

# **SPEECH**

OF

**WILLIAM H. SEWARD,**

ON THE

**RESOLUTIONS CONCERNING THE REMOVAL OF THE**

**GOVERNMENT DEPOSITES.**

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**IN THE SENATE OF NEW-YORK,**

**JANUARY, 1834.**

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**1834.**



## S P E E C H .

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The question was upon the joint resolutions from the Assembly, which were as follows :—

STATE OF NEW-YORK, }  
IN ASSEMBLY, *January 10, 1834.* }

*Resolved*, (if the Senate concur,) That the removal of the public deposits from the Bank of the United States, is a measure of the administration of which we highly approve.

*Resolved*, (if the Senate concur,) That the Senators from this State be directed, and the Representatives from this state be requested, to oppose any attempt to restore the deposits to the Bank of the United States.

*Resolved*, (if the Senate concur,) That we approve of the communication made by the President of the United States to his Cabinet on the eighteenth of September last, and of the reasons given by the Secretary of the Treasury relative to the removal of the deposits.

*Resolved*, (if the Assembly concur,) That the conduct of the Bank, in attempting, at a time of general prosperity, to produce pecuniary distress and alarm, and in exercising its power with a view to extort a renewal of its charter from the fears of the people, affords of itself full justification for the withdrawal of the confidence of the government.

*Resolved*, (if the Senate concur,) That the charter of the Bank of the United States ought not to be renewed.

*Resolved*, (if the Senate concur,) That the Secretary of State be requested to forward to each Senator and Representative a copy of these resolutions.

MR. SEWARD addressed the Senate as follows :

It needs no soothsayer's aid, Mr. President, to foresee that these Resolutions will pass ; that they will pass with a majority so great, that I may appear presumptuous in having raised my feeble voice against them. Nevertheless, there is in this Legislature, as, according to the genius of our government, there always should be, a minority ; and that minority, although small in number, represents, on this occasion, little less than one-half of the people of this State. The universal language of that part of the press which speaks their sentiments, and the inquiries and fears every where heard, indicate that the measures which this Legislature are called upon to approve, are regarded by that portion of the People of this State, with fearful apprehensions, and a painful conviction that

in the adoption of those measures the Constitution has been violated. I pray the Senate to remember, that although *here* these Resolutions have so many supporters, willing to adopt them without debate, neither boldness of assumption, nor superiority of numbers, is always the test of truth; and that the rivets of despotism will have entered the heart of the country, when such apprehensions and convictions shall cease to call forth, in the public councils, a voice in their behalf. In those apprehensions and convictions I participate, and thus participating, should deem myself recreant to my trust, were I to suffer these Resolutions to pass in silence. For the minority here, and for all that minority in the State, then, I speak. I wish they had an abler—a more eloquent, but I am sure they could not have a more firm or sincere advocate.

I oppose these Resolutions, because they have no place among the legitimate and constitutional duties of the Legislature.

Many and vague are the theories concerning the constitutional boundary between the powers and duties of the General and the State Governments, but there are some principles on that subject in which all acquiesce. One of these is that the Government of the United States has sovereign and exclusive power to levy taxes, direct and indirect, for the necessary support and action of that government, and to preserve and apply the revenues derived from such taxes. In the exercise of this power, the General Government possesses all the requisite prerogatives of sovereignty. It neither asks the aid of State legislatures, nor is responsible to State judiciaries, nor does it employ any State agents. It recognizes the citizen taxed not as the citizen of a State, but as a citizen of the United States. The questions presented by these Resolutions, concern the collection and preservation of the revenues of the United States thus acquired. The important question is, whether those revenues shall be deposited for safe keeping in a bank of the United States, or in banks of the States. Suppose Congress should pass a law directing that the revenues of this State should be deposited in the Bank of the United States? Would not this be a direct usurpation? a gross and palpable violation of the Constitution of the United States? Suppose, on the other hand, that the Legislature of this State should pass a law directing that the revenues of the United States collected within this State, should be deposited in the banks of this State? This confessedly would be nullification. In the one case supposed, the welkin would ring with the war-cry of *State rights*; in the other a "Proclamation" and a "Force Bill" would assert the sovereignty of the United States.

But I am answered, here is no *law* of the State—these are only *resolutions*! The distinction does not affect the principle. In the cases supposed, it would be not the impotent assumption of power, but the mischievous departure from the constitutional sphere of action, which would, in the one, arouse the State to assert

its reserved rights, and in the other, call forth the conservative action of the General Government. If resolutions are utterly inoperative, it is idle to pass them; if they have any efficacy they ought to be passed only in those cases where laws could be enacted.

Try the question by another hypothesis. Suppose Congress were to pass, not a law, but a resolution, instructing, advising, or requesting that the revenues of this State, should be deposited in the Bank of the United States? Would it not be justly regarded as the incipient step to usurpation? as a dangerous attempt to overawe or control the action of the State? Now the case is reversed; the State Legislature passes *resolutions* concerning the revenues of the United States. But how is the principle changed? It remains the same. The passage of these Resolutions, therefore, must be a palpable departure from our legitimate and constitutional duties.

The entire Government of this country, consisting of the General Government and State Governments, is complex; perfect, we believe, as human wisdom could make it, or possessing within itself the powers by amendment to make it so. In my judgment every departure, whether by the General Government or a State Government, from *its* proper orbit, so as to encroach upon that of the other, is dangerous, and tends inevitably to the destruction of the whole system. Resolutions of this character are unnecessary for the proper action of the Government. Why need we instruct Congress? Congress is not a distant, a transatlantic, a parent, or an imperial government. This State is not a province, or a dependency of the General Government. Nor is the Government of the United States a confederacy, as it once was, and as some southern politicians dream. It is, like the Government of this State, a republic. In it, so far as concerns the present argument, this Legislature is nothing. The People of this State are not subjects of Congress requiring our protection. They are two of the twelve millions of constituents represented there as fully as they are here. The Representatives in Congress are not *our* Representatives; they are the Representatives of the People of this State: they are as recently from their constituents as we are, and know their will as well. They are not the Representatives of the aggregate of the People, as your Resolutions assume. Each is the Representative of a limited number of the People, in a defined district, and their views necessarily differ, as do those of their respective constituents. Beware, then, how you attempt to seduce, or to overawe them into an act of disobedience to the will of *their* constituents! When you so approach them, you find them in the sphere of their duty and responsibility, but you have departed from your own.

These Resolutions are unnecessary. The subject to which they relate is already under discussion in both Houses of Congress. A majority of those whom

you propose to instruct, will vote as you desire without instruction. A minority will not vote so, although requested, and the numbers of both are determined. Does any Senator ask how I know the sentiments of the Representatives of this State in Congress? I will answer, and if any member startle at my answer, it will be, not because the information is new, but because it is proclaimed here. The majority of the Representatives will vote as I have predicted, because of convictions produced by the same mysterious intuition which has so suddenly enlightened this Legislature. If they have ever had doubts on this matter, they have all been dispelled by the same agency, which is sufficiently efficacious to carry these Resolutions as triumphantly in this Senate, as it carried them through the House of Assembly: where, although the Resolutions relate to a subject foreign to the affairs of the State, they were passed by a vote of 118 to 9 in the first week of the session, without argument, and without even the ceremony of printing the documents which the Resolutions approve. Be satisfied, then, that the minds of the majority of our Representatives in Congress will be as effectually illuminated as your own, and their reluctant wills will yield to the behest of the same power which decrees your will's action. The minority will vote as I have stated, because they will examine and discuss the question, and arrive at their conclusion, with the aid only of truth and reason. Their wills cannot be subdued by that mysterious power to which I have alluded. I say not too much for them when I assert, they will spurn your insidious request, as much as they would defy your arbitrary instructions.

Sir, I will not say that *these* Resolutions have such a purpose, but I will and may say that resolutions of this nature are often, if not always, the machinery of demagogues, who seek by the use of them to accomplish objects which they could not accomplish by the constitutional and proper action of legislative bodies. In such cases the affectation of a desire to instruct is a veil too thin to conceal the object of the measure. It is in this light such resolutions are regarded abroad by those States whose interests are adverse to the interests of those who adopt them. They excite suspicion, jealousy, and prejudice; and hence other States will endeavor to counteract their effect by adverse resolutions. Such is their natural and inevitable tendency, as it regards our sister States. And what can you expect in Congress as the legitimate effects of such resolutions, even though sincere and for laudable purposes, but blind, vindictive controversy, scarcely veiled by the forms and proprieties of debate? Every State has the same constitutional right, and may as properly exercise the power of instruction. Suppose all to exercise it, where would be the freedom, and what the value of debate? Suppose a part only to exercise it, what would be the security of those who neglect to avail themselves of it, against partial and corrupt legislation? And for measures in Congress carried by the force of such machinery, what

can you expect from those States against whose interests and principles they militate, but combinations, resistance, nullification and secession? It was it was by passionate, violent resolutions of this kind, that, during the late war, the Eastern States were brought into a position of disobedience to the General Government; and those who are curious enough to examine, will find that the States of Georgia and South Carolina, commenced by Resolutions not unlike these, that career of disorganization which so lately seemed to threaten the immediate dissolution of the Union.

But I will not appeal to the attachment of this House to the Union. The fashion of the day has changed here within the last year, and State pride is now the passion to be called into action! We would have what is called our proper influence in the National Government. We would acquire the power in the administration of the Government, to which our greater strength and numbers, and our long deference to other States, entitle us. If we win either, Sir, it must be by patriotism, not force; by generous bearing, not selfish assumption. Could we win both by inglorious means, we should obtain but "*a fruitless crown.*" The power thus acquired would be

" A barren sceptre in our gripe,  
" Thence to be wrenched with an unlineal hand,  
" No son of ours succeeding."

In many of the other States, those measures of violent opposition to the United States Bank, which are so strenuously urged here, are regarded, (I will not say here whether justly or not,) as having the ulterior object to wrest the advantages which that institution gives, from the State of Pennsylvania. Remember that the acquisition thus made, will always be regarded by her as the evidence of her own shame, and of our cupidity and treachery. But in this, if such be the real motive, this State cannot succeed. The extraordinary and violent action of the removal of these deposits is already producing a reaction against us. What else has so suddenly changed the sympathies of the Southern States, so recently our political allies, and lost to the views of this State a majority in the one House of Congress, and reduced the majority in the other to one merely nominal?

The fourth Resolution is, "that the Bank of the United States ought not to be renewed." Whatever may be the propriety of acting upon the others, I can discover no necessity for passing this resolution. Two years ago, a similar resolution was adopted by this Legislature: but that was accompanied by a preamble stating that the Bank had applied to Congress for a renewal of its charter. The preamble, though an insufficient reason for the conclusion that the charter ought not to be renewed, was a colorable pretext for considering the subject.

