ber, and for which I entertain so strong an attachment—the stronger, because we are few among many. In proposing this question, I am not ignorant of their long standing constitutional objection to the bank, on the ground, that this was intended to be, as it is usually expressed, a hard money Government—a Government whose circulating medium was intended to consist of the precious metals, and for which object the power of coining money and regulating the value thereof, was expressly conferred by the constitution. I know how long and how sincerely this opinion has been entertained, and under how many difficulties it has been maintained. It is not my intention to attempt to change any opinion so firmly fixed, but I may be permitted to make a few observations, in order to present what appears to me to be the true question in reference to this constitutional point—in order that we may fully comprehend the circumstances under which we are placed in reference to it. With this view I do not deem it necessary to inquire whether, in conferring the power to coin money and to regulate the value thereof, the constitution intended to limit the power strictly to coining money and regulating its value, or whether it intended to confer a more general power over the currency; nor do I intend to inquire whether the word coin is limited simply to the metals, or may be extended to other substances, if through a gradual change they may become the medium of the general circulation of the world. I pass these points. Whatever opinion there may be entertained in reference to them we all must agree, as a fixed principle in our system of thinking on constitutional questions, that the power under consideration, like other political powers, is a trust power, and that like all such powers it must be so exercised as to affect the object of the trust as far as it may be practicable. Nor can we disagree that the object of the power was to secure to these States a safe, uniform and stable currency. The nature of the power; the terms used to convey it; the history of the times; the necessity with the creation of a common Government, of having a common and uniform circulating medium, and the power conferred to punish those who, by counterfeiting, may attempt to debase and degrade the coins of the country, all proclaim this to be the object.

It is not my purpose to inquire whether, admitting this to be the object, Congress is not bound to use all the means in its power to give this safety, this stability, this uniformity to the currency, for which the power was conferred—nor to inquire whether the States are not bound to abstain from acts on their part inconsistent with these objects nor to inquire whether the right of banking, on the part of a State does not directly, and by immediate consequence, injuriously affect the currency—whether the effect of banking, is not to expel the specie currency, which, according to the assumption, that this is a hard money Government, it was the object of the Constitution to furnish, in conferring the power of coining money; or whether the effect of banking does not necessarily tend to diminish the value of specie currency as certainly as clipping or reducing its weight would; and whether it has not, in fact, since its introduction, reduced the value of the coins one half. Nor do I intend to inqure whether Congress is not bound to abstain from all acts on its part, calculated to affect injuriously the specie circulation, and whether the receiving of any thing but specie, in its dues must not necessarily so affect it by diminishing the quantity in circulation, and depreciating the value of what remains. All these questions I leave open—I decide none of them. There is one, however, that I will decide.—If Congress has a right to receive any thing else than specie in its dues, they have the right to regulate its value; and have a right, of course to adopt all necessary and proper means in the language of the contstitution, to effect the object. It matters not what they receive, tobacco or any thing else, this right must attach to it. I do not affirm the right of receiving, but I do hold it to be incontrovertible that if Congress were to order the dues of the Government to be paid, for instance, in tobacco, they would have the right—they would be bound to use all necessary and proper means, to give it a uniform and stable value; inspections, appraisement, designation of qualities, and whatever else would be necessary to that object. So, on the same principle, if they receive bank notes, they are equally bound to use all means necessary and proper according to the peculiar nature of the subject, to give uniformity, stability and safety. The very receipt of bank notes on the part of the Government, in its dues, would it is conceded, make them money, as far as the Government may be concerned, and by a necessary consequence would make them to a great extent the currency of the country.—I say nothing of the positive provisions in the Constitution which delare that, "all duties, imports, and excises, shall be uniform throughout the United States," which cannot be, unless that in which they are paid, should also have, as nearly as practicable, a uniform value throughout the country.—To effect this, where bank notes are received, the banking power is necessary and proper within the meaning of the Constitution; and consequently, if the Government has the right to receive bank notes in its dues, the power becomes constitutional. Here lies, said Mr. C., the real constitutional question—has the Government a right to receive bank notes or not? The question is not upon the mere power of incorporating a bank, as it has been commonly argued; though even in that view, there would be as great a constitutional objection to any act on the part of the Executive, or any other branch of the Government, which should unite any association of the State Banks into one system, as the means of giving the uniformity and stability to the currency which the Constitution intends to confer. The very act of so associating or incorporating them into one by whatever name called, or by whatever department performed, would be in fact an act of incorporation.

