SPEECH

OF

THE HON. HENRY CLAY,

ON THE SUBJECT OF

THE REMOVAL OF THE DEPOSITES;

DELIVERED

IN THE SENATE OF THE UNITED STATES,

December 26, 30, 1833.

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The Chair having announced the special order of the day, being the report of the Secretary of the Treasury on the subject of the removal of the deposites—

Mr. CLAY rose, and offered the following resolutions:

1. *Resolved*, That by dismissing the late Secretary of the Treasury because he would not, contrary to his sense of his own duty, remove the money of the United States in deposite with the Bank of the United States and its branches, in conformity with the President's opinion, and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people.

2. *Resolved*, That the reasons assigned by the Secretary of the Treasury for the removal of the money of the United States, deposited in the Bank of the United States and its branches, communicated to Congress on the 3d day of December, 1833, are unsatisfactory and insufficient.

The resolutions having been read—

Mr. CLAY rose, and addressed the Senate to the following effect:

We are, said he, in the midst of a revolution, hitherto bloodless, but rapidly tending towards a total change of the pure republican character of the Government, and to the concentration of all power in the hands of one man. The powers of Congress are paralysed, except when exerted in conformity with his will, by frequent and an extraordinary exercise of the Executive veto, not anticipated by the founders of the constitution, and not practised by any of the predecessors of the present chief magistrate, withholding altogether bills which have received the sanction of both Houses of Congress, thereby cutting off all opportunity of passing them, even if, after their return, the members should be unanimous in their favor. The constitutional participation of the Senate in the appointing power is virtually abolished by the constant use of the power of removal from office, without any known cause, and by the appointment of the same individual to the same office after his rejection by the Senate. How often have we, Senators, felt that the check of the Senate, instead of being, as the constitution intended, a salutary control, was an idle ceremony? How often, when acting on the case of the nominated successor, have we felt the injustice of the removal? How often have we said to each other, well, what can we do? the office cannot remain vacant without prejudice to the public interests; and, if we reject the proposed substitute, we cannot restore the displaced, and perhaps some more unworthy man may be nominated?

The Judiciary has not been exempted from the prevailing rage for innovation. Decisions of the tribunals, deliberately pronounced, have been contemptuously disregarded, and the sanctity of numerous treaties openly violated. Our Indian relations, coeval with the existence of the Government, and recognised and established by numerous laws and treaties, have been subverted; the rights of the helpless and unfortunate aborigines trampled in the dust, and they brought under subjection to unknown laws in which they have no voice, promulgated in an unknown language. The most extensive and most valuable public domain that ever fell to the lot of one nation, is threatened with

ness—is in the most imminent danger of universal disorder and confusion. The power of internal improvement lies crushed beneath the veto. The system of protection of American industry was snatched from impending destruction at the last session; but we are now coolly told by the Secretary of the Treasury, without a blush, "that it is understood to be *conceded on all hands* that a tariff for protection merely is to be finally abandoned." By the 3d of March, 1837, if the progress of innovation continue, there will be scarcely a vestige remaining of the Government and its policy, as they existed prior to the 3d of March, 1829. In a term of years, a little more than equal to that which was required to establish our liberties, the Government will have been transformed into an elective monarchy, the worst of all forms of Government.

Such is a melancholy but faithful picture of the present condition of our public affairs. It is not sketched or exhibited to excite here or elsewhere irritated feeling: I have no such purpose. I would, on the contrary, implore the Senate and the people to discard all passion and prejudice, and to look calmly but resolutely upon the actual state of the constitution and the country. Although I bring into the Senate the same unabated spirit, and the same firm determination, which have ever guided me in the support of civil liberty, and the defence of our constitution, I contemplate the prospect before us with feelings of deep humiliation and profound mortification.

It is not among the least unfortunate symptoms of the times that a large proportion of the good and enlightened men of the Union, of all parties, are yielding to sentiments of despondency. There is, unhappily, a feeling of distrust and insecurity pervading the community. Many of our best citizens entertain serious apprehensions that our Union and our institutions are destined to a speedy overthrow. Sir, I trust that the hopes and confidence of the country will revive. There is much occasion for manly independence and patriotic vigor, but none for despair. Thank God, we are yet free; and, if we put on the chains which are forging for us, it will be because we deserve to wear them. We should never despair of the Republic. If our ancestors had been capable of surrendering themselves to such ignoble sentiments, our independence and our liberties would never have been achieved. The winter of 1776 and gladness and animation throughout th States. Let us cherish the hope that, sinc he has gone from among us, Providenc in the dispensation of his mercies, has ne at hand, in reserve for us, though yet un seen by us, some sure and happy delive ance from all impending dangers.

When we assembled here last year, w were full of dreadful forebodings. On th one hand we were menaced with a civi war, which, lighting up in a single State might spread its flames throughout one o the largest sections of the Union. On th other, a cherished system of policy, essen tial to the successful prosecution of the in dustry of our countrymen, was exposed t imminent danger of destruction. Means were happily applied by Congress to avert both calamities. The country reconciled, and our Union once more become a band of friends and brothers. And I shall be greatly disappointed if we do not find those who were denounced as being unfriendly to the continuance of our confederacy, among the foremost to fly to its preservation, and to resist all Executive encroachments.

Mr. President, when Congress adjourned at the termination of the last session, there was one remnant of its powers, that over the purse, left untouched. The two most important powers of civil Governments are those of the sword and purse; the first, with some restrictions, is confided by the constitution to the Executive, and the last to the Legislative Department. If they are separate, and exercised by different responsible departments, civil liberty is safe; but if they are united in the hands of the same individual, it is gone. That clear-sighted, and revolutionary orator and patriot, (PATRICK HENRY,) justly said in the Virginia convention, in reply to one of his opponents, "let him candidly tell me where and when did freedom exist when the sword and purse were given up from the people? Unless a miracle in human affairs interposed, no nation ever retained its liberty after the loss of the sword and the purse. Can you prove, by any argumentative deduction, that it is possible to be safe without one of them? If you give them up, you are gone."

Up to the period of the termination of the last session of Congress, the exclusive constitutional power of Congress over the Treasury of the United States had never been contested. Among its earliest acts was one to establish the Treasury Department, which provided for the appointment

United States, and to disburse the same upon warrants drawn by the Secretary of the Treasury, countersigned by the Comptroller, recorded by the Register, *and not otherwise.*" Prior to the establishment of the present Bank of the United States, no Treasury or place had been provided or designated by law for the safe keeping of the public moneys, but the Treasurer was left to his own discretion and responsibility. When the existing bank was established, it was provided that the public moneys should be deposited with it, and consequently that bank became the Treasury of the United States: for, whatever place is designated by law for the keeping of the public money of the United States, under the care of the Treasurer of the United States, is, for the time being, *the Treasury.* Its safety was drawn in question by the Chief Magistrate, and an agent was appointed a little more than a year ago to investigate its ability. He reported to the Executive that it was perfectly safe. His apprehensions of its solidity were communicated by the President to Congress, and a committee was appointed to examine the subject: they also reported in favor of its security. And, finally, among the last acts of the House of Representatives, prior to the close of the last session, was the adoption of a resolution manifesting its entire confidence in the ability and solidity of the bank.

After all these testimonies to the perfect safety of the public moneys in the place appointed by Congress, who could have supposed that the place would have been changed? Who could have imagined that, within sixty days of the meeting of Congress, and, as it were, in utter contempt of its authority, the change should have been ordered? Who would have dreamt that the Treasurer should have thrown away the single key to the Treasury, over which Congress held ample control, and accepted, in lieu of it, some dozens of keys, over which neither Congress nor he has any adequate control? Yet, sir, all this has been done, and it is now our solemn duty to inquire, 1st. By whose authority it has been ordered; and 2d. Whether the order has been given in conformity with the constitution and laws of the United States.

I agree, sir, and I am very happy whenever I can agree with the President, as to the immense importance of these questions. He says, in the paper which I hold in my hand, that he looks upon the pending question as involving higher considerations than the "mere transfer of a sum of money from one bank to another. Its decision may affect the character of our Government for

as "of transcendent importance, both in the principles and the consequences it involves." It is a question for all time, for posterity as well as for us—of constitutional government or monarchy—of liberty or slavery. As I regard it, I hold the bank as nothing, as perfectly insignificant, faithful as it has been in the performance of all its duties. I hold a sound currency as nothing, essential as it is to the prosperity of every branch of business, and to all conditions of society, and efficient as the agency of the bank has been in providing the country with a currency as sound as ever existed, and unsurpassed by any in Christendom. I consider even the public faith, sacred and inviolable as it ever should be, as comparatively nothing. All these questions are merged in the greater and mightier question of the constitutional distribution of the powers of the Government, as affected by the recent Executive innovation. The real inquiry is, shall all the barriers which have been created by the caution and wisdom of our ancestors, for the preservation of civil liberty, be prostrated and trodden under foot, and the sword and the purse be at once united in the hands of one man? Shall the power of Congress over the Treasury of the United States, hitherto never contested, be wrested from its possession, and be henceforward wielded by the Chief Magistrate? Entertaining these views of the magnitude of the question before us, I shall not, at least to-day, examine the reasons which the President has assigned for his act. If he has no power to perform it, no reasons, however cogent, can justify the deed. None can sanctify an illegal or unconstitutional act.

The first question which I have intimated it to be my purpose to consider, is by whose authority, power, or direction, was the change of the deposites made? Now, is there any Senator who hears me that requires proof on this point? Is there an intelligent man in the Union who does not know who it was that decided the removal of the deposites? Is it not a matter of universal notoriety? Does any one and who, doubt that it was the act of the President? That it was done by his express command? The President, on this subject, has himself furnished perfectly conclusive evidence in the paper read by him to his cabinet. It is indeed a most extraordinary document, without precedent in the Executive annals of this or any other civilized country. If the proceeding were not unconstitutional, it was certainly such as was not contemplated by the constitution. That instrument confers on the President the right to

require the opinion, in writing, of the principal officers of the Executive Departments, separately, on the subjects appertaining to their respective offices. Instead of conforming to this provision, the President reads to those officers, collectively, his opinion and decision, in writing, upon an important matter which related only to one of them, and to him exclusively. This paper is afterwards formally promulgated to the world, with the President's authority. And why? Can it be doubted that it was done under the vain expectation that a name would quash all inquiry, and secure the general approbation of the people? Those who now exercise power in this country appear to regard all the practices and usages of their predecessors as wrong. They look upon all precedents with contempt, and, casting them scornfully aside, appear to be resolved upon a new era in administration. Yet, when hard pressed, they display a readiness to take shelter under any precedent, however ill adapted it may be to their condition. Although the President has denied to the Senate an official copy of that singular paper, as a part of the people of the United States for whose special benefit it was published, we have a right to use it.