But that reason does not exist now. No such question is before Congress. If it can be required of us to legislate for the advice of Congress, I trust it is enough to legislate upon subjects on which they are called to act. This resolution, then, is confessedly unnecessary for any legitimate purpose. It is unjust to the Bank of the United States, and therefore it is derogatory to the dignity and character of the State. If it be not designed to influence Congress, it must be required for effect at home or abroad. It cannot be for effect abroad. The voice of the State on this subject has been spoken and repeated; this reiteration can only serve to cause both our sincerity and firmness to be questioned. And for what effect at home? I can conceive of none but that the resolution may serve as a *shibboleth* to members on entering the Legislature. Two years since, I advocated here the necessity, in regard to the proper action of the General Government, and the commercial interests of the country, of a Bank of the United States. On that subject my opinions have undergone no change, and as the question was then elaborately discussed, I trust I may expect from any member of the Legislature who on that occasion stood by my side, but has now fallen off, the reasons which have wrought the change in his opinions.

An unscrupulous press denounces all as interested who refuse to join in the crusade against the Bank of the United States. It may therefore be prudent for one so humble as myself to guard against misrepresentation. I have never had any connection with the United States Bank, or any of its branches. On me it has bestowed none of its favors. The Mammoth, as it is called, is one of those incorporeal existencies, which, like one of several heads, (said to reside not distant from this place,) can be felt, though not seen. I am as far from the influence of the former, as all who hear me will admit I am from that of the latter. My associations have been with those whose interests are connected with State banks. Politically I have been opposed, as well to the exclusive friends, as to the exclusive opponents of the United States Bank. I deem a National bank necessary. In its present form I would not vote for a renewal of the charter of the existing Bank. With modifications limiting the power to establish branches, and subjecting the capital to the same taxes imposed by States upon local banks, I would vote for the renewal of this Bank, rather than create a new institution with the same powers, for the mere purpose of gratifying those desirous for a new distribution of stock. With these views I shall vote against the fourth Resolution, not because I am in favor of renewing the present charter, but because I have no other mode to avoid committing myself against the continuance of any bank with a proper charter.

On the occasion to which I have referred, when I expressed my views at large upon this interesting subject, and in this place, I stood by the side of an

honest, fearless, and mighty man in debate.\* What small aid I could, I added to that great effort, in which he advocated the constitutionality, and demonstrated the necessity of a Bank of the United States. In that same effort, with that keen vision which in him seemed almost prophetic, he warned the people of this State of the calamities which would follow the abolition of an institution, the basis of which was laid by the father of our country. His tongue is mute now, his head is low in the earth, and the heart which sent forth that earnest appeal, no longer beats even with wishes for his country's good. Standing in the place he then occupied, carried back by the relation of the subject to that occasion, and oppressed by the reflection that I have assumed the responsibility then so nobly shared and so greatly discharged by him, I would not unnecessarily venture upon a discussion of this all-important question. The day is coming which will give fearful confirmation of the alarms we then sounded here. The springs of our country's adversity are already sending up their waters beneath our feet; these streams will increase in number and volume, and will mingle and swell into a tide which human wisdom cannot stay from sweeping over the land. Then, loud and senseless declamation, then, the reckless instigation of popular prejudice and passion will no longer avail. Then, in that fearful day of suffering for past delusion, and of retribution for past abuses of a confiding people, the thousand warnings which have been uttered in vain, may peradventure be remembered. Until then, so far as I am concerned in the councils of the State, be postponed the argument.

The first resolution is in these words :

*“Resolved, That the removal of the deposits from the Bank of the United States, is a measure of the administration of which we highly approve.”*

When I regard this resolution as one which is designed to have effect abroad, and to remain upon our journals as a part of the record of these interesting proceedings, it seems to me very unhappily expressed. The necessity of being explicit in our instructions to Congress, is quite as obvious as the necessity of the instructions themselves. A journal which, as if by magnetic sympathy, assumes to settle this important question before it is considered here, and to pronounce the judgment of this Senate before the Resolutions are debated, has called them *“the voice of New-York.”* Let, then, that voice be as intelligible and unequivocal as it will be trumpet-tongued. Both Houses of Congress are engaged in the discussion of this important subject. On one side are employed all the power and eloquence of argument derived from truth, prudence, justice and national faith; on the other is boasted that more simple and effective ma-

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\* The Hon. William H. Maynard.

chinery which dispenses with the exercise of the reasoning powers, and relieves members from the responsibility of motives, as well as debate. I can imagine something of the scene in the Senate. The Senator from Kentucky concludes a philippic against the President's daring usurpation, imbued with all the impassioned eloquence of Fox. The Senator from New-Jersey in a speech which combines both the argument and invective of Burke, strips the atrocious measure of the pretexts of "the public convenience," and "the promotion of the public interests." The Senator from South Carolina, not altogether lost to his country, defends the violated Constitution with an argument so full of truth, of patriotism, and overwhelming eloquence, as almost to redeem him from the censure of unpardonable errors. The administration "which you approve" is left to rely alone upon the intemperate and senseless efforts of the gladiator from Missouri. What wonder that the numerous auditory of citizens exhibit their sympathy in the triumph of truth, reason and justice. Sir, the world no where else exhibits so glorious a scene. It is like that of a Roman Senate on the eve of being subjected, but not yet ready to own a dictator. Mark, I pray you, the countenance of him who recently assumed the chair. The "wreathing smiles of triumph" so recently boasted, have given place to a gloom upon his brow expressive of despondency. The solemn silence which precedes the final vote is broken by the annunciation of a messenger from New-York. The "empire state" sends, as she has done before, a "missive bearing healing on its wings," to her drooping "favorite son." Mark the proud flash of his eye while he breaks the seal. "*Resolved*, That the removal of the deposits from the Bank of the United States is a measure of the administration—of which we highly approve." "Please read the resolution again," says the critical Senator from South Carolina, "I do not understand whether the Legislature of New-York mean to approve of the removal of the deposits by the administration, or of the administration itself." "Non-committal *again*, Mr. President," exclaims the ardent Senator from Kentucky. "Long habit of speaking *en double entendre*," says the sarcastic Senator from Massachusetts, "has rendered the Legislature of New-York unable to speak without equivocation." The chagrined "favorite son" turns to our worthy Senators from this State, and angrily asks, "Have we left no body at home to do our work better than this?" But the trio are relieved by a happy thought from the Senator from Missouri. "Why it's clear it's only going the whole; the Legislature of New-York approve of the removal of the deposits by the administration *because* it is an act of the administration of which they approve." Sir, I would spare our State pride such a mortification, but it is no business of mine to mend these matters.

But I cannot plead ignorance. I have learned from an organ to which I

have before referred, how this resolution is to be understood *here*; and shall therefore discuss it as intending to approve of the removal of the deposits.

I shall vote against the Resolution, because, in my judgment, the removal of the deposits was an act illegal and unconstitutional. By whom, Sir, was this act committed? I answer and aver, that it was the act of the President of the United States. I admit, that in the communication of Mr. Taney, as Secretary of the Treasury, he says the act was done by himself, and that the President, in his annual Message, informs Congress that "the Secretary had deemed it expedient to direct the removal of the deposits, and he had concurred in the measure." Against these authorities, from so respectable a source, I regret to be compelled to use the authority of the President himself. But the document from which I shall read is one you are prepared to adopt, and although it clash with that of the Secretary, which you are also prepared to adopt, it must be good evidence. I leave those who adopt both to reconcile their incongruity.

What, then, are the facts? On the 18th day of September, 1833, the deposits were in the Bank of the United States, William J. Duane was Secretary of the Treasury, and Roger B. Taney was Attorney-General. On that day the President read in his Cabinet, and the next day gave to the world the document from which I read as follows:

"From all these considerations, the President thinks that the State banks ought immediately to be employed in the collection and disbursement of the public revenue, and the funds now in the Bank of the United States drawn out with all convenient despatch."

"The President again repeats, that he begs his Cabinet to consider the proposed measure as his own, in the support of which he shall require no one to make a sacrifice of opinion or principle. Its responsibility has been assumed, after the most mature deliberation and reflection, as necessary to preserve the morals of the people, the freedom of the press, and the purity of the elective franchise, without which all will unite in saying, that the blood and treasure expended by our forefathers in the establishment of our happy system of government, will have been vain and fruitless. Under these convictions, he feels that a measure so important to the American people, cannot be commenced too soon; and he therefore names the first day of October next, as a period proper for the change of the deposits, or sooner, provided the necessary arrangements with the State banks can be made."

Mr. Duane refused to make the order required by the President for the removal of the deposits, and was removed because he did so refuse. Mr. Taney, who had avowed himself ready to make the order, was instantly appointed Secretary of the Treasury, and did make the order.

After this review of the transaction, who will say that the deposits were not removed by the President of the United States, and that Mr. Taney was more than the mere instrument used to effect the removal? And yet both the Secre-

tary and President gravely inform Congress that he, Mr. Taney, the Secretary, "had deemed it expedient to direct the removal of the deposits, and the President had concurred in the measure." As well might the commissioners appointed by William IV., in his name, to open or prorogue parliament, say they opened, they prorogued parliament, and it was not the king their master. You who are admirers of Andrew Jackson, to whom do you ascribe the glory of the act? You will answer, it was the President. You who lament his misrule, upon whom do you bestow the censure! You will answer, the President.

And now let me ask, is it the same Andrew Jackson, who, on the 18th September, 1833, read *this* document in his Cabinet, declaring the act of removing the deposits his own, and on the first Tuesday of December sent *this* document to Congress, declaring that it was the act of the Secretary. Sir, in the one, it was the soldier, the hero, who spoke; in the other it was the politician.

And now, having established that the measure was the proper act of the President, let us next inquire, what right had the President to remove the deposits? They are the funds, the treasures of the Government. They were in the Bank of the United States by virtue of the following law:—

"The deposits of money of the United States in places in which the said Bank and branches thereof may be established, shall be made in said Bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct, in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reason of such order or direction."

Is the President the Secretary of the Treasury? No: but it is claimed by the President that he has the absolute control of the Treasury department. To me this assertion seems so bold, so reckless, so fearful in its consequences, that I must be indulged with an opportunity to examine it. It rests upon the unsupported assumption that the Treasury is an executive department. But the act of Congress, by which it was established, repudiates the assumption. All the other departments are, in the respective acts by which they are established, declared to be *executive* departments. That of the Treasury is, on the other hand, called a *department*. But I go farther, and maintain that from the very nature of the Constitution it cannot be an executive department. Its duties are, to collect, preserve and disburse the revenues. Those revenues are, exclusive of the Executive, under the management, care and keeping of the Representatives of the People, the Legislature. From the impracticability of Congress managing, guarding and disbursing those monies, it results that there must be a delegation of a portion of those duties: that delegation might be made to a committee of their own body, or to an agent responsible to them,

and subject to their supervision. Congress could not delegate, and therefore are not to be presumed to have delegated that power to the Executive. Such a law would be unconstitutional and void. The act of Congress did delegate to the Secretary a discretion properly their own, to remove these deposits. That discretion Congress intended *he* should exercise, when the deposits should be removed by him. It was *his* discretion, then, that should have been exercised, not the discretion of the President. Yet for the conscientious exercise of that discretion he was removed by the President, and the deposits were withdrawn from the Bank, contrary to the judgment he gave after exercising that discretion. If it be true, then, that the President has assumed and exercised that discretion which Congress reposed in the Secretary, and could not constitutionally confer on the President, it irresistibly follows that the President has usurped the discretion and duties of the Secretary. And it is precisely because it was such an usurpation, that the Secretary and President equivocate concerning their respective action on the subject, when they come before Congress. Now it is not the President who removed the deposits, nor was it done upon his responsibility, but it was the Secretary, Mr. Taney, and upon his responsibility. It cannot be that such an evasion can avail. He that as a legislator will say, that Mr. Taney, and not the President, removed these deposits, could, as a judge, say that a will was executed by a living testator, although one devisee supported his lifeless corpse while another guided the hand which wrote the testament.