But, said Mr. Calhoun, my object, as I have stated, is not to discuss the constitutional question, nor to determine whether the bank be constitutional or not. It is, I repeat, to show where the difficulty lies—a difficulty which I have felt from the first time I came into the public service. I found then, as now, the currency of the country consisting almost entirely of bank notes. I found the government intimately connected with the system, receiving bank notes in its dues and paying them away under its appropriations as cash. The fact was beyond my control: it existed long before my time, & without my agency; and I was compelled to act on the fact as it existed, without deciding on the many questions which I have suggested as connected with this subject and on many of which, I have never yet formed a definite opinion. No one can pay less regard to precedent than I do acting here in my representative and deliberative character, on legal or constitutional questions; but I have felt from the beginning the full force of the distinction so sensibly taken by the Senator from Virginia (Mr. Leigh) between doing and undoing an act, and which he so strongly illustrated in the case of the purchase of Louisiana. The constitutionality of that act was doubted by many at that time, and among others by its author himself; yet he would be considered a madman, who, coming into political life at this late period, would now seriously take up the question of the constitutionality of the purchase, and coming to the conclusion that it was unconstitutional, should propose to rescind the act and eject from the Union two flourishing States, and a growing territory; nor would it be the act of much less madness thus to treat the question of the currency, and undertake to suppress the system of bank circulation, which has been growing up from the beginning of the government; which has penetrated into and connected itself with every branch of business and every department of the government on the ground that the constitution intended a specie circulation; or who would treat the constitutional question as one to be taken up de novo, and decided upon elementary principles, without reference to the imperious state of facts.

But in raising the question whether my friends of the State Rights party can consistently vote for the measure which I have suggested, I rest on the ground that their constitutional opinion in reference to the bank, is erroneous. I assume their opinion to be correct—I place the argument, not on the constitutionality or unconstitutionality, but on wholly different ground. I lay it down as an act to be unconstitutional, but of such a nature that it cannot be reversed at once, or at least without involving such gross injustice to individuals and distress to the community, that it cannot be justified; we may, under such circumstances, vote for its temporary continuance—for undoing gradually, as the only practicable mode of terminating it, consistently with the strictest constitutional objection. The act of the last session, adjusting the tariff, furnishes an apt illustration. All of us believed that measure to be unconstitutional and oppressive, yet we voted for the act without supposing we violated the constitution in so doing, although it allowed upward of eight years for the termination of the system, on the ground that to reverse it at once, would spread desolation and ruin over a large portion of the country. I ask that the principle in that case be applied to this. It is equally as impossible to terminate, suddenly, the present system of paper currency, without spreading a desolation still wider and deeper over the face of the country. If it can be reversed at all—if we can ever return to a metallic currency, it must be by gradually undoing what we have done, and to tolerate the system while the process is going on. Thus, the measure which I have suggested, proposes for the period of twelve years, to be followed up by a similar process, as far as a slow and cautious experience shall prove we may go, consistently with the public interest, even to its entire reversal, if experience shall prove we may go so far; which, however, I must say, I for one, do not anticipate; but the effort, if it should be honestly commenced and pursued, would present a case every way parallel to the instance of the tariff, to which I have already referred. I go farther, and ask the question, can you, consistently with your obligation to the constitution, refuse to vote for a measure, if intended, in good faith, to effect the object already stated. Would not a refusal to vote for the only means of terminating it, consistently with justice, and without involving the horror of revolution, amount in fact and in all its practical consequences to a vote to perpetuate a state of things, which all must acknowledge to be eminently unconstitutional and highly dangerous to the liberty of the country?