The question is, by virtue of whose will, power, dictation, was the removal of the deposites affected? By whose authority and determination were they transferred from the Bank of the United States, where they were required by the law to be placed, and put in banks which the law had never designated? And I tell gentlemen opposed to me, that I am not to be answered by the exhibition of a *formal* order, bearing the signature of R. B. Taney, or any one else. I want to know, not the amanuensis or clerk who prepared or signed the official form, but the authority or the individual who dictated or commanded it—not the hangman who executes the culprit, but the tribunal which pronounced the sentence. I want to know that power in the Government, that original and controlling authority, which required and commanded the removal of the deposites. And, I repeat the question, is there a Senator, or intelligent man in the whole country, who entertains a solitary doubt?

Hear what the President himself says in his manifesto read to his cabinet: "The President deems it HIS duty to communicate in this manner to his cabinet the *final conclusions* of HIS OWN MIND, and the reasons on which they are founded." And, by the conclusion of this paper, what does

ed measure as HIS OWN, in the support of which he shall require no one of them 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 depositesi, or sooner, provided the necessary arrangements with the State banks can be made." Sir, is there a Senator here who will now tell me that the removal was not the measure, and the act, of the President? I know, indeed, that there are in this document many of those most mild, most gracious, most condescending expressions, in which power so well knows how to clothe its mandates. The President flatters, and coaxes, and soothes Secretary Duane, in the most gentle, bland, and conciliating language. "In the remarks," says the President, "he has made on this all-important question, he *trusts* the Secretary of the Treasury will see only the *frank* and *respectful* declaration of the opinions which the President has formed on a measure of great national interest, deeply affecting the character and usefulness of his administration; and *not a spirit of dictation*, which the President would be *as careful to avoid*, as ready to resist. Happy will he be if the facts now disclosed produce uniformity of opinion and *unity* of action among the members of the administration." How kind! how gentle! and how very gracious all these civil and loving expressions must have sounded in the grateful ear of Mr. Duane? They remind me of an historical anecdote related of one of the most remarkable characters which our species has produced. When Oliver Cromwell was contending for the mastery in Great Britain or Ireland, (I do not remember which,) he besieged a certain Catholic town. The place made a brave and stout resistance; but, at length, being likely to be taken, the poor Catholics proposed terms of capitulation, among which was one stipulating for the toleration of their religion. The paper containing the conditions being presented to Oliver, he put on his spectacles, and, after deliberately examining them, cried out, "Oh, yes,

of them shall dare to be found attending mass he shall be instantly hanged," (under what section—whether the *second* or some other, I believe the historian does not relate.)

Thus the Secretary was told by the President that he had not the slightest wish to dictate—Oh! no; nothing was further from his intention; *that* he would carefully avoid; the President desired only to convince his judgment, but not at all to interfere with his free exercise of an authority exclusively confided to him. But what was the refractory Duane told in the sequel? "If you do not conform to my wishes; if you do not surrender your own judgment, and act upon mine; if you do not effect the removal of these deposites within the short period prescribed by me, you shall quit your office." And what was the fact? This cabinet paper bears date the 18th September last. In the official paper, published at the seat of Government, through which the Executive promulgates its acts, intentions, and wishes, to the people of the United States, on the 20th of the same month, two days only after the cabinet had been indoctrinated, it was stated, "We are *authorized* to state"—"authorized"—this is the term which gave credit to the annunciation—"We are authorized to state that the deposites of the public money will be changed from the Bank of the United States to the State banks as soon as necessary arrangements can be made for that purpose, and that it is believed they can be completed in Baltimore, Philadelphia, New York, and Boston, in time to make the change by the first of October, and perhaps sooner, if circumstances should render an earlier action necessary on the part of the Government." We see, between the cabinet paper and this official article, not merely a coincidence of time, but of language; as if the same head had dictated, and the same pen had written both. The President names the first day of October, or sooner, if necessary arrangements can be made; and the gazette announces the same first day of October, and perhaps sooner, if circumstances should render it necessary. Mr. Duane remained in office until the 23d of September, on which day he was dismissed. Is this not conclusive testimony that the measure was the President's; that he, not the Secretary of the Treasury, decided upon it; that it was resolved on whilst Mr. Duane was yet in office; and that it was formally announced to the world before his dismission? As to the day of his dismission, we have indirect evidence in the letter addressed amicable, gracious, and affectionate language of the cabinet paper, the President says, "I feel constrained to notify you that your future services as Secretary of the Treasury are no longer required." On that same day, the 23d, Mr. Taney was appointed, and on the 26th, in conformity with the will of the President, he performed the clerical act of affixing his signature to the order for the removal of the deposites, and thus made himself a willing instrument to consummate what the sterner integrity of his predecessor disdained to execute. Such is the testimony, on one side, to sustain the proposition that the removal of the deposites was the President's own measure, determined on whilst the late Secretary was still in office, and against his will; and establishing, beyond contradiction, that the subsequent act of the present Secretary was in form ministerial, in substance the work of another. Can more satisfactory testimony be ever needed? Yet it is even still more complete. We have that of Mr. Duane, as if no single link in the chain should be left unsupplied. In a late publication from that gentleman, addressed to the American people, after giving a history of the circumstances which preceded and accompanied his appointment, and hose which attended his expulsion from office, he says: "Thus was I thrust from office—not because I had neglected any duty—not because I had differed with the President on any other point of public policy—not because I had differed with him about the Bank of the United States—but because I refused, without further inquiry for action by Congress, to remove the deposites."

Is it possible that evidence can be more complete? Will any one, after this exhibition of concurring proof, derived directly from the President on one side, and from the late Secretary on the other, that the removal of the deposites was not only the President's own act, but was contrary to the will and judgment of the Secretary, who was *himself* removed because he would not remove *them*, for a single instant doubt on the subject? Can any one rise here, in his place, and assert that the removal was not accomplished by the President's authority or command?

And now, sir, having distinctly seen whose measure this is, I shall proceed to inquire whether it has been adopted in conformity with the constitution and laws of the United States. I repeat that it is not my purpose now to examine the reasons assigned for the act, further than as they may tend to show a right in the President

and laws, instead of conveying to him an authority to act as he has done, required him to keep his hands off the public Treasury, and confided its care and custody to other hands, no reasons can justify the usurpation. What power has the President over the public Treasury? Is it in the Bank charter? That gives him but two clearly defined powers: one to appoint, with the concurrence of the Senate, and to remove the Government directors; and the other, to order a scire facias when the charter shall be violated by the bank. There is no other power conferred on him by it. The clause of the charter relating to the public deposites declares, "that the deposites of the money of the United States, in which the said bank and the branches thereof, *unless the Secretary of the Treasury shall, at any time, otherwise order or 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 reasons of such order or direction." Can language, as to the officer who is charged with the duty of removing the deposites, be more explicit? The Secretary of the Treasury alone is designated. The President is not, by the remotest allusion, referred to. And to put the matter beyond all controversy, whenever the Secretary gives an order or direction for the removal, he is to report his reasons—to whom? To the President? No! directly to Congress. Nor is the bank itself required to report its periodical condition to the President, but to the Secretary of the Treasury or to Congress, through the organ of a committee. The whole scheme of the charter seems to have been cautiously framed with the deliberate purpose of excluding all intervention of the President, except in the two cases which have been specified. And this power, given exclusively to the Secretary, and these relations maintained between him and Congress, are in strict conformity with the act of September, 1789, creating and establishing the Treasury Department. Congress reserved to itself the control over that department. It refused to make it an Executive department. Its whole structure manifests cautious jealousy and experienced wisdom. The constitution had ordained that no money should be drawn from the Treasury but in consequence of appropriations made by law. It remained for Congress to provide *how* it should be drawn. And that duty is performed by the act constituting the Treasury Department. According to that act, the Secretary of the Treasury is to prepare and sign, the Comptroller to countersign, the Register to record, and, finally, the Treasurer to pay a warrant, issued, and *only issued*, in virtue of a prior act of appropriation. Each is referred to the law as the guide of his duty. Each acts on his own separate responsibility. Each is a check upon every other. And all are placed under the control of Congress. The Secretary is to report to Congress, and to each branch of Congress. The great principle of division of duty, and of control and responsibility—that principle which lies at the bottom of all free government—the principle, without which there can be no free government, is upheld throughout. So in the bank charter, Congress did not choose to refer the reasons of the Secretary to the President; but, whenever he changes the deposites, the Secretary was commanded to report his reasons directly to Congress, that they might weigh, judge, and pronounce upon their validity.

Thus it is evident that the President, neither by the act creating the Treasury Department, nor by the bank charter, has any power over the public Treasury. Has he any by the constitution? None, none. We have already seen that the constitution positively forbids any money from being drawn from the Treasury but in virtue of a previous act of appropriation. But the President himself says *that* "upon him has been devolved, by the constitution, and the *suffrages of the American people*, the duty of superintending the operation of the Executive Departments of the Government, and seeing that the laws are faithfully executed." If there existed any such double source of Executive power, it has been seen that the Treasury Department is not an Executive department; but that, in all that concerns the public Treasury, the Secretary is the agent or representative of Congress, acting in obedience to their will, and maintaining a direct intercourse with them. By what authority does the President derive power from the mere result of an election? In another part of this same cabinet paper he refers to the suffrages of the people as a source of power independent of the constitution, if not overruling it. At all events he seems to regard the issue of the election as an approbation of all constitutional opinions previously expressed by him, no matter in what ambiguous language. I differ, sir, entirely from the President. No such conclusions can be legitimately drawn from his re-election. He was re-elected from his presumed merits generally, and from the attachment and confidence of the people, and also from the unworthiness of his competitor. The people had no idea, in that exercise of their suffrage, of expressing

their approbation of all the opinions which the President held. Can it be believed that Pennsylvania, so justly denominated the key-stone of our federal arch, which has been so steadfast in her adherence to certain great national interests, and, among others, to that of the Bank of the United States, intended, by supporting the re-election of the President, to reverse all her own judgments, and to demolish all that she had built up? The truth is, that the re-election of the President no more proves that the people had sanctioned all the opinions previously expressed by him than, if he had had the king's evil or a carbuncle, it would demonstrate that they intended to sanction his physical infirmity.

