

July 2021

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J. W. Kelley

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Recommended Citation

J. W. Kelley, The Ox Knoweth His Master, 13 Dicta 291 (1935-1936).

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THE OX KNOWETH HIS MASTER

By J. W. KELLEY, of the Denver Bar

NO LEGAL objection to the flood of money from the Federal Treasury that is descending like manna upon the states seems ever to have been thought of. No modern Hamden has arisen to deny the government's right to scatter the taxpayers' money as it wished. Each state seems to vie with every other to get all it can.

Forces opposed to the present administration appear to dread that voters at the coming election may be influenced by the "false prosperity" flowing from projects financed with Federal money. It is stated boldly in some quarters that such a thing as a state receiving funds direct from Uncle Sam was never heard of until now. This statement is not precisely correct.

Toward the close of President Jackson's administration, Martin Van Buren was being groomed to succeed "Old Hickory." The United States Treasury was full to overflowing. The nation was out of debt. The budget balanced as nicely as a goldsmith's scales. The tariff was yielding such receipts that the income of the government outran its needs. No one seemed to know what to do with the surplus.

There seems to have been a singular paucity of invention among statesmen. No one thought of old age pensions, soil erosion, planned economy or alphabetical projects. The Democratic majority in congress, with an eye to the coming election, shrewdly suggested that the honest course would be to give the money back to the states in proportion to their population. The Whigs made the legal point that such largess by the Federal government was unconstitutional except in an emergency and an overflowing treasury was far from being an emergency.

June 23, 1836, a few days after Van Buren was nominated for the presidency at the convention in Baltimore, a bill was introduced in congress to relieve the congested treasury. (5 U. S. Stat. P. 55.) All the money in the treasury except five million dollars was to be dispersed to the states in

four installments as "deposits." Part of the installments were to be deposited with the states before the presidential election. The total actually sent out was \$28,101,644.91. New York, Pennsylvania, Virginia and Ohio received more than \$2,000,000 each.

At first the bill provided the millions so deposited were to be subject to the draft of the Secretary of the Treasury, but the majority in congress amended the bill to provide the receipt for the deposits should "pledge the faith of the states receiving the same to pay the moneys and every part thereof from time to time whenever the same shall be required by the Secretary of the Treasury for the purpose of defraying any wants of the public treasury beyond the amount of the five million aforesaid." This left the government's millions in much the same condition that our foreign loans are today.

Mean-spirited Whigs, who declared this was a scheme of wholesale bribery of voters with money from the public treasury, were ignored. The suggestion that such administration munificence might influence voters to elect Van Buren was indignantly denied. Voters then, as now, were theoretically held to be incorruptible.

Martin Van Buren, termed by his supporters "The Little Magician," was triumphantly elected, the electoral vote standing: Van Buren 170, Harrison 73. The total vote in all the states was about 1,500,000. Of these Van Buren received 761,549 and his opponent, 549,394.

Then, after election, the ungrateful majority in congress passed an act to "postpone" the fourth deposit. (5 U. S. Stat. P. 201.)

In a few months, in the midst of prosperity and while the government was out of debt, came the panic of 1837. As an executive Van Buren seemed to lack the magic that he had as a candidate. Cause and effect seem ever to play hide-and-seek in the game of government.

The outstanding fact is that the "deposits" have never been paid back or asked for. The states, having given a quid pro quo, kept the consideration. Finders appear to be keepers the world over.

TREASURY DEPARTMENT

Office of the Secretary

WASHINGTON

Dear Mr. Kelley:

January 29, 1935.

Senator Costigan has referred to this Department your letter of January 17th requesting information relative to the distribution of the treasury surplus to the several states (under the Act of 1836).