But I know that it will be objected, that the constitution ought to be amended, and the power conferred in express terms. I feel the full force of the objection. I hold the position to be sound, that when a constitutional question has been agitated, involving the powers of the government, which experience shall prove cannot be settled by reason, as is the case of the bank question, those who claim the power ought to abandon it, or obtain an express grant by an amendment of the constitution; and yet, even with this impression, I would at the present time feel much if not insuperable objection, to vote for an amendment, till an effort shall be fairly made, in order to ascertain to what extent the power might be dispensed with, as I have proposed. I hold it a sound principle, that no more power should be conferred upon the general government than is indispensable; and if experience shall prove that the power of banking is indispensable, as I believe it to be, in the actual condition of the currency of this country and of the world generally, I should even then think that whatever power ought to be given, should be given with such restrictions and limitations as would limit it to the smallest amount necessary, and guard it with the utmost care against abuse. As it is, without further experience, we are at a loss to determine how little or how much will be required to correct a disease which must, if not corrected, end in convulsions and revolution. I consider the whole subject of banking and credit as undergoing at this time, through the civilized world, a progressive change, of which I think I perceive many indications. Among the changes in progression, it appears to me there is a strong tendency in the banking system to resolve itself into two parts—one becoming a bank of circulation and exchange, for the purpose of regulating and equalizing the circulating medium, and the other assuming more the character of private banking, of which separation there are indications in the tendency of the English system, particularly perceptible in the late modifications of the charter of the Bank of England. In the meantime, it would be wise in us to avail ourselves of the experience of the next few years, before any change be made in the constitution, particularly as the course which, it seems to me, it would be the same whether the power be expressly conferred or not.

I next address myself to the members of the opposition, who principally represent the commercial and manufacturing portions of the country, where the banking system has been farthest extended, and where a larger portion of the property exists in the shape of credit, than in any other section; and to whom a sound and stable currency is most necessary, and the opposite most dangerous. You have no constitutional objection—to you it is a mere question of expediency; viewed in this light can you vote for the proposed measure? A measure designed to arrest the approach of events which I have demonstrated, must, if not arrested, create convulsions and revolutions; and to correct a disease which must, if not corrected, subject the country to continued agitations and fluctuations; and in order to give that permanence, stability and uniformity which is so essential to your safety and prosperity. To effect this, may require some diminution on the profits of banking; some temporary sacrifice of interest; but if such should be the fact, it will be compensated in more than a hundred fold proportion, by increased security and durable prosperity. If the system must advance in the present course without a check, and if explosion must follow, remember that where you stand will be the crater—should the system quake, under your feet, the chasm will open that will engulf your institutions and your prosperity.

Can the friends of the administration vote for this measure? If I understand their views, as expressed by the Senator from Missouri, behind me, [Mr. Benton,] and the Senator from New York, [Mr. Wright,] and other distinguished members of the party and the views of the President, as expressed in reported conversations, I see not how they can reject the measure. They profess to be the advocates of metallic currency. I propose to restore it by the most effectual measures that can be devised; gradually and slowly, to the extent that experience may show that it can be done consistently with a due regard to the public interest. Farther, no one can desire to go. If the means, I propose are not the best and most effectual, let better and more effectual be devised. If the process which I propose be too slow or too fast, let it be accelerated or retarded. Permit me to add to these views, what it appears to me those whom I address ought to feel with deep and solemn obligation to duty. They are the advocates and supporters of the administration. It is now conceded, almost universally, that a rash and precipitate act of the Executive, to speak in the mildest terms, has plunged this country into deep and almost universal distress.—You are the supporters of this measure—you personally incur the reponsibility by that support. How are the consequences of this act to terminate? Do you see the end? Can things remain as they are with the currency and the treasury of the country under the exclusive control of the Executive? And by what scheme, what device do you propose to extricate the country and the constitution from their present dangers?