But the President infers *his* duty to remove the deposites from the constitution and suffrages of the American people. As to the latter source of authority, I think it confers none. The election of a President, in itself, gives no power, but merely designates the person who, as an officer of the Government, is to exercise power granted by the constitution and laws. In this sense, and in this sense only, does an election confer power. The President alleges a right in himself to superintend the Executive Departments from the constitution and the suffrages of the people. Now, neither grants any such right. The constitution gives him the power, and o other p ow er than to call upon the heads of each of the Executive Departments to give his opinion, in writing, as to any matter connected with his department. The issue of the election simply puts him in a condition to exercise that right. By *the laws*, not by *the constitution*, all the departments, with the exception of that *of the Treasury*, are placed under the direction of the President. And, by various laws, specific duties of the Secretary of the Treasury (such as contracting for loans, &c.) are required to be performed under the direction of the President. This is done from greater precaution; but his power, in these respects, is derived from *the laws*, and not from *the constitution*. Even in regard to those departments other than that of the Treasury, in relation to which by law, and not by the constitution, a control is assigned to the Chief Magistrate, duties may be required of them, by law, beyond his control, and for the performance of which their heads are responsible. This is true of the State Department, that which, above all others, is most under the immediate direction of the President. And this principle, more than thirty years ago, was established in the case of Marbury against Madison. The Supreme Court, in that case, expressed itself in the following language:

"By the constitution of the United States, the President is invested with certain political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience. To aid him in the performance of these duties, he is authorized to appoint certain officers, who act by his authority, and in conformity with his orders.

"In such cases their acts are his acts; and whatever opinion may be entertained of the manner in which the Executive discretion may be used, still there exists, and can exist, no power to control that discretion. The subjects are political. They respect the nation, not individual rights, and, being entrusted to the Executive, the decision of the Executive is conclusive. The application of this remark will be perceived by adverting to the act of Congress for establishing the department of Foreign Affairs. This officer, as his duties were prescribed by that act, is to conform precisely to the will of the President. He is the mere organ by whom that will is communicated. The acts of such an officer, as an officer, can never be examinable by the courts.

"But when the Legislature proceeds to impose on that officer other duties, when he is directed peremptorily to perform certain acts, [that is, when he is not placed under the direction of the President,] when the rights of individuals are dependent on the performance of those acts, he is so far *the officer of the law*, is amenable *to the laws* for his conduct, and cannot, at his discretion, sport away the vested rights of others.

"The conclusion, from this reasoning, is, that where the heads of departments are the political or confidential agents of the Executive, merely to execute the will of the President, or rather to act in cases in which the Executive possesses a constitutional or legal discretion, nothing can be more perfectly clear than that their acts are only politically examinable. But where a specific duty is assigned by law, and individual rights depend upon the performance of that duty, it seems equally clear that the individual who considers himself injured, has a right to resort to the laws of his country for a remedy.'

Although I am constrained to believe the President has been mistaken in asserting that the duty has been devolved upon him by the constitution and by the suffrages of the American people, to superintend the operation of the Executive Departments, and consequently to order the removal of the public deposites, if *he* deemed such removal was expedient, he is charged by the constitution to "take care that the laws be

faithfully executed." And the question is, what does this injunction really import? It has been contended, under it, that the Executive aid or co-operation ought not, in any case, to be given, but when the Chief Magistrate himself is persuaded that it is to be lent to the execution of a law of the United States; and that, in all instances where *he* believes that the law is otherwise than it has been settled or adjudicated, he may withhold the means of execution with which he is invested. In other words, this enormous pretension of the Executive claims, that if a treaty or law exists, contrary to the constitution, in the *President's opinion;* or if a judicial opinion be pronounced, in *his* opinion repugnant to the constitution, to a treaty, or to a law, he is not bound to afford Executive aid in the execution of any such treaty, law, or decision. If this be sound doctrine, it is evident that every thing resolves itself into the President's *opinion*. There is an end to all constitutional government, and a sole functionary engrosses the whole power supposed hitherto to have been assigned to various responsible officers, checking and checked by each other. Can this be true? Is it possible that there is any one so insensible to the guaranties of civil liberty as to subscribe to this monstrous pretension? In respect even to affairs of ordinary administration, how enormous would it be? Various officers of Government are charged with the liquidation of most important accounts of contractors and others, concerned in the disbursement, annually, of large sums of the public revenue. The rejection or allowance of a single item of these accounts may fix the fate of the contractor or disbursing agent. Hitherto this matter was supposed to be judicial in its nature, and beyond Executive control; but let this new heresy be sanctioned, and the President may say to an Auditor or Comptroller, pass this, or reject that item in the account, (such is my opinion of the law,) and if you do not, I will remove you from office. Let this doctrine be once established, and there is an end to all regulated government, to all civil liberty. It will become a machine, *simple* enough. There will be but one will in the State; but one bed, and that will be the bed of Procrustes! All the departments, legislative, judicial, and executive, and all subordinate functionaries, must lie quietly on it, but it will be the repose of despotism and death.

Sir, such an enormous and extravagant pretension cannot be sanctioned. It must be put alongside of its exploded compeer, the power once asserted for Congress to pass any and all laws called for by "the general welfare."

Allow me, in a few words, to present to the Senate my ideas of the structure of our Federal Government. It has no power but granted power; and the power granted must be found in the constitution, the instrument granting it. If the question arise, is a specific power granted? the grant must be shown, or the power must be proven to be necessary and proper to carry into effect a granted power. Our executive power, such as it is, must be looked for in the constitution which created and modified it, and not in the forms which Executive power practically exists in other countries, not in the nature which is supposed to belong to it in the writings of Montesquieu, or any other speculative author. And so of our legislative and judicial powers. With respect to each of the three great departments into which Government is divided, we are to look for their respective powers into the consitution itself, and not into the theories of abstract or speculative philosophers. They have neither more nor less power than what is given. As to each, the constitution uses general language, which is to be interpreted not so much by its terms as the specific delineations of authority which are subsequently made. In reference to the general duty assigned to the President to "take care that the laws be faithfully executed," what does that mean? According to the exposition which I am considering, the President would absorb all the powers of Government. For in each particular case of the execution of a law, if his judgment was not satisfied that *it was law*, he might withhold the requisite Executive agency. If a treaty were to be carried into effect; if a law to be executed; or a judicial decision to be enforced, denying that the treaty was valid, the law constitutional, or the decision agreeable to law, he might refuse the necessary means to enforce the execution of them respectively; and the practical result of the whole would be that nothing under Government could be done but what was agreeable to the President. Such a view of our Government must be rejected. In my opinion, when the constitution enjoined the President "to take care that the laws be faithfully executed," it required nothing more than this, to employ the means entrusted to him to overcome resistance whenever it might be offered to the laws. Congress, by the fourteenth clause of the eighth section of the first article of the constitution, is invested with power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions. It might as well be contended that Congress, under this power, deciding what was and what was not law, could direct, by the mi-

litia, that only to be executed which Congress deemed to be law. By the second section of the second article of the constitution the President is made commander-in-chief of the army and navy of the United States, and of the militia when called into actual service; and, by a subsequent clause, the injunction in question is given to him. Thus invested with the command and employment of the physical force of the Union, can a doubt remain that the purpose of the direction which the constitution gives to him to take care that the laws be faithfully executed, was that he should, when properly called on by the civil authority, employ that force to subdue unlawful resistance? Understood in any other sense, those few words become a vortex into which the whole powers of Government are irresistibly drawn. We have established a system in which power has been most carefully separated and distributed between three separate and independent departments. We have been told a thousand times, and all experience assures us, that such a division is indispensable to the existence and preservation of freedom. We have established and designated offices, and appointed officers in each of those departments to execute the duties respectfully alloted to them. The President, it is true, presides over the whole; specific duties are often assigned by particular laws to him alone, or to other officers under his superintendence. His parental eye is presumed to survey the whole extent of the system in all its movements: but has he power to come into Congress, and to say such laws only shall you pass; to go into courts and prescribe the decisions which they may pronounce; or even to enter the offices of administration, and, where duties are specially confided to those officers, to substitute his will to their duty? Or has he a right, when those functionaries, deliberating upon their own solemn obligations to the people, have moved forward in their assigned spheres, to arrest their lawful progress because they have dared to act contrary to his pleasure? No, sir; no sir. His is a high and glorious station, but it is one of observation and superintendence. It is to see that obstructions in the forward movement of Government, unlawfully interposed, shall be abated by legitimate and competent means.

That this is the true interpretation of the constitutional clause on which I am commenting, is fairly to be inferred from the total silence as to any opposite construction of all contemporaneous expositions. If the clause were susceptible of the construction which I am now combating, if had been deemed possible that it could have been interpreted to embrace in the Chief Magistrate all the powers of Government, would no one of the thousand wise and patriotic men, to whom the constitution was submitted, have detected and exposed the lurking danger? I have myself made, or, when I could not, I have got others to make researches in the Federalist, the Debates of Conventions, and other contemporaneous publications, and not the slightest countenance has been discovered in any of them for this sweeping Executive pretension. If the pretension be well founded, then it is most evident that there is no longer any control over our public affairs than that exerted by the President. If it be true that when a duty, by law, is specifically assigned to a particular officer, the President may go into his office and control him in the performance of it, then it is most manifest that the will of the President is the supreme law, and every barrier between him and the public Treasury is annihilated; and that union of the purse and the sword in one man's hands, which the patriotic Henry so much denounced, and which constitutes the best description of despotism, is completely realized.

The charter of the bank requires that the public deposites be made in its vaults. It gives the Secretary of the Treasury power to remove them, and why? Because he is placed by Congress at the head of the finances of the Government. Weekly reports of the condition of the bank are made to him; he is the sentinel of Congress, the agent of Congress, the representative of Congress, created by Congress; his duties are prescribed and defined by Congress. To them and not to the President he is to report. His vigilance is presumed to anticipate or promptly to perceive the existence of danger; and, when he discovers it, his duty is to provide for the safety of the public treasure, and forthwith to report to his principal. Standing in this responsible attitude to Congress, and to Congress alone, if the President may go to that officer, and tell him to do as he bids or he shall be removed from office, what security remains to the people of this country?

But let me suppose that I am totally mistaken in this construction of the constitutional injunction, and that its true meaning is that the President has the power to superintend the execution of every particular law exactly as Congress intended it, what was it his duty to do in this case under that interpretation of the constitution? The law authorized the Secretary of the Treasury, on his own responsibility, to remove the deposites. It commanded him, if he removed them, to report *his* reasons to

Congress. The duty was confided to his judgment and discretion exclusively, and his judgment was to be guided by his own reasons, not those of any other, and *they* and no other were to be reported to Congress. Now, if the President were bound to take care that that law should be faithfully executed, then his duty exacted of him to see that the Secretary of the Treasury was allowed the exercise of his free, unbiassed, and uncontrolled judgment in removing or not removing the deposites. *That* was the faithful execution of the law. Congress had not said that the Secretary of State, the Secretary of War, or the Secretary of the Navy, should remove them, but the Secretary of the Treasury. The President had no right, either by the constitution or the law, to go to the other Secretaries, and ask them how a service should be performed which was confided exclusively to the judgment of the Secretary of the Treasury. He might as well have asked the Secretary of the Treasury how a movement of the army should be made by the Secretary of War, as to have consulted this latter officer how a financial operation should be executed, not only not committed to him, but assigned exclusively to another. It was not to the President, and all the Secretaries combined, that the power was given to change the deposition of the public deposites. If the change were made, it was not *their* reasons for it which were to be reported to Congress. It was the Secretary of the Treasury alone, exclusive of every other functionary of the Government, that the duty was specifically confined, and the measure was to be judged by Congress upon *his* and not *their* reasons. Can it be said, then, in the language of the constitution, that the President "took care that the law was faithfully executed" when he took it altogether out of hands to which the law had confided it, and substituted another's will for the will of him who was expressly charged with the execution of the law?