And how, Sir, let me next inquire, is this usurpation excused or justified? Solely by the conceded power of the President to remove and appoint the Secretary of the Treasury, and his general duty to see that the laws are faithfully executed. Grant this a sufficient justification, and what follows? The President has unlimited command over the Treasury. Upon the Secretary of the Treasury, and, therefore, according to the principle assumed, upon the President it is devolved to collect, preserve and disburse the entire revenues. The Secretary at War, it is conceded on all hands, is an executive officer, and equally subordinate. It requires but little imagination to suppose what might have been done, (and if the position assumed by the President be true, lawfully done,) at another Cabinet council. "Rally the army," the President might say to the Secretary of War, "that I may put myself at their head." The Secretary refuses. "Colonel Benton, my gallant friend, will you issue the order?" "Aye, I will do any thing 'to serve under such a chief.'" "Sir, you are Secretary of War." The army is rallied. "An order for ten millions, on my responsibility, not your oath," (says the President to the Secretary of the Treasury.) The conscientious Secretary refuses. "Mr. Taney, you are Secretary of the Treasury," replies the President, and the order is instantly given. Such are the powers of the President of the United States, as assumed in these docu-

ments. And now, when Congress shall have conceded the power claimed, will gentlemen tell me where on the face of this earth is despotism to be found, if it be not here. Louis Philippe owed his elevation to the throne of France to his declaration to the citizens of Paris through General Lafayette, that he believed the Constitution of the United States the best that had ever been conceived. Sir, if this is that Constitution, it is more despotic than the prerogatives for which Louis XVI. suffered on the guillotine.

The usurpation of the Secretary's powers is not the most alarming feature in this unprecedented transaction. It is the defiance uttered by the President of the United States of the supervisory power of Congress. Yes, Sir, in this very document under the President's own hand, we are told that the power of the Secretary over these deposits is unqualified, and as the Secretary is in all things responsible to the Executive, it follows that the power of the President over them is also unqualified. Hence he says, in relation to his having submitted the subject to the Congress at the last session,—

“But it was not his purpose, as the language of his message will shew, to ask the representatives of the people to assume a responsibility which did not belong to them, and relieve the Executive branch of the Government from the duty which the law had imposed upon it. It is due to the President, that his object in that proceeding should be distinctly understood, and that he should acquit himself of all suspicion of seeking to escape from the performance of his own duties, or of desiring to interpose another body between himself and the people in order to avoid a measure which he is called upon to meet. But although, as an act of justice to himself, he disclaims any design of soliciting the opinion of the House of Representatives in relation to his own duties, in order to shelter himself from responsibility under the sanction of their counsel, yet he is at all times ready to listen to the suggestions of the representatives of the people, whether given voluntarily or upon solicitation, and to consider them with the profound respect to which all will admit they are justly entitled.”

It is true the President, with the meekness of Cæsar, when he thrice refused the crown upon the Lupercal, regrets and is surprised to find his duties so great. But he does not shrink from the responsibility devolved upon him. Sir, have we lost sight of our Constitution? Or, in truth, have we none? Over these deposits, the revenues of the nation, Congress have sole and sovereign control. One year ago, so thought this administration, “which you approve.” Witness the communication of Mr. McLane to Congress, informing them that he had instituted an inquiry into the safety of the deposits, and recommending the subject to their consideration. That investigation was had, both in Congress and by the agent, and upon due consideration and debate, the House of representatives instructed the Secretary not to remove the deposits. Thus baffled in procuring from the Legislature the desired order for the removal, the President caused them to be removed upon his own responsibility and says

**that** although he submitted the matter to Congress it was not to ask their action, but to procure that very advice which he defies.

So insulting a defiance, so bold an assumption of Legislative power, might possibly be excused by motives or stern necessity. Sir, what are the motives alleged, and what was the necessity for this precipitant and violent departure from the constitutional limits of the Executive prerogative? Was it to save the public money in danger of being wasted? No; that is not alleged. But to save the country from "the commercial distress which must ensue," if the deposits should be suffered to remain where by law they were required to be deposited until the expiration of the charter of the Bank, "and to save the People from the corruption of the Bank." These exigencies existed with equal force when the House of Representatives resolved, six months before, that the deposits ought to remain in the Bank. Congress was to meet within sixty days after the time appointed for the removal, and if they had strangely overlooked these exigencies, there would then have been ample time to apply the remedy. There was then no extreme necessity for the interposition of the President. He acted only because of the superior fitness of his powers over those of the Legislature to prevent commercial distress, and to preserve the public morals. Sir, were I to concede that this violent assumption of powers upon the ground of duty to preserve the public morals, could be approved by this nation; and then to compare it with the previous deliberate and unanimous voice of the People in regard to that duty, I should be forced to justify Daniel O'Connell in his charge of hypocrisy against the whole American people. It is scarcely four years since Congress decided that they, as the National Legislature, had no power to pass any law with the purpose of affecting or preserving public morals. The decision was a just one, and was sustained by almost the entire People; the plaudits are still ringing in our ears, with which, from every quarter of this land, that decision was hailed. And now, Sir, we are told that this same Congress, and this same People, recognize the President of the United States as invested with the identical power, and charged with the identical duty of the preservation of public morals, then declared to be beyond the limits of the powers and duties of even the Legislature of the nation. It is this power, and this duty, which we are called to concede. Let me say to this Senate, that it is to the State Legislatures, this duty and power belong. They belong to us, and we can never surrender them to Congress, or the President, without a surrender of one of the most important of the reserved rights of the States.

And now I pray Senators to consider what it is they are called upon to do? It is to instruct, not our representatives, but the representatives of the people of this State, to ratify and confirm this usurpation, and surrender to one man,

not only the treasures of this nation, but their own powers and duties with our own. Oh! if you will send these instructions, send one more with them. Tell them to forswear the memory of their fathers, their country and their God. You will then have left them no more of evil to commit, no more shame to incur. And who are we, Sir, to give these instructions? Ourselves the representatives of that same betrayed people. Sir, I have confessed I have no hope that any thing I might say would change a single vote in this house. Yet when my fears are all excited by a view of the ruinous and lasting consequences of this usurpation, and when I reflect on the precipitancy which marks this act, I could kneel before this Senate and implore them, could conjure them by our common hopes, our common interests, and our common recollections, to pause before the reckless measure be accomplished.

The third Resolution is in these words :

“*Resolved*, (if the Senate concur,) That we approve of the communication made by the President of the United States to his Cabinet on the eighteenth of September last, and of the reasons given by the Secretary of the Treasury relative to the removal of the deposits.”

Sir, to what limit of legislative self-abandonment is it proposed to us to go? Last year, in a debate upon the proceedings of the Convention in South Carolina, another Senator\* and myself protested against adopting, in gross, an argumentative report, although made by a committee of this house. We had the success then, (unusual success for that Senator and myself on such occasions,) to prevail upon the Senate to limit their approval to the general views and conclusions of a contradictory and unmeaning report. And what have we now before us? We are called upon to adopt and approve an official document, not of this house, nor pertaining to this State, merely because it bears the President's name: although when solemnly called upon by the Senate of the United States he has refused to acknowledge it; a document, for the authenticity of which we have only the imprint of a partisan newspaper; a document contradicted too by the other paper with which it is associated in the resolution, and by the annual message of the President to Congress. Sir, we do not pass a bill for a turnpike road, though it be introduced by a member of the house, until it is twice read, referred to a committee, reported upon by them, submitted to a committee of the whole house, and again solemnly read. And yet this document has never been, and in this house never will be, once read; it has been referred to no committee, and we are indebted, we are told, to courtesy to the minority, for its being printed one day before we are required to discuss it. Sir, you will search in vain through your voluminous journals for a precedent

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\* The Hon. Albert H. Tracy.

For such legislation as this. And if you go back to the history of that country from which we derive our forms of legislative proceeding, you will look in vain for a parallel, until you reach the history of that pliant parliament which successively tendered its approval and ratification of the successive marriages and divorces of Henry VIII. Sir, there is no name in this nation which could exact so humiliating a sacrifice of legislative dignity as this, but the name of Andrew Jackson. And now, "in the name of all the gods at once," who is this Andrew Jackson, that we "must bend our knees if he but look on us"—nay, that we must thus propitiate the condescension of a look—that "when he bids" us, aye, *unbidden*, we must "*mark him, and write his speeches in our books?*" Is he greater than the father of our country? And yet in all the enthusiasm of national gratitude for independence bestowed upon us, was never so humiliating a tribute offered to WASHINGTON. He, Sir, would have spurned the legislature of a free State that would have laid such a resolution at his feet.

But if we must transcend the constitutional limits prescribed for our action, and set aside, in favor of this document, all forms and rules of legislation, then let us come at once to the merits of the resolution.

As regards the expediency of the removal of the deposits, I assume that it is the duty of the Government of the United States, as it is the duty of the Government of this State, to deposit the common fund and treasure of the People in the most safe place. I will not say, and cannot say, that in reference to the present state of the currency, and the actual condition of the country, any of the depositing State banks are unsafe. But I will say, and prove, that they are, and must be, less safe depositories than the United States Bank. Sir, what are the notorious facts on this subject? You know, the President knew, the country and the world know, that the Bank of the United States was safe. After a long and unprecedented persecution of four years, the effect, if not the object of which, was necessarily to oppress and embarrass the institution, and thus endanger its stability, you have had two full, searching investigations; the one by the Treasury department, the other by a committee of the House of Representatives, and both those investigations resulted in declaring its perfect solvency and security. Sir, it is even conceded, though indirectly and reluctantly, in these documents. Thus, Sir, we know the condition, the entire solvency, and the perfect security of the Bank of the United States, as a depository for the public money. And what do we know of the condition, solvency, and security of the thirty and more State banks selected by the President? The plainest man without the bar of this house shall answer. Will he take the bills of the depositing bank at New-Orleans, or even at New-Haven, in exchange for United States Bank notes? No. Why will he not? He knows the latter bank is solvent; he does not know the security, nay, he does not

know the names of the former institutions. The merchant shall answer me. Will he take the notes of the one in payment without exchange as he will the other? No. And why will he not? Because, that exchange is the premium for the greater risk that the one will not redeem its bills as promptly as the other. The capitalist shall answer me. Will he invest his money as readily and at as high a premium in the stock of the one, as in that of the other? No, Sir. And why not? Because the premium, besides the length of time and probable amount of profits, includes the comparative risk of the solvency of the two institutions. Sir, the House of Assembly shall answer me. Not one member of that House would receive the bills of a State depositing institution, (the safety fund banks always excepted,) in payment for the arduous public service of passing these Resolutions without debate. You have, for the safety of these local banks, only the certificate of the agent of the Treasury department. And what know we of the manner, the extent, and the impartiality of those investigations? Nothing.