I have now said what I intended. I have pointed out without reserve what I believe in my conscience to be for public interest. May what I have said be remembered as favourably as is the sincerity with which it has been uttered. In conclusion, I have but to add that if what I have said shall in any degree contribute to the adjustment of the question, which I believe cannot be left open without imminent danger, I shall rejoice; but if not I shall at least have the consolation of having discharged my duty.

Correspondence of the Baltimore Patriot.

Washington, June 30, 1837.

THE MANDAMUS CASE.

To-day again the interest of the questions raised in the progress of the Mandamus case, attracted an immense crowd to the Circuit Court. Mr. Reverdy Johnson finished his able argument in reply to Messrs. Kendall, Butler, and Key. He fully answered the high expectations which his opening yesterday produced; and will leave with those who witnessed this masterly effort the most favorable opinion of his powers of intellect, and eloquence.

After a brief recapitulation of the views he presented yesterday respecting the powers which had been conferred on the Executive and Judiciary by the Constitution of the United States Mr. Johnson proceeded to examine the question—the principal one involved—whether Congress had the right constitutionally to confer on this Circuit Court the power to issue a Mandamus in this case. You will remember that the Postmaster General and his advocates Messrs. Butler and Key, have denied the right of Congress to confer power on any part of the Judiciary to interfere with the Executive at all! And yet they declare that in this "family quarrel" between the Judiciary and the Executive, the proper method for the relators to pursue is to apply to Congress! Every one must perceive the gross inconsistency of such a recommendation, with their doctrines about the respective rights of the different Departments of the Government. According to the grounds themselves have assumed, the President and his subordinates are as much bound to resist any exercise of power by Congress, for the relief of the relators, as they are to oppose the jurisdiction and mandate of the Court. Congress according to the notions of these advocates Executive Supremacy, has no more power to grant redress than the Court. Why then apply to that body?—Let these new fangled doctrines be admitted, and there is no relief possible, but through the interposition of the original depository of power, *the people*. Is our government indeed so imperfect? Surely not.

Mr. Johnson controverted the idea that the claim by the Circuit Court of the power to issue the Mandamus was never heard of before. He quoted the act of 1789, which explicitly gives the court the power to issue such a writ upon "persons holding office under the authority of the U. S." No Judge ever entertained a doubt that Congress did give this power, and in opinions by Chief Justice Marshal, Judge Story, and Judge Johnson, pronounced distinctively and on different occasions, it was held, that the authority of Congress to give such a power was perfectly clear and undoubted. The emphatic language of Mr. Justice Johnson was that *no lawyer* ever denied the authority of Congress on the point. The Postmaster General's advocate, who furnished the public the other day with the opinion of Mr. Attorney General Rodney, which seemed to support the pretentions now set up, took particular care not to allude to the arguments with which Mr. Justice Johnson replied to Mr. Rodney, and completely put down his assumptions. Mr. Butler in bolstering up his client was industrious and careful to tell the people only *half of the truth* in that case.

Mr. Johnson contended farther, that the court had power to issue an injunction restraining the executive officers from doing certain acts. He showed that the process of impeachment would give no relief to the individual who suffered the wrong—and that it might be utterly impossible to obtain redress from the iniquitious and oppressive functionary as an individual. Suppose the public officer committing the wrong—suppose Amos Kendall, for instance, were impoverished or bankrupt—of what advantage would it be to Stockton & Stokes to bring suit against him to recover the sums justly due them from the Government, and indemnity for their great losses both of time and money.