[I will thank the Secretary of the Senate to get me the sedition law. It is not very certain, since the Executive is resolved to act in its spirit, how soon we shall be called upon to re-enact its provisions.]

Now, sir, said Mr. CLAY, let us examine some of the other sources or motives for the exercise of this power assumed by the President over the public Treasury as described by himself. He says in the cabinet paper—"the President repeats that he begs the cabinet to consider the proposed measure as his own, in the support of which he shall require no one of them 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." The morals of the people! What part of the constitution has given to the President any authority over the morals of the people? None. It grants no such power, but expressly denies all power over religion, the genial and presiding influence which prevails in every true system of morals. Tolerate to-day an assumption of authority in regard to morals, and what is the next step in the progress of usurpation? It will be to exercise a control over religion! And then to cherish some particular sect, as the only one that is orthodox, to the exclusion of all others. And the President might as well, in this case, have gone into the office of the Secretary of the Treasury and controlled him in the performance of a service exclusively confided to his care and judgment, because it was necessary to preserve *the religion* of the people! I ask for the authority. Will any one of the gentlemen here, who consider themselves as vindicators of the President, point to any clause of the constitution which gives to the *present* President, or any other, power to preserve the morals of the people?

But "the freedom of the press constituted another object with the President. I am not surprised that the present Secretary of the Treasury should be desirous of reviving a power and control over the press. He was a member of that party which passed the famous sedition law under pretexts precisely similar to those which are now put forward. I recollect that it was then said that the purpose of the sedition law was not to repress the freedom of the press, but to prevent its abuses; to preserve, not to destroy it; to punish its excesses and calumnies; and to aid the cause of truth and virtue. It was to introduce salutary restraints, and to discountenance grossness and indecency. It is sometimes useful to refer back to these old things—to the motives—the pleas of State necessity which induced arbitrary power in former times, to surround itself with a shield against all impertinent investigation and searching inquiry. That memorable act was passed in 1798, and, among other provisions, it contained the following section:

SEC. 2. "That if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall, knowingly and willingly, assist or aid in writing, printing, uttering, or publishing, any false, scandalous, and malicious writing, or writings, against the Government of the United States, or

with intent to defame the said Government, or either House of the said Congress, or the said President, or to bring them, or either of them, into contempt or disrepute; or to excite any unlawful combination therein, for opposing or resisting any law of the United States, or any act of the President of the United States, done in pursuance of any such law, or of the powers in him vested by the constitution of the United States; or to resist, oppose, or defeat, any such law or act; or to aid, encourage, or abet, any hostile designs of any foreign nation against the United States, their people, or Government; then such person, being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years."

We perceive that the law was only directed against *false*, *scandalous*, and *malicious* writings against the Government of the United States, or either House of Congress, or the PRESIDENT of the United States; and then only when the publication was intended to defame them, and to bring them into contempt or disrepute! It was only when the libeller intended to deprive high functionaries of public confidence, and to excite against them the hatred of the GOOD people of the United States, that he was subjected to punishment. It was only for the sake of truth, and of justice, that the sedition law was passed. That was all, sir. We now find the same motives avowed: the same purpose of protecting the abused President, and injured Secretary of the Treasury. How uniform in all ages the workings of tyranny! How plausible its pretexts! How detestable its real aims!

By the sedition law, abominable and unconstitutional as it was, the semblance of justice at least was preserved. It victims were allowed the benefit of witnesses and of counsel to prove the truth of the alleged libel, and, above all, the inestimable privilege of trial by jury. It expressly declared, "That if any person shall be prosecuted under this act for the writing or publishing any libel aforesaid, it shall be lawful for the defendant, upon the trial of the cause, to give in evidence in his defence the truth of the matter contained in the publication charged as a libel. And the jury who shall try the cause shall have a right to determine the law and the fact, under the direction of the court, as in other cases."

But under this new sedition law, which the President revives and promulgates in pensed with, as useless [illegible] stands condemned, unheard and untried. The impartial President takes the whole matter into his own hands, and, constituting himself the law, the judge, the jury, and the executioner, pronounces absolutely the guilt of the accused.

The President has also very much at heart the purity of the "elective franchise." And here again I ask, what part of the constitution of this country confers on him any power over that subject? Look at the nature and the consequences of the Executive exercise of this power? If it were really necessary that steps should be taken to preserve the freedom of the press and the purity of elections, what ought the President to have done? Taken the matter into his own hands? No, no. It was his duty to recommend to Congress the passage of laws which the courts of the United States could execute. Congress could have re-examined the constitution, reviewed the existing state of legislation, and, *if they possessed the requisite power*, passed suitable laws, with appropriate sanctions. By undertaking himself to do that for which he has not the shadow of authority in the constitution or laws, his acts must necessarily be inefficient, and altogether incompetent to the purposes he professes. Suppose this contumacious institution, which committed, in the year 1829, the unpardonable sin of not appointing, in conformity with the President's wishes, a new president to one of its eastern branches, should dare to go on and vindicate itself against the calumnies constantly poured out upon it; that it should audaciously continue to stand upon its defence, how impotent will the power of the President be to restrain it! How inadequate will his authority prove, to prevent the bank from resorting to the public press! Why, sir, if Congress possessed the power, and the President had come to us, we could have laid Mr. Nicholas Biddle by the heels, if he should be again guilty of the presumption of publishing another report of Gen. Smith or Mr. McDuffie, another speech of the eloquent gentleman (Mr. Webster) near me, or any other such *libels*, tending to bring the President, his administration, or his Secretary of the Treasury, into disrepute. But the President of the United States, who thought he had the bank in his power; who thought he could destroy it; who was induced to believe, by that "influence behind the throne greater that the throne itself," that he could bankrupt the institution by his fiat, has only demonstrated his total incompetency to regulate the

press, and preserve it from contamination. The bank has openly avowed, and yet avows, its settled purpose to defend itself on all proper occasions. And, what is still more provoking, instead of becoming bankrupt, with its doors closed, and its vaults inaccessible, it has, it seems, got more specie than it knows what to do with, and cruelly and unfeelingly hoarding it, miser-like, refuses to let one dollar of its ten millions pass out to the relief of the local banks to which the public deposites have been transferred!

The President of the United States had officially nothing to do with the morals of the community. No, sir, for the preservation of our morals, and the free enjoyment of our religion, we are responsible to no earthly tribunal. We are responsible to God only, and I trust that this responsibility will ever remain to Him, and to his mercy alone. Neither had he any thing to do with the freedom of the press. Any power over it is expressly denied even to Congress. It was justly said by one of those few able men and bright luminaries whom Providence has yet spared to us, in answer to complaints about its alleged abuses, from the French Government, during the French revolution, that the press was one of those delicate concerns which admitted of no regulation by Government; and that its abuses must be tolerated lest its freedom should be abridged, and its utility be destroyed. Such is the condition of the American press as secured and recognized by the constitution; and so it has been regarded ever since the expiration of the odious sedition law, until the detestable principles of that law have been reasserted in the cabinet paper to which I have so often referred.

Such are the powers on which the President relies to justify his seizure of the Treasury of the United States. I have examined them, one by one, and they all fail, utterly fail, to bear out the act. We are brought irresistibly to the conclusions, 1st. That the invasion of the public Treasury has been perpetrated by the removal of one Secretary of the Treasury, who would not violate his conscientious obligations, and by the appointment of another who stood ready to subscribe his name to the orders of the President; and, 2dly. That the President has no color of authority in the constitution or laws for the act which he has thus caused to be performed.

And now let us glance at some of the tremendous consequences which may ensue from this high-handed measure. If the President may, in a case in which the law has assigned a specific duty exclusively to a designated officer, command it to be executed, contrary to his own judgment, under the penalty of an expulsion from office, and, upon his refusal, may appoint some obsequious tool to perform the required act, where is the limit to his authority? Has he not the same right to interfere in every other case, and remove from office all that he can remove, who hesitate or refuse to do his bidding, contrary to their own solemn convictions of their duty? There is no resisting this inevitable conclusion. Well, then, how stands the matter of the public Treasury? It has been seen that the issue of warrants upon the Treasury is guarded by four independent and hitherto responsible checks, each controlling every other, and all bound by the law, but all holding their offices, according to the existing practice of the Government, at the pleasure of the President. The Secretary signs, the Comptroller countersigns, the Register records, and the Treasurer pays the warrant. We have seen that the President has gone to the first and highest link in the chain, and coerced a conformity to his will. What is to prevent, whenever he desires to draw money from the public Treasury, his applying the same penalty of expulsion, under which Mr. Duane suffered, to every link of the chain, from the Secretary of the Treasury down, and thus to obtain whatever he demands? What is to prevent a more compendious accomplishment of his object, by the agency of transfer drafts, drawn on the sole authority of the Secretary, and placing the money at once wherever, or in whatsoever hands the President pleases?

What security have the people against the lawless conduct of any President? Where is the boundary to the tremendous power which he has assumed? Sir, every barrier around the public Treasury is broken down and annihilated. From the moment that the President pronounced the words, "this measure is my own; I take upon myself the responsibily of it," every safeguard around the Treasury was prostrated, and henceforward it might as well be at the Hermitage. The measure adopted by the President is without precedent. I beg pardon, there is one, but we must go down for it to the commencement of the Christian era. It will be recollected, by those who are conversant with Roman history, that, after Pompey was compelled to retire to Brundusium, Cæsar, who had been anxious to give him battle, returned to Rome, "having reduced Italy (says the venerable biographer) in sixty days, (the exact period between the day of the removal of the deposites and that of the commencement of the present session of Congress,

without the usual allowance of any days of grace)—in sixty days, without bloodshed." The biographer proceeds:

"Finding the city in a more settled condition than he expected, and many Senators there, he addressed them in a mild and gracious manner, [as the President addressed his late Secretary of the Treasury,] and desired them to send deputies to Pompey with an offer of honorable terms of peace, &c. As Metellus, the tribune, *opposed his* taking money out of the public Treasury, and cited some laws against it—[such, sir, I suppose, as I have endeavored to cite on this occasion]—Cæsar said, 'Arms and laws do not flourish together. If you are not pleased at what I am about, you have only to withdraw. [Leave the office, Mr. Duane!] War, indeed, will not tolerate much liberty of speech. When I say this I am renouncing my own right; for you, and all those whom I have found exciting a spirit of faction against me, are at my disposal.' Having said this, he approached the doors of the Treasury, and, as the keys were not produced, he sent for workmen to break them open. Metellus again opposed him, and gained credit with some for his firmness; but Cæsar, with an elevated voice, threatened to put him to death if he gave him any further trouble. 'And you know very well, young man,' said he, 'that this is harder for me to say than to do.' Metellus, terrified by the menace, retired; and Cæsar was afterwards easily and readily supplied with every thing necessary for the war."