From the organization of these institutions, it results that the solvency and security of the United States Bank can always be more readily and certainly ascertained than those of the State banks. It is one institution, under the control and management of one direction. The local banks are separate institutions, remote from and having no connection with each other, nor subject to any general supervision. The security of banks must necessarily depend much upon the provisions contained in, and may be from time to time affected by legislative alteration of their charters. The charter of the Bank of the United States is always before Congress, and the institution can be affected by no legislation but theirs. The charters of the State banks are not before them, and they are subject to the legislation of the respective States. The Bank of the United States is the agent of the Government, with powers and organization adapted to the duties of that agency, and responsible directly and always to that Government. The State banks were never designed for such an agency, having neither the necessary capital nor the capacities for those duties, and are irresponsible to the Government. Sir, experience confirms what reason and argument teach on this subject. The Bank of the United States has never lost, since the foundation of the Government, one dollar of the public funds; the annual report of the Secretary of the Treasury exhibits a fearful aggregate of monies lost by notes of insolvent State banks. You have already in your cities newspapers of that interesting description which are wholly devoted to giving information of the progressive condition, solvency and insolvency of the State banks—information now so necessary to the Treasury department, although the study of it would constitute the miser's pandemonium.

But, grant that the President had reason to know the perfect security of the

**local banks, how is their future condition to be ascertained? The Government has no power to make the inquiry. The right to make such inquiry is secured by contracts, of doubtful validity, with the State banks. Those contracts may be annulled by the stockholders, or by the State legislatures. Investigations by the Government into the condition of State banks, will justly be regarded with jealousy as conducive, if not designed to conduce, to consolidation, and the security of deposits will be regarded as a mere pretext for an unwarranted inroad upon the reserved rights of the States. Sir, we, in this State, cannot deny, that State banks are insecure, for our whole safety fund system proceeds upon the ground that they are unsafe.**

**But I am answered, that you will have security for your deposits. Aye, if you can obtain it, you will have security when your deposits exceed one-half of the capital of the bank: but that security is to be upon the capital, and where is that capital? Is it paid in, or is it in hypothecated stock notes? Such security the Government may obtain from doubtful or insolvent banks, whose capital was never actually paid in, but it will not be given by solvent banks, because stockholders will not prefer the claims of Government to their own and those of private depositors.**

**And grant the deposits might continue safe where they now are; we are told in these very documents which we are to approve, that the right to designate is consequent upon the right to remove, that both are executive, and for both the Executive is not responsible to Congress. The same power that has removed these deposits can remove them at pleasure, and Congress is no longer entitled even to reasons for the removal.**

**Again, Sir, I disapprove of the removal of the deposits, and of course of these Resolutions, because the act of removal was a violation of the solemn faith of the Government. It is admitted I believe by all, as the true construction of the charter, that the bonus of one and a half millions paid by the Bank, and its obligation to regulate the currency, were the conditions imposed upon it, in consideration of the stipulation that the Bank should have the deposits. These deposits, it was stipulated, should not be removed but by the act of the Secretary, or of Congress, and for good cause. I say that Congress had the power to remove, although that power is not expressly reserved in the charter, because it is a power of which they could not deprive themselves: and I add for good cause; because such would be the legal construction of the reservation even of an unqualified power to remove, and because, the Secretary is required by the charter to give his reasons for removal. And now, it appears that these deposits have been removed, not by Congress, nor by the Secretary of the Treasury in the exercise of his discretion, but by the high-handed act—**

without cause and without law—of the President, while the Bank is admitted to have performed its obligations.

I know not what favor my next objection may find in this house. It is, that the measure has caused a waste of public monies. While these deposits remained in the Bank of the United States, although the Bank paid directly no interest to Government, the deposits were loaned to individuals in the same manner as the capital stock and individual deposits. The interest upon these deposits was a part of the profits of the Bank, and the Government received its share of these profits in the proportion of its capital ; that is, 7 to 35, or one-fifth of the whole.

Much is indirectly alleged in these documents, and is now loudly proclaimed elsewhere, of the mismanagement of the funds of the Bank, and the consequent reduction of its profits, and of course of the Government share of its profits. Sir, I submit that in the one item I have mentioned, the loss of interest on the deposits, the President has wasted more than the aggregate of all the Government losses by the mismanagement of the Bank since its foundation. And yet this is not the worst aspect of the subject. By the removal of the deposits, the President has reduced the value of the stock of the Bank, one-fifth of which is owned by the Government. It is not my purpose to be exact in these items, it is enough to show the facts ; but grant the stock of the Bank thus reduced in value ten per cent, and you have upon the \$7,000,000 of Government stock, 700,000 dollars loss ; an item which I commend by way of set off against the 48,000 dollars expended for publishing documents and information designed to counteract efforts made to prostrate the Bank.

But, Sir, these are mere financial considerations, affecting only the redundant resources of the country, and they sink to insignificance compared with those evils, the measure of removing the deposits has inflicted, and is yet to inflict, upon the currency. Sir, it is settled, whether wisely or unwisely, that the circulating medium of the country must be a paper currency. The condition of that currency concerns every man's weal in the land. When it is unsound, it produces those hard times which we have often imagined, but are now experiencing. When it is sound it produces those good times, the enjoyment of which makes us forgetful of the cause which produced them. That currency, when healthful, raises the value of your bank stock ; it adds to the value, not only of the annual products of your farms, but of the farms themselves. Upon its condition it may depend whether your merchandize, judiciously prosecuted, shall be profitable or unprofitable, and whether your manufacturing or mechanical operations shall yield a reward for your industry ; whether you be able to collect or pay your debts. That currency has, until recently, been a long time sound and uniform, and the world has never witnessed a scene of greater prosperity than has been

exhibited in this country. That currency has, at one period of our history, been diseased, and then brought on a train of evils for which legislative wisdom in vain tried the efficacy of relief laws ; a state of suffering from which there was no escape but the return by the road of penance to a national bank, to produce a healthful and uniform state of the currency. So, Sir, it will be now, with the only difference, that the aggravation of our distress will be proportioned to our recent unprecedented prosperity. That currency, Sir, obeys no administration ; the laws of its action are absolute and certain. It has none of the subserviency of secretaries, of political congresses, or of partizan legislatures. It owes no allegiance to him whom men call King Caucus ; it is governed by no usages or customs of "*the party.*" It defies the thunders of government newspapers, those ministerial vaticans whose anathemas infer political death. It despises "*the voice of New-York,*" and is reckless even of the "*voice of the People.*" This mysterious and arrogant power can be subjected by one agent, if he be strong, wise, prudent, faithful and persevering. That agent is he who, with the requisite amount of funds and credit at his command, in all the different parts of this extended country, and with specie always in his vaults, will diligently watch the motions of the currency, and with untiring industry, faithfully, and at all times, either free of charge, or at nominal expense, transfer funds redundant in one part of the Union, to supply deficiencies elsewhere. To accomplish this purpose, the agent must have, not the favor of the Executive, nor yet the ear of the Ministry, before or behind the throne, nor will even popular acclamation answer his need ; he must have the confidence of men of capital and enterprise in this and in foreign countries. His bonds or notes must be esteemed as secure as his vaults. Such an agent, we have had ; it was the Bank of the United States. The funds it had were its capital and the deposits of the Government. Its bond brought specie at its need from every part of the globe, and its notes in every section of this country were more valued than the precious metals. Sir, that agent you have dismissed ; you have substituted thirty or forty of feebler and distracted power in its place. These act without concert, without responsibility, and without credit. The evil was almost instantaneously felt ; you denied it at first, then confessed it, then promised it would abate, and still it goes on increasing, and will go on increasing, until your industry is paralysed, and your commerce arrested in all your market towns on the seaboard. The reproof of your error now reaches you from every commercial city in the land. You know it will come louder and bolder, and ere you have closed your duties here, it will visit the homes of your constituents. Yes, you will return to them to witness the depreciation of farms and merchandize, and the general gloom which mutual distrust and individual apprehension can so effectually produce. Your banks having extended their dis-

counts to their utmost limits, will close their vaults, and the application for renewals and additional loans will be answered by the visits of the sheriff to the houses of the debtors. The usurer will be abroad in the country, as he is now in your cities. You have disturbed and deranged that subtle currency, and its vibrations will shake and unsettle all business transactions. You know it: you anticipate the complaints and the rebuke of your constituents; and you seek to deceive yourselves, and self-convinced, honestly deceive them by laying the evil at the door of the United States Bank, which during all this pressure, has been, with all the power you have left it, discounting freely to relieve the People. Deceive them and yourselves you may for a while, but in the extreme of suffering they will arouse to the conviction that these evils come from the reckless sacrifice of their prospects, hopes and enjoyments in a political warfare, in which they had nothing to gain, and the calamities of which were sure to fall upon themselves. THEN you will have to give better reasons for your votes on these resolutions, than were given in the House of Assembly, or than have been *yet* given in this house.

Having now, Mr. President, stated generally the grounds of my opposition to the passage of these several resolutions, it remains, of the plan I had marked out for myself in this debate, to consider briefly the reasons assigned by the President and Secretary for the removal. I have necessarily anticipated some of them, but will carefully avoid repetition.

The Secretary says, that he having, by the charter, (which he correctly pronounces a contract between the Government and the Bank,) the unqualified right to remove the deposits, the order of removal made by him can in no event be regarded as a violation of the contract. This is the language of the special pleader of the Executive. Now the order of the removal was to be given on the exercise of discretion, and whose discretion? The discretion of the Secretary of the Treasury. Yot this argument goes the length that an order made by any *locum tenens* of the Treasury department cannot be a violation of the charter.

Sir, I would propound to the learned late Attorney-General, whether, if a strong man had seized and imprisoned the Secretary of the Treasury, and thus by duress extorted an order, that order would be valid, and no violation of the charter. I am but a stripling in the law, I have never sat at the feet of the Doctors, but I may appeal to Senators whom I address, and who are judges of a court of dernier resort, whether duress would not avoid an order thus obtained.