The distinguished pleader was very successful in demonstrating the enormity of the doctrine that the President possessed in himself all Executive power; and dwelt with stiring eloquence on the disastrous effects of the ascendency of such opinions on the liberties of the country. Mr. Key remarked across the table that he and his friends did not draw such consequences from the doctrine. "No,—(replied Mr. Johnson) the learned gentleman does not draw such consequences—they would excite too much the apprehensions of Americans—they would startle the most listless into reflection on the fearful dangers that threaten us—but they are the consequences which reason draws from the maxims now attempted to be inculcated." In the happiest strain of humor, Mr. Johnson also illustrated some of the ridiculous consequenses of this doctrine. If the Executive were guilty of treason, and a Court should try, and sentence him to the punishment prescribed by law, why then, according to the notion of that enlightened commentator, the Post Master General, the Executive officer would be guilty of suicide! He is condemed to death—but the exercise of the last awful act is an Executive function. The Jack Ketch is part of the Executive, according to Mr. Kendall, and a most material part in such a process; and though the condemned traitor should have the rope round his neck, he might, if he would, unfrock the hangman, on the spot, and defy the terrible powers of the law. A doctrine leading by the most natural steps to such results cannot be sound in principal. The function of the Judiciary is both to expound and enforce: and it is armed with power to execute its orders upon officers holding authority under the Government of the U. S., as well as upon other persons.

Mr. Johnson contended that the terms of the act of Congress itself showed clearly that the National Legislature did not intend to invest the Post Master General with any discretionary power in this case. He was peremptorily directed to perform a specified act—a ministerial duty. And if the President should dismiss him for doing such an act, that office would deserve to be impeached, because he would be forcibly resisting the fulfilment of a law. He answered the objection as to the removal of the books from Mr. Kendall's custody to that of the Auditor, by showing that since they were removed Kendall himself stated he had caused certain credits to be given to the same parties. He contended that a law commanding a certain act to be done, carried with it every power necessary to the performance of that act. In reply to the argument on the other side that it was left to the discretion of the Court at any rate to grant a Mandamus, Mr. Johnson contended that no judicial tribunal had the power or discretion to refuse the necessary means of enforcing the right of a citizen—that if a case of wrong was presented, the Court was bound to afford redress. Such a case is the present; and the Court is bound to act upon it fearless of consequences. If its mandate should be resisted, let the responsibility rest upon those who oppose the Constitutional authority of the Judiciary.

After a few words of explanation from Mr. Key, the case was submitted; but it being nearly five o'clock the Court adjourned.

It is reported that Kendall will neither submit to the mandate of the court if it should be issued, of which there is no doubt—nor will he appeal to the Supreme Court. He means to show himself up as an oppressed public officer, suffering for too much conscientiousness—and will go to jail! Let him. I believe most of his associates in the Cabinet would be glad if he were kept there for some time.

The Bank of the Metropolis has got itself out of favor with the Cabinet, Woodbury and Van Ness, they say, have had a blow up. The Bank of Washington is to be the pet. Woodbury, they say, holds stock in it. This *little* institution intends to lead the way in the resumption of specie payments, and in the reformation of the currency!! More of this anon. D.

"The Author of the Letter to Sherrod Williams."

Great men have generally figured under characteristic appellations.—There is great propriety in this; for it were a hard case certainly, that after having performed a variety of astonishing exploits they should still bear no more gracious a title than was given them by their mothers, while they were yet "muling and puking in their nurse's arms." The infant HANNIBAL, for instance, kicking the blankets in his cradle, and squalling for a fresh piece of sugar candy, what has he in common with the man HANNIBAL, breaking over the icy Alps, routing and annihilating the legions of the "eternal city" and making even the pulse of his wasted age beat in unison with a hatred alike sublime and inextinguishable? In the same manner what community is there between the boy MARTIN VAN BUREN, trundling cabbages in Kinderhook, as the Editor of the *Herald* reports, and MARTIN VAN BUREN, President of the Kitchen Cabinet, and the greatest man on the face of the (Washington) *Globe*? It is very certain then, that he ought not to be called plain MARTIN VAN BUREN.—WASHINGTON was called the "Father of his country"—JEFFERSON the "Apostle of Liberty"—and JACKSON the "Hero of New Orleans"—nothing is more proper, therefore, than that Mr. VAN BUREN should be called and denominated the "Author of the Letter to Sherrod Williams." To make this more evident, we shall lay down, after the manner of Aristotle, several undeniable canons for the giving of titles. 1. The name should be characteristic of the man. 2. It should indicate the most remarkable act, or acts, of his life. 3d. It should be connected with success. We think the very reading of these rules will convince any one, the "Author of the letter to Sherrod Williams" is the only appropriate *nomme de guerre*. The only name that could cope with it at all, is that of "successor to his predecessor," but that is not euphonious, whereas the other runs on the ear like a brook. But to the merits. The "Letter to Sherrod Williams" was an *electioneering letter*—how characteristic—it is a summary of his whole existence; and whoever makes his epitaph would do well to sum him up thus—"Here lies MARTIN VAN BUREN—who was born—electioneered—died."