And where now is the public Treasury? Who can tell? It is certainly without a local habitation, if it has a name? Where is the money of the people of the United States? Floating about on Treasury drafts or checks, to the amount of millions, placed in the hands of tottering banks to enable them to pay their own just debts, instead of being applied to the service of the people. These checks are scattered to the winds by the Secretary of the Treasury, in defiance of a positive law by which the Treasurer is forbidden expressly to pay any money out of the Treasury but under the authority of warrants, legally issued and authenticated, in virtue of previous appropriations by law. [Mr. C. here read parts of a published correspondence between the Treasurer and the Cashier of the Bank of the United States, in which the latter complained of these checks, as being issued without any notice to the bank, and contrary to an express arrangement, and in which the Treasurer says they were only to be used *in the event of certain contingencies.*] Thus, sir, the people's money is put into a bank here, and a bank there, in regard to the solvency of which we have no satisfactory knowledge, to be employed by them in the event of certain contingencies. *The event of certain contingencies!* And we know nothing of the event, nor of the contingencies!

Where was the oath of office of the Treasurer when he thus dared to suffer the people's money to be sported with? Where was the constitution, which expressly prohibits money to be drawn from the Treasury, but in consequence of previous appropriation by law? Where was the law establishing the Treasury Department, which enjoins that no money be paid out of the Treasury but upon valid warrants legally issued? Where was the Treasurer's bond and surety when he thus cast about the public money? I do not pretend to any great knowledge of the law, but give me an intelligent and unpacked jury, and I undertake to prove to them that he has forfeited the penalty of his bond.

Mr. President, said Mr. C., the people of the United States are indebted to the President for the boldness of this movement; and, as one among the humblest of them, I profess my obligations to him. He has told the Senate, in his message refusing an official copy of his cabinet paper, that it has been published for the information of the people. As a part of the people, the Senate, if not in their official character, have a right to its use. In that extraordinary paper he has proclaimed that the measure is *his* own; and that *he* has *taken* upon himself the responsibility of it. In plain English, he has proclaimed an open, palpable, and daring usurpation!

For more than fifteen years Mr. President, I have been struggling to avoid the present state of things. I thought I perceived, in some proceedings during the conduct of the Seminole war, a spirit of defiance to the constitution and to all law. With what sincerity and truth, with what earnestness and devotion to civil liberty, I have struggled, the Searcher of all human hearts best knows. With what fortune, the bleeding constitution of my country now fatally attests.

I have, nevertheless, persevered; and, under every discouragement, during the short time that I expect to remain in the public councils, I will persevere. And if a bountiful Providence would allow an unworthy sinner to approach the throne of grace, I would beseech him, as the greatest favor he could grant to me here below, to spare me until I live to behold the people rising in their majesty, with a peaceful and constitutional exercise of their power, to expel the Goths from Rome; to rescue the public Treasury from pillage; to preserve the constitution of the United States; t

uphold the Union against the concentration and consolidation of *all* power in the hands of the Executive; and to sustain the liberties of the people of this country against the imminent perils to which they now stand exposed.

DECEMBER 30, 1833.

Mr. CLAY resumed his speech—

Before I proceed, said Mr. CLAY, to a consideration of the report of the Secretary of the Treasury, and the second resolution, I wish to anticipate and answer an objection which may be made to the adoption of the first. It may be urged that the Senate, being, in a certain contingency, a court of impeachment, ought not to prejudge a question which it may be called upon to decide judicially. But, by the constitution, the Senate has three characters—legislative, executive, and judicial. Its ordinary, and by far its most important character, is that of its being a component part of the Legislative Department. Only three or four cases since the establishment of the Government, (that is, during the period of near half a century,) have occurred, in which it was necessary that the Senate should act as a judicial tribunal, the least important of all its characters. Now it would be most strange, if, when its constitutional powers were assailed, it could not assert and vindicate them, because, by possibility, it might be required to act as a court of justice. The first resolution asserts, only, that the President has assumed the exercise of a power over the public Treasury not granted by the constitution and laws. It is silent as to motive; and, without the *quo animo*—the deliberate purpose of usurpation—the President would not be liable to impeachment. But if a concurrence of all the elements be necessary to make out a charge of wilful violation of the constitution, does any one believe that the President will now be impeached? And shall we silently sit by, and see ourselves stript of one of the most essential of our legislative powers, and the exercise of it assumed by the President, to whom it is not delegated, without effort to maintain it, because, against all human probability, he may be hereafter impeached?

The report of the Secretary of the Treasury, in the first paragraph, commences with a misstatement of the fact: He says: "*I have directed*" that the deposites of the money of the United States shall not be made in the Bank of the United States. If this assertion is regarded in any other than a mere formal sense, it is not true. The Secretary may have been the instrument, the clerk, the automaton, in whose name the order was issued; but the measure was that of the President, by whose authority or command the order was given; and of this we have the highest and most authentic evidence. The President has told the world that the measure was his own; and that he took it upon his own responsibility. And he has exonerated his cabinet from all responsibility about it. The Secretary ought to have frankly disclosed all the circumstances of the case, and told the truth, the whole truth, and nothing but the truth. If he had done so, he would have informed Congress that the removal had been decided by the President on the 18th of September last; that it had been announced to the public on the 20th; and that Mr. Duane remained in office until the 23d. He would have informed Congress that this important measure was decided before he entered into his new office, and was the cause of his appointment. Yes, sir; the present Secretary stood by, a witness to the struggle in the mind of his predecessor, between his attachment to the President and his duty to the country; saw him dismissed from office because he would not violate his conscientious obligations, and came into Mr. Duane's place, to do what he could not honorably, and would not perform. A son of one of the fathers of democracy, by an administration professing to be democratic, was expelled from office, and his place supplied by a gentleman who, throughout his whole career, has been uniformly opposed to democracy! A gentleman who, at another epoch of the republic, when it was threatened with civil war and a dissolution of the Union, voted, (although a resident of a slave State,) in the Legislature of Maryland, against the admission of Missouri into the Union, without a restriction incompatible with her rights as a member of the confederacy.* Mr. Duane was dismissed

* The following is the proceeding to which Mr. CLAY referred:

"*Resolved by the General Assembly of Maryland*, That the Senators and Representatives from this State, in Congress, be requested to use their utmost endeavors, in the admission of the State of Missouri into the Union, to prevent the prohibition of slavery from being required of that State as a condition of its admission."

Passed January, 1820, in the affirmative. Among the name sof those in the negative is that of Mr. TANEY.—*See Niles' Register*, Vol. XVII., p. 394, 395.

because the solemn convictions of his duty would not allow him to conform to the President's will; because his logic did not bring his mind to the same conclusions with those of the logic of a venerable old gentleman, inhabiting a white house not distant from the Capitol; because his watch [here Mr. C. held up his own,] did not keep time with that of the President. He was dismissed under that detestable system of proscription for opinion's sake, which has finally dared to intrude itself into the Halls of Congress—a system under which three unoffending clerks, the fathers of families, the husbands of wives, dependent on them for support, without the slightest imputation of delinquency, have been recently unceremoniously discharged, and driven out to beggary, by a man, himself the substitute of a meritorious officer, who has not been in this city a period equal to one monthly revolution of the moon! I tell our Secretary, (said Mr. C., raising his voice,) that, if he touch a single hair of the head of any one of the clerks of the Senate, (I am sure he is not disposed to do it,) on account of his opinions, political or religious, if no other member of the Senate does it, I will instantly submit a resolution for his own dismission. [*Loud applause in the gallery.*]

The Secretary ought to have communicated all these things; he ought to have stated that the cabinet was divided two and two, and one of the members, equally divided with himself on the question, willing to be put into either scale. He ought to have given a full account of this the most important act of Executive authority since the origin of the Government; he should have stated with what unsullied honor his predecessor retired from office, and on what degrading conditions he accepted his vacant place. When a momentous proceeding like this, varying the constitutional distribution of the powers of the Legislative and Executive Departments, was resolved on, the ministers, against whose advice it was determined, should have resigned their stations. No ministers of any monarch in Europe, under similar circumstances, would have retained the seals of office. And if, as nobody doubts, there is a cabal behind the curtain, without character and without responsibility, feeding the passions, stimulating the prejudices, and moulding the actions of the incumbent of the Presidential office, it was an additional reason for their resignations. There is not a Maitre d'Hotel in Christendom who, if the scullions were put into command in the parlor and dining room, would not scorn to hold his place, and fling it up in disgust with indignant pride!

I shall examine the report before us, 1st. As to the power of the Secretary over the deposites; 2d. His reasons for the exercise of it; and, 3d. The manner of its exercise.

First. The Secretary asserts that the power of removal is *exclusively* reserved to him; that it is *absolute* and *unconditional*, so far as the interests of the bank are concerned; that it is not restricted to any particular contingencies; that the reservation of the power to the Secretary of the Treasury, exclusively, is a part of the compact; that he may exercise it, if the public convenience *or* interest would, *in any degree*, be promoted; that this exclusive power thus reserved, is so absolute that the Secretary is not restrained by the considerations that the public deposites in the bank are perfectly safe; that the bank promptly meets *all* demands upon it; and that it *faithfully* performs all its duties; and that the power of Congress, on the contrary, is so totally excluded that it could not, without a breach of the compact, order the deposites to be changed, even if Congress were satisfied that they were not safe, or should be convinced that the interests of the people of the United States imperiously demanded the removal.

Such is the statement which this unassuming Secretary makes of his own authority! He expands his own power to the most extravagant dimensions; and he undertakes to circumscribe that of Congress in the narrowest and most restricted limits! Who would have expected that, after having so confidently maintained for himself such absolute, exclusive, unqualified, and uncontrollable power, he would have let in any body else to share with him its exercise? Yet, he says, "As the Secretary of the Treasury presides over one of the *Executive* Departments of the Government, and *his power* over this subject forms a part of the *Executive* duties of his office, the manner in which it is exercised must be subject to the supervision of the officer" [meaning the President. whose official name his modesty would not allow him to pronounce,] "to whom the constitution has confided the whole Executive power, and has required to take care that the laws be faithfully executed." If the clause in the compact exclusively vests the power of removal in the Secretary of the Treasury, what has the President to do with it? What part of the charter conveys to him any power? If, as the Secretary contends, the clause of removal, being part of the compact, restricts its exercise to the Secretary, to the entire exclusion of Congress, how does it embrace the President, especially since both the President and Secretary conceive that "the

ower over the place of deposite for the public money would seem properly to belong to the Legislative Department of the Government?" If the Secretary be correct in asserting that the power of removal is confined to the Secretary of the Treasury, then Mr. Duane, while in office, possessed it; and his dismission, because he would not exercise a power which belonged to him exclusively, was itself a violation of the charter.