Here is no duress, but there is an eviction and substitution by the President of the United States, of the agent in whom the discretion was reposed, and for the purpose of obtaining the order. What judge would not say that it is a stronger case than that of the supposed duress? It appears, then, that whether the order for the removal of the deposits was a violation of the charter, depends

upon the question, whether the President had the right to usurp the discretion of the Secretary of the Treasury : a question upon which I deem it unnecessary to add to the observations before made.

We are informed by the President and Secretary, that the removal of the deposits was directed because it was required "by the public convenience, and would promote the public interest." And what is assigned as the inconvenience to be remedied? It is alleged that the deposits would have been unsafe, had they been suffered to remain in the Bank of the United States. Grant me patience if I cannot suppress my astonishment at this assertion. A bank with 35,000,000 of capital actually paid in, and still remaining there unwasted, prohibited from loaning a dollar of that capital or of the deposits, a less safe place for deposits than the same bank when engaged in promiscuous and widely extended loans, to the amount of double its capital! Is there a merchant in my hearing, let him come and learn wisdom from this document! When you have amassed millions by the hazards of trade, and your capital and all the funds your credit can command are afloat upon the seas, beware how you withdraw that capital and call in your debts! The career of prosperity is safe if you continue your hazards, but bankruptcy and ruin stare you in the face when prudence dictates to cease acquisition, and invest your capital and gains!

It is assigned by the President and Secretary, as a justification for removing the deposits, that the expiration of the charter was so near at hand, it was necessary to provide, in anticipation, a circulating medium to supply the place of that formed by the notes of the Bank of the United States, and the notes of the depositing banks are to be that medium. The Secretary, in arguing that the paper of the State banks may be made to supply the place of that of the Bank of the United States, assumes that it is only the deposits, and the agreement of the Government to receive the notes of the Bank of the United States, that gives those notes their currency. But it requires something more than all this. It requires the same amount of capital, and the same degree of public confidence, and then that currency cannot be obtained, because of the limited organization of the State banks. Sir, the Secretary might have learned from the State banks—he did learn, that they could not supply this currency. They cannot supply it unless each will receive the notes of the other depositing banks. And the banks, knowing their inability to redeem the bills, have refused to do so. What have they agreed to do? *To redeem, if practicable, the notes of other depositing banks in their vicinity.* This, Sir, is the wretched machinery substituted for that of the United States Bank, which has, without any failure, performed this important duty of exchange.

Now let us see how these exchanges are made by the United States Bank, and how they will be made by the local banks, supposing them to perform to

the letter their contract made with the Secretary. A merchant at New-Orleans has occasion to pay \$5000 in New-York. He obtains for that amount of Louisiana bank notes, at par, \$5000 of notes of the Bank of the United States. These will be received at Boston at par, because the branch in that city will receive them at par or at a mere nominal discount. Or the merchant may buy, for a nominal discount, a draft of the United States Branch Bank at New-Orleans, upon the branch at Boston.

Let us now see the operation as performed by the State banks. The merchant first receives his \$5000 in notes of the depositing bank at New-Orleans. These notes will not be received by any bank in Boston. He sends them to Mobile, which is in the *vicinity*, I suppose, (according to the construction of the contract,) of New-Orleans. The notes are there exchanged for notes of the depositing bank at that place, which in their turn are sent to Savannah, the limits of the *vicinity* of Mobile. There another exchange is made for the notes of the depositing bank in the vicinity, which is Charleston. Thus the notes are exchanged at Norfolk, then at Washington, then at Baltimore, then at Philadelphia, New-York, Providence, and at last reach Boston, where the \$5000 in the notes of the Providence bank are received at par, because that bank is in the *vicinity* of Boston.

All this would be very well, but it happens that the merchant's remittance to Boston cannot be delayed; while this delay occurs, his money must be paid with the speed of post. This renders it necessary that he exchange his notes with the broker for funds at Boston, and the broker will make these frequent exchanges at his leisure. The broker must have a commission for the use of his money in the first place, while these tardy exchanges are being made; next he must have pay for the risk that the money may be lost *in transitu* from one to another of these numerous vicinities. Next the unconscientious broker will have doubts, although the President and Secretary have none, whether some one of these depositing banks will not refuse to make the exchange. Next he will have apprehensions that some of these banks may fail while the money is in his hands. He must therefore add an item of one or two per cent for each exchange, to secure his compensation, and insure him against these risks. This commission will thus be swelled to about ten per cent, and so the merchant at New-Orleans finds that to pay \$5000 in Boston he must have \$5500 at New-Orleans. For the additional \$500 he has, indeed, the consolation of having sustained the administration "which you approve."

But the evil does not stop here. The merchant will not receive of his debtors in payment, at par, the notes of the depositing bank of New-Orleans. His creditors refuse to pay the exorbitant premium, and they throng the doors of the bank demanding specie, which is a lawful tender. The bank, according

to the most favorable condition of our own, the safest State banks, has about one dollar in specie to pay every twenty dollars thus presented; it refuses payment, and then the other banks *in the vicinity*, all subject to equal pressure, suspend specie payments, and then comes the season of universal distrust and distress. Sir, this is the condition in which we were during the interval when we had no United States Bank. Is it not a gloomy commentary upon all the glory of this administration "which you approve," that it is to this fearful estate we must come at last?

But the President does not make out his case without assuming that the Bank cannot be rechartered, or a new one created. What is this, Sir, but assuming that the legislation of this country, the will of the People, is all to depend upon the will of one man—and that will expressed before hand, concludes all action of the People, or their representatives? Sir, we have in these documents a new theory of legislation. Our fathers who framed the Constitution thought—so you and I, and all the People thought, that the will of the People was to be ascertained from the votes of their representatives. The President, we all knew, had a qualified veto upon this will; but the will of the People could not be said to be pronounced but by counting the votes of their representatives. Nowadays it is the republican doctrine that the President of the United States, without waiting for the action of Congress, shall pronounce the will of the People, and whatever is *ex cathedra*, thus announced, is to be acquiesced in without discussion.

Formerly the veto *followed* the decision of Congress. So it was in the first administration of the President, and it was then often and capriciously enough exercised. Now the veto *precedes* the act of Congress. Then it was communicated to Congress by message. Now, it is, before Congress assemble, communicated to the People through the Executive newspaper. What is this but saying, no matter what may be the exigencies of the country, no matter what the will of the People, or the decision of Congress, I, Andrew Jackson, decide that there shall be no Bank of the United States. *Sic volo, sic jubeo*. All these assumptions the President is compelled to make, in order to justify his usurpation of the powers of the Secretary, and his disrespect for Congress. Congress, it is conceded, have the responsibility of providing against the evils of an apprehended inability of the Bank to pay the deposits, and of a depreciated currency. But, alas, the President and Secretary have discovered there was not time to wait for the action of Congress. The danger pressed too closely on. And how much time was to elapse before Congress could take the subject into consideration? Sixty days! Sixty days, the Secretary tells us, of the two and a half years remaining, before the expiration of the charter. Congress six months before, had the same subject under consideration, and not

only they, but the Secretary and the President, all overlooked the fact that this charter was so near its close. But now, time pressed so rapidly, that the President could not wait for Congress to re-assemble. Oh! how considerate of the value of time had the President and his Attorney-General become within that short six months! One would think they had been studying Young's *Night Thoughts* during the interval, rather than the charter of the Bank, or the powers of the Executive. Unfortunately for this excuse of the pressure of time, the Bank had for all the purposes of preserving the deposits and keeping up a circulation, more than four years to exist.

And now, Sir, let us look at this act in all its magnitude, in order to set a proper value upon this apology of the want of time. The President has thrust out of office the agent appointed by Congress, because, in his discretion, he conscientiously refused to remove the deposits. He has put into his place a man who avows that he acts, not as the agent of Congress, but of the President. He has withdrawn the revenues from the Bank, and placed them in depositories unknown to the law. He has disturbed the currency, and thus prematurely brought distress and suffering upon the nation, in the moment of its highest prosperity; and all because the President could not wait sixty days out of four years for the action of Congress.

Sir, it may be true, as has been said here, that this Legislature will approve of these after-thought reasons of the President and his *de bene esse* Secretary; for, for aught I know, this Legislature may, as the act of approval would indicate, repose more confidence in one man, than in some two hundred and fifty representatives of the People. Such opinions are not new, but they have been always less popular on this side of the Atlantic than the other, and are less popular there than heretofore. I must be excused from becoming a convert to this monarchical creed, until Congress adopt and approve these documents. When that shall be done, I will agree with the majority of this house, that legislative bodies are an undue hindrance upon Executive action. I will go further, then, Sir, and agree that then Congress will have little less to expect, however much better they have merited than that, on the first attempt to reassume their constitutional prerogative, the President will enter their halls, like Cromwell, and "command them to begone about their business, for the Lord hath no further need of their services."

The President, by his Secretary, enforces his reasons for the removal of the deposits, by adding that the Bank, notwithstanding its fate was determined by the re-election of the President, took no measures to prepare for its approaching obsequies, but continued to loan money, and even increase its loans; so that it would, if it had not been arrested by the removal of the deposits, have been able to wring the renewal of its charter from the fears and sufferings of the People.

**The amount of this increase of loans is stated at two and a half millions in eight months, and this happened at the season when merchants most wanted loans, as usual, in anticipation of the receipt of their payments. I say, Sir, two and a half millions, but this is only on the authority of the Secretary, which is somewhat problematical, as in a similar statement made by the President in the Cabinet document, there is a misstatement of 11 millions of 28 millions alleged to have been increased loans previous to the late session of Congress. Never, Sir, was so unfortunate a monster as this monster Bank, except Caliban, in Shakspeare's *Tempest*. For the very next accusation which this Prospero of a Secretary makes against it is, that as soon as the removal of the deposits was determined by the President, the Bank commenced to contract these loans, and thus prepare, as it was required to do, for its dissolution. So far as concerns the present debate, it is a sufficient answer, that this latter offence was not committed until after the judgment of the President against the Bank was pronounced; it is pleaded by the learned Secretary *puis darrein continuance*, but not until after the verdict.**

**The remaining reason for the extraordinary assumption of power is, that the Bank has endeavored to acquire political power. Now I humbly submit that this argument is altogether indefensible. And first, because, assuming the position to be true, the effort of the Bank had been unsuccessful, the struggle was already past, and the Bank monster, as it is called, was in its agony. If this be true, the removal of the deposits was a vindictive measure, which the President had no right to inflict. It was the duty of Congress to punish, if punishment were deserved. 2dly. If the President apprehended that the effort was to be renewed, it was nevertheless his duty to submit the subject for the consideration of Congress, because it belonged exclusively to their province, and there was no exigency requiring the President's sudden interposition; no election was to intervene before the meeting of Congress. 3dly. That in any view of the case, the President and his Secretary had nothing to do with this charge. The offence is not of a financial character, but an abuse of the charter, requiring either judicial or legislative investigation and remedy. In either case the Bank was entitled to make its defence, and to be heard before it was condemned. But the President of the United States has assumed, together with jurisdiction of the case, the fact that the Bank was guilty. So far as these manifold offences were discovered before the close of the late session of Congress, they had been examined by the House of Representatives, and pronounced untrue, or too trivial to justify legislative action. So far as they had been discovered since the adjournment of Congress, they should have been submitted to the same examination. The charter confers upon the President no power but that of issuing a *scire facias*, a duty purely executive; but the President has seized to himself the office of the judiciary. And what reason is given for not issuing the *scire facias*? We are**

told in these documents, that the time was too short for the action of the courts of law. Sir, in all our history there is not to be found so unblushing a pretext for the arrogation of power. Suppose there was not *time* for the action of the courts, what then? Is the President to assume the jurisdiction in all cases where he thinks the "law's delay" cannot be endured? If so, he has an arbitrary power, which may speedily dispense with all courts of justice whatever.