That the letter to Sherred Williams was the most remarkable event in his life, will appear from the fact that not one of the London newspapers would print it for fear of shaking the British Throne and annihilating all the Banks of christendom.

Lastly it is connected with success. The "author of the letter to sherrod Williams" was elected. The name is auspicious. If we look to the other acts of his life, we shall find that they are either insignificant or have some terrible *tale* hanging thereby that dangles too near for their reputation. In the War and on the Missouri question he made some votes, but the less that's said of them the better. Neither would it do to call him the "author of the Safety Fund System," for that would remind us of rottenness and ruin, not success. Something too there is in his Mission to England associated with a vote of the Senate, not so much to his credit as to theirs—it were best not to pick his name from that page of his life. Nor do we find since his election, any act of more fruitful promise. His Inaugural died in the general bankruptcy—smothered by its own smiles and dimples. His official *transportation* of the Ex President lacks parade. If he had ordered out the whole army instead of a meagre drill of three or four functionaries, it might have given him a name. His "riding up the avenue with Mr. Forsyth" was undoubtedly something of an affair in the Globe, but is liable to the objection of not being sufficiently characteristic as the worthy Secretary and he, are supposed not to match well.—His interview with the New York Committee in connection with the proclamation reminds us too *strongly of* Dogberry's insisting upon being "*writ down* an ass." Thus we see the singular felicity with which the Globe has selected for him the title of the "author of the letter to Sherrod Williams"—a title on which he can ride down to posterity, and perhaps a great deal lower than that, with the cheerful consent of all men.—*Chas. Mercury.*

AMOS KENDALL.

It is, we think, scarcely possible that the people of the United States can be fully aware of the enormity of the pretensions set up by Mr. Kendall in his reply to the mandamus issued by the Circuit Court against him in the case of Stockton & Stokes. If our readers will permit us, we will state, in a word, one of his assumptions. It is known that the Marshal of the District is the officer to execute the process of the Circuit Court, and that he receives his appointment from and is removeable at the will of the President. Well—Mr. Kendall contends for nothing less than that this power of the President secures to him and all other executive officers within the district of Columbia, *perfect impunity for all offences, personal or political.* If the President, any head of a department, or any executive favorite, commit murder, and the court place a *warrant* for his apprehension in the hands of the Marshal, he may, according to Mr. Kendall's doctrine, "*strike the process dead in his hands, by dismissing him on the spot.*" When the Marshal approaches to arrest him, he is, by a single waive of his hand, disrobed of all authority, and his process laughed to scorn.

But we are glad to learn that Mr. Kendall, not for the first time in his life, has ventured to assert the existence of authority, directly in contravention of the law. We learn from a gentleman who was present on Tuesday in the Circuit Court, that, while Mr. Key was expatiating upon the immunity which this power of removal secured to the executive and his subordinates, Mr. Coxe interrupted and brought him to a stand, by exhibiting an act of Congress which authorises the Marshal or his deputy, to execute all process which may be in his hands at the time of his removal from office. So far as respects such process, his powers are continued, by a plain and explicit statute. Mr. Key was overwhelmed with confusion, at this unexpected revelation.

In order that we may not be accused of misrepresenting the enormity of Mr. Kendall's assumptions, we here annex the paragraph in his reply to the mandamus, in which he asserts them:

Balt. Chron.

"The executive is an unity. The framers of the constitution had studied history too well to impose on their country a divided executive. The executive power was vested in a President. The executive officers are his agents, for whom he is held responsible by the people, whose agent he is. The acts of the executive officers are the acts of the Pre-