But by what authority does the Secretary assert that the Treasury Department is one of the Executive Departments of the Government? He has none in the act which creates the department; he has none in the constitution. The Treasury Department is placed by law on a different footing from all the other departments, which are, in the acts creating them, denominated Executive, and placed under the direction of the President. The Treasury Department, on the contrary, is organized on totally different principles. Except the appointment of the officers, with the co-operation of the Senate, and the power which is exercised of removing them, the President has neither, by the constitution nor the law creating the department, any thing to do with it. The Secretary's reports and responsibility are directly to Congress. The whole scheme of the department is one of checks, each officer acting as a control upon his associates. The Secretary is required by the law to report, not to the President, but directly to Congress. Either House may require any report from him, or command his personal attendance before it. It is not, therefore, true that the Treasury is one of the Executive Departments, subject to the supervision of the President. And the inference drawn from that erroneous assumption entirely fails. The Secretary appears to have no precise ideas either of the constitution or duties of the department over which he presides. He says, "the Treasury Department being entrusted with the administration of the finances of the country, it was always the duty of the Secretary, in the absence of any legislative provision on the subject, to take care that the public money was deposited in safe keeping, in the hands of faithful agents," &c. The premises of the Secretary are only partially correct, and his conclusion is directly repugnant to law. It never was the duty of the *Secretary* to take care that the public money was deposited in safe keeping, in the hands of faithful agents, &c. That duty is expressly, by the act organizing the department, assigned to the Treasurer of the United States, who is placed under oath, and under bond, with a large penalty, not to issue a dollar out of the public Treasury, but in virtue of warrants granted in pursuance of acts of appropriation, "and not otherwise." When the Secretary treats of the power of the President, he puts on corsets, and contracts and prostrates himself before the Executive, in the most graceful, courteous, and lady-like form; but, when he treats of that of Congress, and of the Treasurer, he swells and expands himself, and flirts about with all the airs of high authority.

But I cannot assent to the Secretary's interpretation of his power of removal, contained in the charter. Congress has not given up its control over the Treasury, or the public deposites, to either the Secretary or the Executive. Congress could not have done so without a treacherous renunciation of its constitutional powers, and a faithless abandonment of its duties. And now let us see what is the true state of the matter. Congress has reserved to itself, exclusively, the right to judge of the reasons for the removal of the deposites, by requiring the report of them to be made to it; and, consequently, the power to ratify or invalidate the act. The Secretary of the Treasury is the fiscal sentinel of Congress, to whom the bank makes weekly reports, and who is presumed constantly to be well acquainted with its actual condition. He may, consequently, discover the urgent necessity of prompt action, to save the public treasure, before it is known to Congress, and when it is not in session. But he is immediately to report—to whom? To the Executive? No, to Congress. For what purpose? That Congress may sanction or disapprove the act.

The power of removal is a reservation for the benefit of the people, not of the bank. It may be waived. Congress, being a legislative party to the compact, did not thereby deprive itself of ordinary powers of legislation. It cannot, without a breach of the national faith, repeal privileges or stipulations intended for the benefit of the bank. But it may repeal, modify, or waive the exercise altogether of those parts of the charter which were intended exclusively for the public. Could not Congress repeal altogether the clause of removal? Such a repeal would not injure, but add to the security of the bank. Could not Congress modify the clause, by revoking the agency of the Secretary of the Treasury, and substituting that of the Treasurer, or any other officer of Government? Could not Congress, at any time during the twenty years' duration of the charter, abolish the office altogether of Secretary of the Treasury, and assign all his

present duties to some newly constituted department? The right and the security of the bank do not consist in the form of the agency, nor in the name of the agent, but in this—that, whatever may be its form or its denomination, the remaval shall only be made upon urgent and satisfactory reasons. The power of supplemental legislation was exercised by Congress both under the old and new bank. Three years after the establishment of the existing bank, an act passed, better to regulate the election of directors, and to punish any one who should attempt, by bribes or presents in any form, to influence the operations of the institution.

The denial of the Secretary to Congress of the power to remove the deposites, under any circumstances, is most extraordinary. Why, sir, suppose a corrupt collusion between the Secretary and the bank to divide the spoils of the Treasury? Suppose a total non-fulfilment of all the stipulations on the part of the bank? Is Congress to remain bound and tied, whilst the bank should be free from all the obligations of the charter? The obligation of one party to observe faithfully his stipulations in a contract, rests upon the corresponding obligation of the other party to observe his stipulations. If one party is released, both are free. If one party fail to comply with his contract, *that* releases the other. This is the fundamental principle of all contracts, applicable to treaties, charters, and private agreements. If it were a mere private agreement, and one party, who had bound himself to deposite, from time to time, his money with the other, to be redrawn at his pleasure, saw that it was wasting and squandered away, he would have a clear right to discontinue the deposites. It is true that a party has no right to excuse himself from the fulfilment of his contract, by imputing a breach to the other which has never been made. And it is fortunate for the peace and justice of society, that neither party to any contract, whether public or private, can decide conclusively the question of fulfilment by the other, but must always act under subjection to the ultimate decision, in case of controversy, of an impartial arbiter, provided in the judicial tribunals of civilized communities.

As to the absolute, unconditional, and exclusive power which the Secretary claims to be vested in himself, it is in direct hostility with the principles of our Government, and adverse to the genius of all free institutions. The Secretary was made, by the charter, the mere representative or agent of Congress; its temporary substitute, acting in subordination to it, and bound, whenever he did act, to report to his principal his reasons, that they might be judged of and sanctioned, or overruled. Is it not absurd to say that the agent can possess more power than the principal? The power of revocation is incident to all agency, unless, in express terms, by the instrument creating it, a different provision is made. The powers, whether of the principal or the agent, in relation to any contract, must be expounded by the principles which govern all contracts. It is true that the language of the clause of removal, in the charter, is general, but it is not, therefore, to be torn from the context. It is a part only of an entire compact, and is to be interpreted in connexion with every part and with the whole. Upon surveying the entire compact, we perceive that the bank has come under various duties to the public; has undertaken to perform important financial operations for the Government; and has paid a bonus into the public Treasury of a million and a half of dollars. We perceive that, in consideration of the assumption of these heavy engagements, and the payment of that large sum of money, on the part of the bank, the public has stipulated that the public deposites shall remain with the bank during the continuation of the charter, and that its notes shall be received by the Government in payment of all debts, dues, and taxes. Except the corporate character conferred, there is none but those two stipulations of any great importance to the bank. Each of the two parties to the compact must stand bound to the performance of his engagements, whilst the other is honestly and faithfully fulfilling *his*. It is not to be conceived, in the formation of the compact, that either party could have anticipated that, whilst he was fairly and honestly executing every obligation which he had contracted, the other party might arbitrarily or capriciously exonerate himself from the discharge of his obligations. Suppose, when citizens of the United States were invited by the Government to subscribe to the stock of this bank, that they had been told that, although the bank performs all its covenants with perfect fidelity, the Secretary of the Treasury may, arbitrarily or capriciously, upon his speculative notions of any degree of public interest or convenience to be advanced, withdrawn the public deposites, would they have ever subscribed? Would they have been guilty of the folly of binding themselves to the performance of burdensome duties, whilst the Government was left at liberty to violate at pleasure that stipulation of the compact which by far was the most essential to them?

On this part of the subject, I conclude that Congress has not parted from, but re-

occurred to lessen, in any degree, the dangers which *many of our cititizens* apprehend from that institution, *as at present organized*. In the spirit of improvement and compromise which distinguishes our country and its institutions, it becomes us to inquire whether it be not *possible* to secure the advantages afforded by the present bank through the agency of a Bank of the United States, so modified in its principles and structure as to obviate constitutional and other objections." Here, again, the President recites the apprehensions of "many of our citizens," rather than avows his opinion. Again his message is a non-committal. He admits indeed "the advantages afforded by the present bank," but suggests an inquiry whether it be possible (of course doubting) to secure them by a bank differently constructed. And towards the conclusion of that part of the message, his language fully justifies the implication that it was not the bank itself, but to "its present form," that he objected.

The message of 1831, when treating of the bank, was very brief. "Entertaining the opinions (says the President) heretofore expressed in relation to the Bank of the United States, *as at present organized*," (non-committal once more; and what *that* means, Mr. President, nobody better knows than *you* and I)—[cheering in the galleries]—"I felt it my duty, in my former messages, '*frankly to disclose them.*'" [*Frank* disclosures!] Now, sir, I recollect perfectly well the impressions made on my mind, and on those of other Senators with whom I conversed, immediately after that message was read. We thought, and said to each other, the President has left a door open to pass out. It is not the bank; it is not any Bank of the United States to which he is opposed, but it is to the particular organization of the existing bank. And we all concluded that, if amendments could be made to the charter satisfactory to the President, he would approve a bill for its renewal.

We come now to the famous message of July, 1832, negativing the bill to re-charter the bank. Here, it might be expected, we should certainly find clear opinions, unequivocally expressed. The President cannot elude the question. He must now be perfectly *frank*. We shall presently see. He says: "A Bank of the United States is, in many respects, convenient to the Government, and useful to the people. Entertaining this *opinion*, and deeply impressed with the belief that *some* of the powers and privileges possessed by the existing bank are unauthorized by the constitution," &c., "I felt it my duty, at an early period of my administration, to call the attention of Congress to the practicability of *organizing an institution* combining all its advantages, and obviating these objections. I sincerely regret that, in the act before me, I can perceive none of *those modifications*," &c. "That a Bank of the United States, competent to all the duties which may be required by the Government, might be so organized as not to infringe on our own delegated powers, or the reserved rights of the States, I do not entertain *a doubt*. Had the Executive been called on to furnish *the project of such an institution*, the duty would have been cheerfully performed." The message is principally employed in discussing the objections which the President entertained to the particular provisions of the charter, and not to the bank itself; such as the right of foreigners to hold stock in it; its exemption from State taxation; its capacity to hold real estate, &c. &c. Does the President, even in this message, array himself in opposition to any Bank of the United States? Does he even oppose himself to the existing Bank, under every organization of which it is susceptible? On the contrary, does he not declare that he does not entertain *a doubt* that a bank may be constitutionally organized? Does he not even rebuke Congress for not calling on him to furnish a project of a bank, which he would have cheerfully supplied? Is it not fairly deducible, from the message, that the charter of the present bank might have been so amended as to have secured the President's approbation to the institution? So far was the message from being decisive against all Banks of the United States, or against the existing bank under any modification, the President expressly declares that the question was adjourned. He says: "A general discussion will now take place, eliciting new light, and settling important principles; and a *new* Congress, elected in the midst of such discussion, and furnishing an equal representation of the people, according to the *last census*, will bear to the *Capitol* the verdict of public opinion, and I doubt not bring this important question to a satisfactory result."