But, Sir, there are considerations appertaining to this subject, and arising from the peculiar opinions of those whom I address, which ought not to be forgotten here. The President has pronounced judgment against the Bank, and this Legislature has constituted itself a court to review that judgment. Let us then proceed in the investigation of the matter, with the aid of those forms of judicial proceeding so conducive to the attainment of correctness, certainty and justice. Who is the defendant? The Bank of the United States. I will, Sir, at the hazard of being denounced as a "feed advocate" of the Bank, *pro hac vice*, offer myself as counsel, and notwithstanding what I have before said as to the impropriety of these resolutions, because they do not come within the scope of your duties, will nevertheless waive all plea to the jurisdiction of the court. The defendant is a Bank, the offence charged is, that this Bank has sought to obtain power. Sir, on such a charge the President can have no hope here. My client, the Bank, is sure to escape. Why, Sir, it is the adjudicated law of this court that banks ought to possess political power. Your statute books, from year to year, down to this day, are full of recorded adjudications, that banks are the safest and most proper depositories of political power. We have, in this State, a system admirably contrived and adapted to increase the number and combine the energies of these purifying political agents. We take care, when a bank is to be incorporated, that the commissioners named to distribute the stock shall be men who will so distribute it as to secure a political organization of the institution. Nay, so far from discouraging these agents, we demand no bonus, but give a bonus of ten per cent upon the capital stock of every bank, as a compensation for political services. From such a court as this, then, I know that my client, the Bank of the United States can have nothing to apprehend. I applaud, if your honors will permit, your wisdom in having thus settled the law. I know your impartiality and consistency, and I crave your honors' pardon for having dwelt so long on the other charges against my unfortunate client. Had I but pressed this point first, I know you would have acquitted the accused at once.

But to examine briefly these charges against the Bank. The first is, that preparatory to its application for a renewal of its charter, at the last session of Congress, the Bank increased its loans twenty-eight millions of dollars, to induce public favor. Unfortunately it appears there is a mistake of eleven millions

**in this aggregate.** The amount of increase was seventeen millions only ; and it appears from the report of the directors of the Bank, that the reason for making this increase of discounts, was an increase of available funds, to the amount of eleven millions.

Another specification in this charge against the Bank is, the expenditure of monies in the publication of documents, speeches and reports in vindication of itself against the relentless war waged upon it. Sir, we all recollect the virulence, the recklessness of the attack. We know that it was made by the Executive of the United States, aided by all the power and influence of the Government, that it was continued four years, and that it was waged from every quarter of the Union. We recollect, too, that it was a cardinal point to produce the general belief of the nation, that the Bank was ruinously mismanaged. And we know that this effect would have been produced, and that the Bank, when such an opinion became general, must have sunk to bankruptcy. Shall we be told, Sir, that it was the business of the Bank to be silent, because the attack was made by and in the name of the President of the United States? It was the duty of the directors to publish to the world its defence ; that defence must necessarily be as extensive as the attack. The glaring aggregates of expense for these publications only show, if doubt remained on that subject, how powerful, how extensive was the attack the Bank was required to meet. Nor is the case altered by the fact that the President was a candidate for re-election. The evil to result to the institution was certainly not less aggravated, and consequently the responsibility of resisting it no less. I shall not stop here to count the number of Gallatin's irrefragable essay on banking, and of the National Intelligencer, and of Mr. Webster's and Mr. McDuffie's speeches, which were published and circulated by the Bank. I know full well the number in the region of country in which I reside, fell as far short of the cloud of Vetoes and Benton's speeches, and extra Globes, as these latter did of the former in sound practical knowledge, forcible argument and ingenuous patriotism. Sir, it is certainly an anomaly in this Government, where we boast the freedom and independence of the Press, and "the safety with which error of opinion may be tolerated where reason is left free to combat it," that it should be made a cause of complaint against the Bank of the United States, that it defended itself by means of the press against the attack made with a design to destroy it. But, Sir, who is he that thus interposes between the People and the Press! I remember well, and the Senate will pardon me if I call their recollection to a period so remote, that during the canvass which preceded the first election of the present President, the great complaint against his predecessor was, that he had used the patronage of the Government to operate upon the elections. I remember, too, that when the President took the chair, "*reform*" in this particular

was one of the most prominent parts of that thorough reform which he saw so "conspicuously inscribed on the list of Executive duties." Can it be that it is the same individual who assigns, as a justification for his violent usurpation of the powers of Congress, that the Bank had employed the Press to inform the People upon a question which he boasts was submitted to them at his re-election!

Sir, I have differed from the majority of this Senate and this Legislature, as to the propriety of making banks the depositories of political power, and for that reason I rejoice that the Bank of the United States had the moral firmness to resist the efforts made to subject it to political control. Further than this, and defending itself when assailed by the administration, it has never gone. Had it gone farther, I should rejoice that its political influence had been exercised *against* Executive power and influence. As counteracting agents, they may, in some degree neutralize each other; but united, the power and influence of both would be fearful indeed. That union you are now co-operating to produce. You will dismiss the Bank of the United States, which is independent, and you will expose the deposits at public auction, to be taken by those State institutions which will bid most of political support to the Executive. When this is accomplished, there will be real cause for the alarm now affected.

Sir, I believe that the days of the Bank are numbered. It is for the welfare of the country, and not on account of that institution that I regret it. That institution has sustained the Government, and enabled it to pay its immense debt; it has given us a sound currency and brought foreign capital tributary to our use; thus enabling us to increase our own, and develop our resources a hundred fold. Its benefits are seen every where over this widely extended country. That institution is now to be made a sacrifice, I would fain hope the last sacrifice, to party spirit. The experiment is to be made, whether this sacrifice is wise and expedient. If I see cause to despair in the condition of depression and distress to which this nation is to be reduced, I still can look upon it without the entire sinking of the heart, for I here and elsewhere have discharged the duty devolved upon me, as a freeman, and the representative of freemen. There still remains the painful hope, that in the midst of suffering the nation will rouse from its delusion. In the depth of distress will come the teachings of prudence, and the purification of patriotism. Then will come the mighty energies which will work out the redemption of our country; for she is yet too young, too vigorous, to sink into a dishonored grave. Then will come, too, the hour of mutual congratulations that all had awaked from their error, before it was too late, and then looking back with humility and gratitude upon the abyss from which we shall have escaped, we shall return again to the counsels of our fathers, and be content for the future to be guided by their precepts, and imitate their example.

## R E P L Y

### Of Mr. Seward to the Speeches of Mr. Dodge and Mr. Maison, in the Senate, January 22, 1834.

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**MR. PRESIDENT,**

The gentleman from the Second District, (Mr. MAISON,) must excuse me when, for the purpose of recovering my own self-possession, and enabling the Senate to collect theirs, I seek to escape from the volcanic eruption which burst upon us in the peroration of his speech, by turning to the more equitable, mild and temperate discourse of my honorable friend from the Fourth, (MR. DODGE.) The latter gentleman has reviewed our long and agreeable acquaintance as members of this body, and frankly expressed his opinion of the manner in which I have discharged my duties here. He has been pleased to add, that while he has seen much in my conduct to admire and respect, there have been two incidents which, in all the frankness of an honest nature, he says he has been compelled to disapprove. Sir, I am gratified that my honorable friend from the 4th has done so. Such comparison of opinions concerning each other, conducted in the frankness of mutual and friendly explanation, cannot but be of mutual benefit. The occasion is seasonable, as the time approaches when our long and agreeable intercourse here must close. In the same spirit of frankness and friendship, I meet the gentleman, and on my part freely acknowledge, that I have no recollection of any incident in his conduct which I have the least disposition to censure.

Having thus acquitted him altogether, I must endeavor to remove the cause of complaint he has so frankly assigned against me, for I am sincerely grieved to learn that even on two occasions my honorable friend has not approved my course here.

The first of these offences is, that two years ago, in a debate similar to this, I defended the principles of Antimasonry in this house. Now, Sir, with all my solicitude to secure the unreserved esteem of my honorable friend, the act of which he complains is precisely that one for which, of all others, I cannot admit his censure to be just. Sir, my honorable friend will recollect that I was then, as I am now, an Antimason. I was sent here by Antimasons. I am not, as the gentleman

well knows, the man to profess principles in one place I am afraid or ashamed to avow in another. I am not the man, when sent here because I am known as entertaining political principles approved by my constituents to abandon those principles for any which shall be more popular in this place. Under such circumstances, when "the blessed spirit" of Antimasonry was traduced in this Senate, I could not sit by in silence. Nor should I now; and however I should regret the loss of my friend's favorable opinion, I should commit the same offence, were an attack upon those principles made by my honorable friend, or any other member of this house, whose assault should have sufficient of dignity and self-respect to justify me in replying to him.

But it was less the act of defending Antimasonry, than the manner of the act, that my honorable friend condemned. He says, that on the occasion alluded to, I *profanely* declared I wished to leave Antimasonry as a legacy to my children. And this profanity shocked the pure and pious feelings of my honorable friend. Sir, were the report which he gives of my speech on that occasion correct, I know not that I should have any desire to change it. Secret societies, composed of members bound together by unlawful oaths, and extended over the whole land, are opposed to the genius of our government, subversive of the laws and inconsistent with private rights and the public welfare. Having assumed and still intending to maintain the responsibility of opposing such institutions during the period of my action as a citizen, both morally and politically, as long as moral or political action is necessary and shall promise to avail, I should feel that I ought to inculcate upon those the gentleman has referred to, among other lessons, the same duty, if occasion shall remain, when they come upon the stage of public action. I would not swear them, as Hannibal did his son, but I would leave my injunction upon them to contribute all that might lie in their power to eradicate so great an evil from the land. But what on that occasion I did say, was in speaking of the names enrolled in the cause of Antimasonry, that there were among them those which had acquired a fame for talents, purity and public service, which any member of this Senate might be proud to leave to his children; for myself, I wished to leave to mine no better legacy. And is it not so? Are there not such names?

