slightest reference to the subject is the proviso in the forth section. That section provides for the sale of such lands as having been once sold on credit, should revert or become forfeited to the United States through failure of payment, and the proviso declares that no such lands shall be again sold on any other terms than those of "cash payment." These words, 'cash payment,' have been seized upon, as if they had wrought an entire change in the important provisions of the law of 1816 and already established an exclusive specie payment for lands. The idea is too feeble for serious refutation. In the first place, the whole section applies only to forfeited lands; but the truth is, the term 'cash payment,' means only payment down, in contradistinction to credit, which had formerly been allowed; just as the same words in the tariff act of July, 1832, mean payment down, instead of payment secured by notes, which is says that the duties on certain articles shall be paid in 'cash.' As to the second section of the land law of 1820, which was set forth with great formality in the speech to which I have referred, as furnishing authority for the Secretary's order, there is not a word in it having any such tendency; not a syllable which has any application to the matter. That section simply declares, that after the first day of July, in that year, every purchaser of land at public sale shall, on the day, purchase, make a *complete payment therefor;* and the purchaser at private sale shall produce a receipt for the amount of the *purchase money* on any tract, before he shall enter the same at the land office. This is all. It does not say *how* the purchaser shall make *complete payment*, nor in what currency the purchase money shall be received. It is quite evident, therefore, that that section lends the order no support whatever.

The defence of the order, then, stands thus; The Secretary founds it upon the idea that nothing but gold and silver was ever lawfully receivable, and that the receipt of bank bills has been all along an "*indulgence*," against law. For this opinion he gives no reasons.

The honorable member from Missouri rejects this doctrine; he admits the receipt of bank notes to have been lawful until made unlawful by the order itself; and insists that the Secretary's power of stopping their further receipt arises *under* the law of 1816, and is an authority derived from it. But then the long and half official exposition which accompanied the publication of the order has no faith in the law of 1816 as a source of power, but makes a parade of a totally and perfectly inapplicable section, out of the land law of 1820. Grounds of defence, so totally inconsistent, cannot all be sound, but they may be all unsound; and whether they be so or not, is a question which I would willingly leave to the decision of any man of good sense and honest judgment. I take leave of this part of the case for the present. I may pause at least, I hope, until those who defend the order shall be better agreed on what ground to place it.

Mr. President, the subject of the currency is so important, so delicate, and, in my judgment surrounded, at the present moment, with so much