This review of the various messages of the President conclusively evinces that they were far from expressing, frankly and decisively, any opinions of the Chief Magistrate, except that he was opposed to the amendments of the charter contained in the bill submitted to him for its renewal, and that he required further amendments. It demonstrates that he entertained no doubt that it was practicable and desirable to establish *a* Bank of the United States; it jus-

tified the hope that he might be ultimately reconciled to the continuation of the present bank, with *suitable* modifications; and it expressly proclaimed that the whole subject was adjourned to the new Congress, to be assembled under the last census. If the parts of the messages which I have cited, or other expressions in the same document, be doubtful, or susceptible of a different interpretation, the review is sufficient for my purpose; which is, to refute the argument so confidently advanced, that the President's opinion, in opposition to the present or any other Bank of the United States, was frankly and fairly stated to the people prior to the late election, was fully understood, and finally decided by them.

Accordingly, in the canvass which ensued, it was boldly asserted by the partisans of the President that he was not opposed to a Bank of the United States, nor to the existing bank, with proper amendments. They maintained, at least, wherever those friendly to a national bank were in the majority, that his re-election would be followed by a recharter of the bank, with proper amendments. They dwelt, it is true, with great earnestness, upon his objections to the bank, as at present modified, and especially to the pernicious influence of foreigners in holding stock in it; but they nevertheless contended that these objections would be cured if he was re-elected, and the bank sustained. I appeal to the whole Senate, to my colleague, to the people of Kentucky, and especially to the citizens of the city of Louisville, for the correctness of this statement.

After all this, was it anticipated by the people of the United States, that in the re election of the President, they were deciding against on institution of such vital importance? Could they have imagined that, after an express adjournment of the whole matter to a new Congress by the President himself, he would have prejudged the action of this new Congress, and pronounced that a question expressly by himself referred to its authority was previously settled by the people? He claimed no such result in his message, immediately after the re-election; although in it he denounced the bank as an unsafe depository of the public money, and invited Congress to investigate its condition. The President, then, and the Secretary of the Treasury, are without all color of justification for their assertions that the question of bank or no bank was fully and fairly submitted to the people, and a decision pronounced against it by them.

Sir, I am surprised and alarmed at the new source of Executive power which is found in the result of a Presidential election. I had supposed that the constitution and the laws were the sole source of Executive authority; that the constitution could only be amended in the mode which it has itself prescribed; that the issue of a Presidential election was merely to place the Chief Magistrate in the post assigned to him; and that he had neither more nor less power, in consequence of the election, than the constitution defines and delegates. But it seems that if, prior to an election, certain opinions, no matter how ambiguously put forth by a candidate, are known to the people, these loose opinions, in virtue of the election, incorporate themselves with the constitution, and afterwards are to be regarded and expounded as parts of the instrument.

4. The public money ought not, the Secretary thinks, to remain in the bank until the last moment of the existence of the charter. But that was not the question which he had to decide on the 26th September last. The real question then was, could he not wait sixty days for the meeting of Congress? There were many *last* moments, near two years and a half, between the 26th of September and the day of the expiration of the charter. But why not let the public money remain in the bank until the last day of the charter? It is a part of the charter that it shall so remain; and Congress having so ordered it, the Secretary ought to have acquiesced in the will of Congress, unless the exigency had arisen on which alone it was supposed his power over the deposites would be exercised. The Secretary is greatly mistaken in believing that the bank will be less secure in the last hours of its existence than previously. It will then be collecting its resources, with a view to the immediate payment of its notes, and the ultimate division among the stockholders of their capital; and at no period of its existence will it be so strong and able to pay all demands upon it. As to the depreciation in the value of its notes in the interior at that time, why, sir, is the Secretary possessed of the least knowledge of the course of the trade of the interior, and especially of the western States? If he had any, he could not have made such a suggestion. When the bank itself is not drawing, its notes form the best medium of remittance from the interior to the Atlantic capitals. They are sought after by merchants and traders with avidity, are nover below par, and, in the absence of bank drafts, may command a premium. This will continue to be the case as long as the charter endures, and especially during the last moments of its existence, when its ability will be un-

sites; that it might modify or repeal altogether the clause of removal in the charter; that a breach of material stipulations on the part of the bank would authorize Congress to change the place of the deposites; that a corrupt collusion to defraud the public, between the bank and a Secretary of the Treasury, would be a clear justification to Congress to direct a transfer of the public deposites; that the Secretary of the Treasury is the mere agent of Congress, in respect to the deposites, acting in subordination to his principal; that it results from the nature of all agency that it may be revoked, unless otherwise expressly provided; and, finally, that the principal, and much less the agent, of one party cannot justly or lawfully violate the compact, or any of its essential provisions, whilst the other party is in the progressive and faithful performance of all his engagements.

If I am right in this view of the subject, there is an end of the argument. There was perfect equality and reciprocity between the two parties to the compact. Neither could exonerate himself from the performance of his obligations, whilst the other was honestly proceeding fairly to fulfil all his engagements. But the Secretary of the Treasury *concedes* that the public deposites were perfectly safe in the hands of the bank; that the bank promptly met every demand upon it; and that it faithfully performed all its duties. By these concessions, he surrenders the whole argument, admits the complete obligation of the public to perform its part of the compact, and demonstrates that no reasons, however plausible or strong, can justify an open breach of a solemn national compact.

Second. But he has brought forward various reasons to palliate or justify his violation of the national faith; and it is now my purpose to proceed, in the second place, to examine and consider them. Before I proceed to do this, I hope to be allowed again to call the attention of the Senate to the nature of the office of Secretary of the Treasury. It is altogether financial and administrative. His duties relate to the finances, their condition and improvement, and to them exclusively. The act creating the Treasury Department, and defining the duties of the Secretary, demonstrates this. He has no legislative powers; and Congress neither has nor could delegate any to him. His powers, wherever given, and in whatever language expressed, must be interpreted by his defined duties. Neither is the Treasury Department an *Executive* department. It was expressly created not to be an Executive department. It is administrative, but not *Executive*. Congress, by the act of his creation, and not to the President. Whenever he is put under the direction of the President, (as he is by various subsequent acts, especially those relating to public loans,) it is done by express provision of law, and for specified purposes.

With this key to the nature of the office and the duties of the officer, I will now briefly examine the various reasons which he assigns for the removal of the public deposites.

The first is the near approach of the expiration of the charter. But the charter had yet to run about two and a half of the twenty years to which it was limited. During the *whole* term, the public deposites were to continue to be made with the bank. It was clearly foreseen, at the commencement of the term, as now, that it would expire, and yet Congress did not then, and has never since, thought proper to provide for the withdrawal of the deposites prior to the expiration of the charter. Whence does the Secretary derive an authority to do what Congress had never done? Whence his power to abridge in effect the period of the charter, and to limit it to seventeen and a half years, instead of twenty? Was the urgency for the removal of the deposites so great that he could not wait sixty days, until the assembling of Congress? He admits that they were perfectly safe in the bank; that it promptly met every demand upon it; and that it faithfully performed all its duties. Why not, then, await the arrival of Congress? The last time the House of Representatives had spoken, among the very last acts of the last session, that House had declared its full confidence in the safety of the deposites. Why not wait until it could review the subject, with all the new light which the Secretary could throw upon it, and again proclaim its opinion? He comes into office on the 23d September, 1833, and, in three days, with intuitive celerity, he comprehends the whole of the operations of the complex department of the Treasury, perceives that the Government, from its origin, had been in uniform error, and denounces the opinions of all his predecessors! And, hastening to rectify universal wrong, in defiance and in contempt of the resolution of the House, he signs an order for the removal of the deposites! It was of no consequence to him whether places of safety, in substitution of the Bank of the United States, could be obtained or not; without making essential precautionary arrangements, he commands the removal almost instantly to be made.

Why, sir, if the Secretary were right in contending that he alone could order the

removal, even he admits that Congress has power to provide for the security of the public money in the new places to which it might be transferred. If he did not deign to consult the representatives of the people as to the propriety of the first step, did not a decent respect to their authority and judgment exact from him a delay, for the brief term of sixty days, that they might consider what was fitting to be done? The truth is, that the Secretary, by law, has nothing to do with the care and safe keeping of the public money. As has been already shown, that duty is specifically assigned by law to the Treasurer of the United States. And, in assuming upon himself the authority to provide other depositories than the Bank of the United States, he alike trampled upon the duties of the Treasurer, and what was due to Congress. Can any one doubt the motive of this precipitancy? Does any body doubt that it was to preclude the action of Congress, or to bring it under the influence of the Executive veto? Let the two houses, or either of them, perform their duty to the country, and we shall hereafter see whether, in that respect, at least, Mr. Secretary will not fail to consummate his purpose.

3. The next reason assigned for this offensive proceeding, is the re-election of the present Chief Magistrate. "I have always (says the Secretary) regarded the result of the last election of President of the United States as a declaration of the majority of the people that the charter ought not to be renewed." "Its voluntary application to Congress for the renewal of its charter four years before it expired, and upon the eve of election of President, was *understood on all sides* as bringing forward that question for incidental decision at the then approaching election. It was accordingly argued on both sides before the tribunal of the people, and their verdict pronounced against the bank," &c. What has the Secretary to do with elections? Do they belong to the financial concerns of his department? Why this constant reference to the result of the last presidential election? Ought not the President to be content with the triumphant issue of it? Did he want still more votes? The winners ought to forbear making any complaints, and be satisfied, whatever the losers may be. After an election is fairly terminated, I have always thought that it was best to forget all the incidents of the preceding canvass, and especially the manner in which votes had been cast. If one has been successful, that ought to be sufficient for him; if defeated, regrets are unavailing. Our fellow-citizens have a right freely to exercise their elective franchise as they please, and no one, certainly no candidate, has any right to complain about it.

But the argument of the Secretary is that the question of the bank was fairly submitted to the people, by the consent of all parties, fully discussed before them, and their verdict pronounced against the institution, in the re-election of the President. His statement of the case requires that we should examine carefully the various messages of the President to ascertain whether the bank question was fairly and frankly (to use a favorite expression of the President) submitted by him to the people of the United States.