Sir, with this explanation, which would have been unnecessary, had the gentleman consulted his own memory rather than a certain organ of doubtful veracity, which has furnished too many of the facts relied upon in his speech, my honorable friend will, I trust, no longer have occasion to complain of my *profanity*. But the gentleman inquires whether I am not satisfied that this legacy has lapsed. I can console myself that if it be so, it has probably gone into the same oblivion with his ancient Federalism and Freemasonry. But while I recall those pleasing recollections to his mind, and thank him for the solicitude which prompted

as well as the delicacy of manner which distinguished his inquiry in behalf of those so near to me ; (and certainly nothing less than so much solicitude and delicacy could have warranted the gentleman in thus bringing them before this Senate on this occasion.) I am bound to answer to his inquiry, that the legacy of a good name and reputation is that which I shall most faithfully endeavor to preserve for them. And more, I am at the same time, and by the impulse of the same spirit of kindness, compelled to call his attention to a similar case, more nearly interesting to himself, and possibly more pertinent to the present debate. A distinguished member of this body, since elevated to a seat in the Senate of the United States, (Mr. Tallmadge,) appears to have devolved upon my honorable friend from the 4th, the arduous duty of defending the administration in this Senate. But if with this responsible duty my honorable friend has inherited nothing but an old and worn out apostrophe to the picture which, as he eloquently says, "suspercedes the President's chair," together with a witticism of doubtful merit in the first place, and since worn threadbare in the newspapers ; I fear that the distinguished Senator's legacy both of eloquence and wit has altogether lapsed, although, from motives of equal respect for the memory of the testator and for the legatee, I will not undertake to say whether it is a lapse for want of whereof to descend, or of competency to inherit.

The other offence by which I have so unhappily grieved my honorable friend from the 4th was, as he says, that in my opening speech on the present argument, I *pharisaically* claimed for myself and my associates, all the political purity in this house and this Legislature. Sir, the word "pharisaically" has two meanings, though somewhat near alike, still differing so essentially as to require a distinction. By pharisaically we are sometimes to understand hypocritically. Now I know my friend so well understands and appreciates the rules of this house, which forbid imputation of improper motives, and I have so many strong assurances of his esteem and admiration for me, that it would be ungenerous to believe he intends in that sense to apply the term *pharisaically*. My honorable friend then intends to be understood that I and my associates act in reference to this matter like that sect of ancient lawgivers, from whose name the word is derived. Now I submit that it is not we to whom this character can be applied. We offer no creed to this house, or to this Legislature. It is not we who are arrogating in this matter the *exclusive* merit of democracy. It is the gentleman and his friends who are enlarging their phylacteries by these resolutions, and setting forth to the world that they are "better than other men" who refuse to wear them. But, Sir, I am bound in the same spirit of candor which governs my honorable friend, while I deny that I made any such claim, to admit that I did speak of a mysterious intuition which enlightened the understandings of this Legislature, so that they were ready to adopt and approve of

the documents of the President and Secretary without even having them on their tables. We had not been favored, when I made that observation, with the Senator's speech, and were I to admit that that effort was sufficient to produce this general conviction, he will pardon me if I say it still seems mysterious that it should have produced that effect before it was delivered.

But my honorable friend is distressed by the apprehension that I have acquired the principles expressed by me in this debate not among "the green mountains and valleys of my native country," nor yet among the beautiful plains and lakes of my adopted residence, but among certain "*aristocratical associations in Europe.*" Sir, my principles relating to this subject are, I confess, however derived, diametrically opposed to those proclaimed here by the gentleman from the 4th. It is *my* principle that it is the business of the Legislature to confine themselves within the sphere of duties prescribed by the Constitution. It is *his* that the Legislature may safely transcend that sphere to assume the duties and responsibilities of Congress. It is *my* principle that it is the duty of the Legislature to resist usurpation of legislative powers by the Executive. It is *his* that it is safer to trust to Executive discretion than to legislative wisdom. It is *mine* that the governing and sole motive in all legislation ought to be the security of the Government and the good of the People. It is *his* that the powers of Government ought to be so wielded as to subserve the ambition of him who happens to be the favorite of the predominant party of the day. Sir these principles were not acquired, although they may have been confirmed by my observations or associations in foreign countries. If my honorable friend had taken occasion to inform himself of my progress from more authentic sources than the questionable organ before alluded to, he would have found that during a recent and rapid journey abroad, undertaken from motives which need not here be mentioned, however much they may have been misunderstood, I kept as far aloof from courts and the great who dispense favor abroad, as I do from the administration and those who dispense power and political preferment at home. I kissed no queen's hand. I bowed to no court favorites there, more than I have fashioned my principles to the standard established here. If I have learned anything by foreign travel, it has been from the universal subjection, suffering and despair which I witnessed in Ireland, to sympathize with the agitators of that country, and know the fate which awaits a People who surrender their legislature, the only safeguard against executive oppression. By the general acquiescence in the exclusive privileges and immunities of the great, which I witnessed in England, to learn the importance of resisting every measure calculated to increase the overwhelming power and influence of those who are charged with the duties of government. From the Prussian and Austrian armies which I met in what were called the free cities and states of Germany, the

folly and madness of those nations which, under the pretext of public convenience and public interest, yield into the same hand the purse and the sword. In the boldness, intelligence and patriotism of the Republicans of Switzerland the value of that democracy which spends itself, not in lauding the servants of the People, but in watching their conduct with a jealous and wakeful eye. And in the shades of La Grange the value of a consistent and enduring devotion to the principles of Republicanism, not only when the People hail the champion of those principles as their deliverer, but when they desert him in his solitude to gaze upon and be satisfied with the insignia of their deliverance, while the popular constitution is undermined, and the popular Executive usurps the same despotic power over the press which sent his predecessor into banishment, and his ministers to prison. Sir, although then, I have been exposed to the seductive influence of foreign manners and opinions, while my honorable friend was more safely relaxing himself amid the democratic associations of Montgomery county, he may rest assured that I have returned to love my country better, and to know better the value of her institutions. And as far as the responsibility rests on me, to take care that the welfare of my countrymen be not sacrificed in the conflict of contending parties, and that the Constitution be transmitted unimpaired to posterity. But enough, Sir, upon a topic which nothing but allusions, ungenerous and unfounded could justify me in introducing here.

Sir, my honorable friend gravely accuses me of having urged him and his political associates here, to worship "the devil, or one of his imps." He will certainly pardon me if, simply to remove his horror of my supposed profanity, I correct him in this. I, Sir, have not commended any divinity to the worship of the gentleman or his associates; and, above all, I have not evinced so fiend-like a disposition as to commend to him that being he has named. I, Sir, have not mentioned the name of that being, or alluded to him. It is not my habit to name him here, or elsewhere: and I assure my honorable friend, that so far from urging any farther advance in heresy, I would conjure him and his friends to turn from the idolatry of men in power and to seek no longer in their smiles but in their own consciences the approval of a homage to principles.

Sir, I have much occasion to be grateful to my honorable friend for his speech. I thank him for informing me of the mental hallucination of the Hon. Henry Clay. Although that distinguished citizen never was and never can be the individual whom I would wish to advance to the Executive chair of this nation—although I had thought him too be a man too imprudent in his defiance of wrong, too rash and precipitate in his measures to be entrusted with the reins of government—I still had admired and respected him as a statesman of rare accomplishments, a scholar of much research, and an eloquent and powerful orator.

Sir, I stand corrected by the gentleman from the 4th, and while I find, in the case of the unhappy Senator from Kentucky, additional evidence that the human mind rises to a loftier elevation of thought and imagination when reason is relaxing its control, I only wonder that my honorable friend from the 4th has not found, among the powers of the President "to provide for the general convenience and take care that the laws be faithfully executed," one which would justify him in removing so dangerous a lunatic from the Senate.

Sir, I am oppressed by my obligations to the Senator, and next for assuring me that the Vice President of the United States will have no difficulty in understanding that one of these resolutions, which to me seemed so ambiguous that I thought it might not be understood at Washington. This assurance relieves me of a load of anxiety—although one more malicious might infer from the answer of my honorable friend, and the fact that no proposition is made to amend the resolution, that if the Vice President can only understand it, the more *non-committal* it appear to the rest of the world the better.

Sir, I am again compelled to thank my honorable friend for the answer he has given to my question, who is Andrew Jackson. Although my question was limited by the inquiry immediately following it, whether this house considered Andrew Jackson a greater man than George Washington, to whom no legislative tribute like that now proposed was ever offered: And although the question, for all my purposes, was sufficiently answered by the gentleman's *reluctant* admission, that the hero of New-Orleans is not greater than the father of his country: he has conferred additional obligations upon me by giving me interesting details in the history of General Jackson, of which I acknowledge that until now I have been shamefully ignorant. The gentleman has told us that this hero was once a boy; aye, Sir, and that he had a *brother*, and a *mother*. Rare individual! Singularly distinguished mortal! I suppose that we are to infer that he had a *father* too, although that fact is not given in the biography. Aye, and that brother and that mother died. Wayward fate! Cruel death to inflict so severe a blow! And that *father* too, as the President is now advanced to near the age of seventy, he also must have gone the way of all flesh. How affecting to our sensibility! How grievous to our sympathy! Who can refuse, after these details, the tribute of an approval of this document read before the Cabinet?

My honorable friend has given us a glowing account of the effect of the President's name abroad. Let the American minister, says he, but state distinctly what he asks, and foreign Princes and powers, trembling before the very name of Andrew Jackson, concede the right demanded at once. Sir, I wish then, that Mr. Van Buren had been as explicit in telling the Court of St. James what we wanted in relation to the West India trade, as he was in informing them

about our local politics, for we have obtained a ruinous commerce by that treaty. I wish Mr. Harris, our *charge* at Paris, had been somewhat more explicit in telling the French Government that we wanted payment according to our treaty, for Louis Phillippe's government seem little disposed to advance the *urgent*.— But, Sir, what miserable self-abasement is this! Your nation is respected abroad, but it is respected neither more nor less for the name of Andrew Jackson. They know and care very little who is the Executive. Your stars and stripes make you respected; your army and navy have won respect and consideration.— Your steady onward career of National prosperity and power, and your improvements in the science of Government and the amelioration of laws, have made you respected, and with all these General Jackson has had as little to do, except in the battle of New Orleans, as he has had in paying off the National debt. And Sir, as for the other particulars in the history of Gen. Jackson, with which we have been favored by the Gentleman, I can answer, that Sylla, the Dictator, was also a soldier, who had fought for his country, so was Cæsar, so was Cromwell, so was Bonaparte, so was Yturbide, and so were all the Heroes who have converted the power and popularity won by military exploits, to the means of subverting the constitution of the country for which they fought.

Thus far I have only answered that part of the Gentleman's speech which seemed to be more particularly designed to apply to myself, than to the merits of the subject before the Senate. Upon the latter subject I shall be able to be very brief, as it presents much less which demands a reply.

To my argument that this is not a proper subject for the legislative action of the States, he replies by precedent. My argument was one as to the right and expediency of such action. He answers by the precedent of a resolution in the Colonial Legislature of 1775, to be submitted to Parliament.— This precedent is unfortunately too early. He then gives us the resolutions of New Jersey, Virginia and South Carolina, simultaneously with these we are now considering. These are equally unfortunately too late. Sir, I admitted these precedents, and argued from their consequences the evil of the practice. That argument has not been met.