Deposits by the Federal government with the states were directed to be made by the thirteenth section of the act approved June 23, 1836 (5 U. S. Stat., p. 55), which was entitled "An act to regulate the deposits of the public money," and provided "That the money which shall be in the treasury of the United States on the first day of January, 1837, reserving the sum of \$5,000,000, shall be deposited with such of the several states, in proportion to their respective representation in the Senate and House of Representatives of the United States, as shall, by law, authorize their treasurer, or other competent authorities, to receive the same on the terms hereinafter specified."

The terms were that the states receiving deposits should, through their treasurer or other competent authorities, sign certificates of deposits therefor in such forms as might be prescribed by the Secretary of the Treasury, which would express the usual and legal obligations and pledge the faith of the state for the safekeeping and repayment thereof, and should "pledge the faith of the states receiving the same to pay the said moneys and every part thereof from time to time whenever the same shall be required by the Secretary of the Treasury for the purpose of defraying any wants of the public treasury beyond the amount of the five millions aforesaid."

Under this legislation three installments were placed with the several states. Before the time for the making of the deposit of the fourth installment the condition of the treasury was such that the secretary withheld the fourth installment. Upon the meeting of congress in September, 1837, the subject received immediate consideration, and October 2, 1837, there was passed and approved "An act to postpone the fourth installment of deposits with the states." (5 U. S. Stat., p. 201.)

This act contained the following proviso:

"Provided, That the three first installments under the said act shall remain on deposit with the states until otherwise directed by congress."

Congress has never directed the return of the deposits, and the matter stands at this date as it was left by the act of October 2, 1837, no part of the moneys deposited with any of the states ever having been returned to the treasury.

As authorized by the act of June 25, 1910 (36 Stat., 776), the accounting officers credited the general account of the Treasurer of the United States and charged the several States with the sum deposited under the act of June 23, 1836, as directed by the provision of the act of June 25, 1910, as follows:

"Provided, That the credit herein authorized to be given to the Treasurer of the United States shall in no wise affect or discharge the

indebtedness of the several states to the United States as is provided in said act of congress approved June twenty-third, eighteen hundred and thirty-six, and shall be made in such manner as to debit the respective states chargeable therewith upon the books of the treasury department, until otherwise directed by congress."

A list of the states which received deposits and the amount received by each of the total deposits of \$28,101,644.91 is enclosed.

I am enclosing a mimeographed list of periodical publications of the treasury department on which is indicated those available for general distribution. Should any of these be of interest to you we shall be glad, upon your request, to undertake to supply them.

Very truly yours,

HERBERT E. GASTON,
Assistant to the Secretary.

J. W. Kelley, Esq.,
Attorney at Law,
Denver, Colorado.
Enclosures.

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*Amount of Public Money Deposited with the Several States Under the
Act of June 23, 1836*

| | |
|----------------------|-----------------|
| Maine | \$ 955,838.25 |
| New Hampshire | 669,086.79 |
| Massachusetts | 1,338,173.58 |
| Vermont | 669,086.79 |
| Connecticut | 764,670.60 |
| Rhode Island | 382,335.30 |
| New York | 4,014,520.71 |
| New Jersey | 764,670.60 |
| Pennsylvania | 2,867,514.78 |
| Delaware | 286,751.49 |
| Maryland | 955,838.25 |
| Virginia | 2,198,427.99 |
| North Carolina | 1,433,757.39 |
| South Carolina | 1,051,422.09 |
| Georgia | 1,051,422.09 |
| Alabama | 669,086.79 |
| Louisiana | 477,919.14 |
| Mississippi | 382,335.30 |
| Tennessee | 1,433,757.39 |
| Kentucky | 1,433,757.39 |
| Ohio | 2,007,260.34 |
| Missouri | 382,335.30 |
| Indiana | 860,254.44 |
| Illinois | 477,919.14 |
| Michigan | 286,751.49 |
| Arkansas | 286,751.49 |
| Total | \$28,101,644.91 |

Reference: House of Representatives Ex. Doc. No. 26, 39th Congress, 1st Session, 1865-66—Vol. 7.