To my argument that it is unnecessary, unjust and derogatory, to pass the resolution against the renewal of the Charter of the United States bank, because the subject is not now before Congress, he answers that application may be made at the next session of Congress for the renewal. To this, it is a sufficient reply to say, leave it then to the *next* Legislature to instruct Congress.

The residue of the argument of the Gentleman from the 4th, consisted of a mere reiteration of the charges preferred in the documents you are called on to approve, all of which I had examined and had argued, were the subjects of Legislative or judicial investigation, and that the President had assumed these high

powers, without law or authority. This is the great question, and the Gentleman has not attempted to meet it.

My reply to the Senator from the 2d District (Mr. Maison) will, for reasons which will appear sufficient, be much more brief than that to my honorable friend from the 4th. I was aware, Sir, of the responsibility I assumed when I commenced this debate. I knew that I was to stand alone. I knew that some would think I was to be most effectually answered by personal allusions. It would have been much more agreeable to me to be silent, or to speak to the favor of the majority of this house, and my auditory. But my opinions do not coincide with those of the majority, and my duty was to speak. While I have by this reflection been admonished not intentionally to violate the respect I owe to the Senate, I had determined that no provocation, nor example, should induce me to depart from the dignity and decorum of debate. *Adherence to this rule*, will render but a brief reply to the Gentleman from the 2d District necessary. The Gentleman commenced by calling the argument I submitted on these resolutions, a 'harrangue,' and to remove all doubt about the proper cognomen of his own effort dignified it with the name of speech. Aye, and blushing called it a '*Maiden Speech*.' Chaste this maiden undoubtedly was, as all who saw her here can testify; but yet she was so bold, so free in her manner, that one would swear she had offered her caresses to more than two thirds of all the 'Democracy' of Dutchess and the Second District, before the late election. Sir, the freedom of this maiden's manners, is the only excuse I shall offer, if my reply seem to woo her too rudely. I thank the Gentleman from the Second, at least for his frankness; he has spoken plainly, and I shall reply in the same spirit. We shall after it is all over know each other better.

The Gentleman has told the Senate, that my 'harrangue' contained more of imagination than fact or argument. In the like frankness I am compelled to say, that while I have not been able to find fact and argument in his speech, I have not discovered that the want of them is particularly redeemed by the material so redundant in my own. The Gentleman from the 2d, commenced by stating that I had offered certain propositions which he could not comprehend, and which he classically called "*one legged syllogisms*." Of these anomalous syllogisms I think he had collected *sir*, although I cannot state accurately, for I lost my notes at the moment when the sudden illness of the Gentleman occurred.—By way of illustrating the fairness of the process, by which the Gentleman extracted these syllogisms from my argument, I will recal one. I contended against the propriety of spreading upon our record the document read by the President in his Cabinet, and adopting it in gross—a document which had not been officially acknowledged by the President, and of the authenticity of which we possess no evidence but the imprint of a newspaper. I contended that such

an act was without precedent. I assumed, that the President was "no greater or better than the father of his country, to whom in all the ardor of national gratitude, no so humiliating a tribute was ever paid by any Legislature. From this argument the Gentleman selects one sentence and perverts it so as to make me say 'General Jackson is not so great a man as General Washington was,' and adds for me the conclusion, 'Therefore the deposits ought to be removed.' By the same process, the other five of these syllogisms, as the Gentleman calls them, were extracted. I of course shall not take the trouble to repeat them. These syllogisms the Gentleman tells us he could not comprehend. Sir, I am glad he has said so, for I can pardon the infirmity of mind which cannot comprehend my arguments, though nothing but legislative courtesy which the Gentleman seems lightly to value, could excuse the frailty of memory which so untruly misrepresents them. Sir, this ingenious process of forming absurd syllogisms out of an opponent's observations, is much in favor with the Gentleman from the 2d; but it is a dangerous one, because it is possessed by a great many common men, who might be disposed to retaliate with it. For instance, although I have never been accustomed to it, I will try. The Gentleman said that his answer to my effort was his *maiden speech*, 'Therefore the deposits ought to be removed'—a perfectly logical conclusion according to his mode of reasoning, although a better one would be that the speech should have been a modest one. The Gentleman told us *he could not comprehend my syllogisms*, 'Therefore the deposits ought to be removed'—a sound deduction according to his system of logic, although a safer one would be, that he ought not to have attempted to answer what was above his comprehension. The Gentleman said *General Jackson breakfasted on acorns, dined on acorns, and supped on acorns*, 'Therefore the deposits ought to be removed.' A wise result, according to his process of deduction, though one more conclusive would be, that acorns are food for men as well as brutes.

But there are other parts of this *blushing* performance, to which I cannot reply in the same successful manner, by imitation. I can no more introduce here, by way of giving piquancy to my remarks, than I can appreciate the dignity of such expressions, as "*the play is not worth the candle*," "*the straight jacket*," and "*you lie Sir*," "*He wanted to see his daddy*," &c. Equally should I be at fault, in attempting to answer, as I am unable to appreciate, the delicacy of the Gentleman's introduction of his recitation from Burns, although a homely adage concerning what one always thinks of, will account, without supposing any peculiar fertility of imagination, for his illustrations of *one legged syllogisms*, and *vermin of many limbs*. I should fail to cope in illustration with a Gentleman, to whom the whole science of natural history offers its stores. From *syllogisms with one leg*, and *loathsome vermin with many*, he rises through all the orders of animal

existence, to *dogs* and *monied mammoth monsters*. The jest book, although closed to me, affords to him treasures equally rare and redundant, and furnishes him at pleasure, all sorts of illustration by all sorts of characters, from '*British Colonels*' and '*vagrant Frenchmen*' down to '*abandoned knaves*' and '*sots in the gutter*.' Sir, in all this felicitous command over illustrations, the Gentleman has exhibited an 'exclusive perfectibility' which I shall not attempt to dispute with him. Wheresoever I may have acquired such 'aristocratic' feelings, he will pardon me, if I prefer to leave him alone among these, *his favored and chosen associations*.

Nor can I but admire, while I cannot aspire, to rival him in the sublimity of his picture of "bands of brothers, hosts of demagogues, and armies of Demagogues, all mingling together in the happiest confusion, while the murky cloud of Anti-Masonry is seen receding in the distance. That murky cloud however I will merely say, has not receded until its lightnings have penetrated the darkness of the mysterious institution over which it lowered, and shaken its pillars to its base. But in this hurried view of the Gentleman's speech I cannot but acknowledge the force and pertinency of one of his illustrations, although I have been disposed to question its dignity. It is that of the subservient Frenchman, who rebuked the 'tirade' (I think that was the word, for I mean to quote the Gentleman fairly, as I held him to quote correctly from me) of the American citizen against Napoleon. If I understood the application, I am the 'railing American,' the Gentleman from the 2d, is the 'vagrant Frenchman,' and Andrew Jackson, 'the emperor, his master.' And Sir, has it come to this, that an American citizen, an American Senator, will stand here in his place, and acknowledge any man to be his master! After such an acknowledgement, Sir, it matters little with me what arguments such a Senator may offer.

I have thus noticed those parts of the Gentleman's speech, which I appeal to the house, were the most effective. He will, of course, pardon me for being very brief upon those minor points, which seemed to have a remote allusion to the subject of the present debate. In reply to my argument against the right and propriety of passing resolutions on the subject of the Deposites, he has conclusively proved we have the physical power. A point I have not denied. To my argument against such resolutions, from their evil consequences which I presented, he has answered, that usages, which produce no evil consequences, ripen into a law, and with his peculiar felicity in the construction of syllogisms, has assumed that the usage of passing such resolutions has produced no evil consequences, and added the conclusion that this usage has ripened into a law. He has given me for a precedent, the resolutions of the first Congress against the usurpation by the British Parliament of the power to levy taxes; and this pre-

cedent is ushered in by the gentleman with a flourish which would cause one to think *he* was, like General Jackson, and even at an earlier age than thirteen years, a soldier of the Revolution. He has mistated my argument that General Jackson claimed a power over the deposits, irresponsible to Congress, as the proper guardians of the public treasury, and answered that he is amenable to impeachment—thereby admitting that the control of the public monies belongs properly to the President, subject to the last remedy of impeachment: a remedy of little value if the President has supreme control over the public treasury. I am charged by the gentleman with having called the venerable President an usurper and tyrant. Sir, I have used no such epithets. I argued that the removal of the deposits by the President on his own responsibility, and in violation of the discretion of the Secretary of the Treasury, was an act of usurpation. How successful I was in sustaining this position it is not now necessary for me to inquire; but I will say, miserable indeed is the tone of American spirit when it can cavil with an argument so bold as this, in this place, and on such an occasion. I pity, though I may not despise the patriotism which to meet such an argument can bring before an American Senate a labored and adulatory biography of him against whom the offence of usurpation is charged, even though that biography be redundant of incidents so affecting as *the loss of his mother, his brother, or his father, and his having learned to digest acorns.*

Sir, the gentleman has called the President a *sainted* patriot. In England the poet laureate who performs there the duty which the gentleman from the 2d seems to have assumed here, waits for the death of the monarch before he bestows upon him the honor of canonization. The Catholic church too, prudently enters none in its calendar until they have completed their pilgrimage through the temptations of this evil world. I submit, Sir, that in a republican government the reasons for a similar prudence are quite as strong as under a monarchical government, and in the Catholic church. Even the Emperor Bonaparte, made by the gentleman from the 2d the prototype of General Jackson, never received that honor at the hands of the humbled and subjected Pope, although that head of the church did gratify him by dragging from oblivion the memory of a remote and doubtful ancestor, to confer upon it the “glory” of canonization.

The victory at New-Orleans, we are told by the gentleman from the 2d, defies the annals of the world. I am content, so far as this fact bears upon the question of the restoration of the deposits, to take it upon the authority of the gallant gentleman, who is himself a military man, and whose studies in the science of war must have been as profound as in the jest book, and in natural history.

To my argument that it was an act of usurpation to pervert the constitutional power of removal to the *unconstitutional purpose* of obtaining control over the Treasury, the gentleman has gravely answered, and satisfactorily proved, that the President has the *constitutional power* to remove the Secretary of the Treasury, which I had expressly conceded.

To my argument that the power claimed by the President of absolute control over the Secretary of the Treasury, was inconsistent with the Constitution, because it placed the purse and the sword in the same hand—the gentleman has recklessly answered by the declaration that the purse and the sword ought to be in the same hand. “What,” exclaims he, with military ardor, “is the sword without the purse!”

Sir, I have done. Reason and argument can go no farther with a man who proclaims democracy with the fury of a Jacobin, and finds that democracy in the union in the same hand of the purse and the sword—the very definition **DESPOTISM.**