In his message of 1829, the President says: "The charter of the Bank of the United States expires in 1836, and its stockholders will most probably apply for a renewal of their privileges. In order to avoid the evils resulting from *precipitancy* in a measure involving such important principles, and such deep pecuniary interests, I feel that I cannot, in justice to *the parties* interested, too soon present it to the deliberate consideration of the Legislature and the people." The charter had then upwards of six years to run. Upon this solemn invitation of the Chief Magistrate, two years afterwards, the bank came forward with an application for renewal. Then it was discovered that the application was premature. And the bank was denounced for accepting the very invitation which had been formally given. The President proceeds: "Both the constitutionality and the expediency of the bank are well questioned *by a large portion of our fellow-citizens.*" This message was a non-committal. The President does not announce clearly his own opinion, but states that of *a large portion of our fellow-citizens.* Now we all know that a large and highly respectable number of the people of the United States have always entertained an opinion adverse to the bank on both grounds. The President continues: "*If* such an institution is deemed essential to the fiscal operations of the Government, I submit to the wisdom of the Legislature whether *a national one*, founded upon the credit of the Government and its resources, might not be devised." Here again the President, so far from expressing an explicit opinion against all national banks, makes a hypothetical admission of the utility of a bank, and distinctly intimates the practicability of devising one on the basis of the credit and resources of the Government.

In his message of 1830, speaking of the bank, the President says: "Nothing has

questionable, Philadelphia being the place of the redemption; whilst the notes themselves will be receivable in all the large cities in payment of duties.

5. The Secretary asserts that "it is *well understood* that the superior credit heretofore enjoyed by the notes of the Bank of the United States was not founded on any particular confidence in its management or solidity. It was occasioned *altogether* by the agreement, on behalf of the public, in the act of incorporation, to receive them in all payments to the United States." I have rarely seen any State paper characterized by so little gravity, dignity, and circumspection as the report displays. The Secretary is perfectly reckless in his assertions of matters of fact, and culpably loose in his reasoning. Can he believe the assertion which he has made? Can he believe, for example, that, if the notes of the Bank of the Metropolis were made receivable in all payments to the Government, they would ever acquire, at home and abroad, the credit and confidence which are attached to those of the Bank of the United States? If he had stated that the faculty mentioned was one of the elements of the great credit of those notes, the statement would have been true; but who can agree with him that it is the *sole* cause? The credit of the Bank of the United States results from the large amount of its capital; from the great ability and integrity with which it has been administered; from the participation of the Government in its affairs; from its advantageous location; from its being the place of deposite of the public moneys, and its notes being receivable in all payments to the Government; and from its being emphatically *the Bank of the United States*. This latter circumstance arranges it with the banks of England, France, Amsterdam, Genoa, &c.

6. The expansion and contraction of the accommodations of the bank to its individual customers, are held up by the Secretary, in bold relief, as evidences of misconduct, which justified his withdrawal of the deposites. He represents the bank as endeavoring to operate on the public, by alternate bribery and oppression, with the same object, in both cases, of influencing the election or the administration of the President. Why this perpetual reference of all the operations of the institution to the Executive? Why does the Executive think of nothing but itself? It is I! It is I! It is I, that is meant, appears to be the constant exclamation. Christianity and charity enjoin us never to ascribe a bad motive, if we can suppose a good one. The bank is a moneyed corporation, whose profits result from its business. If that be extensive, it makes better; if limited, less profit. Its interest is to make the greatest amount of dividends which it can safely; and all its actions may be more certainly ascribed to that than any other principle. The administration must have a poor opinion of the virtue and intelligence of the people of the United States, if it supposes that their judgments are to be warped, and their opinions controlled, by any scale of graduated bank accommodations. The bank must have a still poorer conception of its duty to the stockholder, if it were to regulate its issues by the uncertain and speculative standard of political effect, rather than a positive arithmetical rule for the computation of interest.

As to the alleged extension of the business of the bank, it has been again and again satisfactorily accounted for by the payment of the public debt, and the withdrawal from Europe of considerable sums, which threw into its vaults a large amount of funds, which, to be productive, must be employed; and as the commercial wants, proceeding from extraordinary activity of business, created great demands, about the same period, for bank accommodations, the institutions naturally enlarged its transactions. It would have been treacherous to the best interests of its constituents if it had not done so. The recent contraction of its business is the result of an obvious cause. Notwithstanding the confidence in it, manifested by one of the last acts of the last House of Representatives, Congress had scarcely left the District before measures were put in operation to circumvent its authority. Denunciations and threats were put forth against it. Rumors, stamped with but too much authority, were circulated, of the intention of the Executive to disregard the admonition of the House of Representatives. An agent was sent out —*and then such an Agent*—[Here Mr. CLAY was interrupted with bursts of applause from the galleries, which occasioned the interference of the Vice President,]— to sound the local institutions as to the terms on which they would receive the deposites. Was the bank, who could not be ignorant of all this, to sit carelessly by, without taking any precautionary measures? The prudent mariner, when he sees the coming storm, furls his sails, and prepares for all its rage. The bank knew that the Executive was in open hostility to it, and that it had nothing to expect from its forbearance. It had numerous points to defend; the strength or weakness of all of which was well known from its weekly returns to the Secretary, and it could not

possibly know at which the first mortal stroke would be aimed. If, on the 20th September last, instead of the manifesto of the President against the bank, he had officially announced that he did not mean to make war upon the bank, and intended to allow the public deposites to remain until the pleasure of Congress was expressed, public confidence would have been assured and unshaken, the business of the country continued in quiet and prosperity, and the numerous bankruptcies in our commercial cities averted. The wisdom of human actions is better known in their results than at their inception. That of the bank is manifest from all that has happened, and especially from its actual condition of perfect security.

7. The Secretary complains of misconduct of the bank in delegating to the Committee of Exchange the transaction of important business, and in that committee being appointed by the President, and not the board, by which the Government directors have been excluded. The directors who compose the board meet only periodically. Deriving no compensation from their places, which the charter indeed prohibits them from receiving, it cannot be expected that they should be constantly in session. They must necessarily, therefore, devolve a great part of the business of the bank, in its details, upon the officers and servants of the corporation. It is sufficient if the board controls, governs, and directs the whole machine. The most important operation of a bank is that of paying out its cash, and that the cashier or teller, and not the board, performs. As to Committees of Exchange, the board not being always in session, it is evident that the convenience of the public requires that there should be some authority at the bank daily, to pass daily upon bills, either in the sale or purchase, as the wants of the community require. Every bank, I believe, that does business to any extent, has a Committee of Exchange similar to that of the Bank of the United States. In regard to the mode of appointment by the president of the board, it is in conformity with the invariable usage of the House of Representatives, with the practise of the Senate for several years, and, until altered at the commencement of this session, with the usage in a great variety, if not all, of the State Legislatures, and with that which prevails in our popular assemblies. The president, speaker, chairman, moderator, almost uniformly appoints committees. That none of the Government directors have been on the Committee of Exchange, has proceeded, it is to be presumed, from their not being entitled, from their skill and experience, and standing in society, to be put there. The Government directors stand upon the same equal footing with those appointed by the stockholders. When appointed, they are thrown into the mass, and must take their fair chances with their colleagues. If the President of the United States will nominate men of high character and credit, of known experience and knowledge in business, they will no doubt be placed in corresponding stations. If he appoints different men, he cannot expect it. Banks are exactly the places where currency and value are well understood and duly estimated. A piece of coin, having even the stamp of the Government, will not pass unless the metal is pure.

8. The French bill forms another topic of great complaint with the Secretary. The state of the case is, that the Government sold to the bank a bill on that of France for $900,000, which the bank sold in London, whence it was sent by the purchaser to Paris to receive the amount. When the bank purchased the bill it paid the amonnt to the Government, or, which is the same thing, passed it to the credit of the Treasury, to be used on demand. The bill was protested in Paris, and the agents of the bank, to avoid its being liable to damages, took up the bill on account of the bank. The bill being thus dishonored, the bank comes back on the drawer, and demands the customary damages due, according to the course of all such transactions. The complaint of the Secretary is, that the bank took up the bill to save its own credit, and that it did not do it on account of the Government; in other words, that the bank did not advance at Paris $900,000 to the Government, on account of a bill for which it had already paid every dollar at Philadelphia. Why, sir, has the Secretary read the charter? If he has, he must have known that the bank could not have *advanced* the $900,000 for the Government, at Paris, without subjecting itself to a penalty of three times the amount, ($2,700,000.) The 13th section of the charter is express and positive: "That if the said corporation shall *advance* or lend any sum of money for *the use or on account* of the Government of the United States, to an amount exceeding $500,000, all persons concerned in making such unlawful advance or loan, shall forfeit treble the amount, one fifth to the informer," &c.

9. The last reason which I shall notice of the Secretary is, that this ambitious corporation aspires to possess political power. Those in the actual possession of power, especially when they have grossly abused it, are perpetually dreading its loss. The n

ser does not cling to his treasure with a more death-like grasp. Their suspicions are always active and on the alert. In every form they behold a rival, and every breeze comes charged with alarm and dread. A thousand spectres glide before their affrighted imaginations, and they see, in every attempt to enlighten those who have placed them in office, a sinister design to snatch from them their authority. On what other principles can we account for the extravagant charges brought forward by the Secretary against the bank? More groundless and reckless assertions than those which he has allowed himself to embody in his report, never were presented to a deceived, insulted, and outraged people. Suffer me, sir, to groupe some of them. He asserts "that there is *sufficient evidence to prove* that the bank has used its means to obtain political power;" that, in the Presidential election, "the bank took an open and direct interest, demonstrating that it was using its money for the purpose of obtaining a hold upon the people of this country;" that it "entered the political arena;" that it circulated publications containing "attacks on the officers of Government;" that "it is now openly in the field as a political partisan;" that there are "*positive proofs*" of the efforts of the bank to obtain power; and, finally, he concludes, as a demonstrated proposition, "Fourthly, that there is sufficient evidence to show that the bank has been, and still is, seeking to obtain political power, and has used its money for the purpose of influencing the election of the public servants."

After all this, who can doubt that this ambitious corporation is a candidate for the next Presidency? Or, if it can moderate its lofty pretensions, that it means at least to go for the office of Secretary of the Treasury, upon the next removal? But, sir, where are the proofs of these political designs? Can any thing be more reckless than these confident assertions of the Secretary? Let us have the proofs. I call for the proofs. The bank has been the constant object for years of vituperation and calumny. It has been assailed in every form of bitterness and malignity. Its operations have been misrepresented; its credit, and the public confidence in its integrity and solidity, attempted to be destroyed; and the character of its officers assailed. Under these circumstances, it has dared to defend itself. It has circulated public documents, speeches of members of Congress, reports made by chairmen of committees, friends of the administration, and other papers. And, as it

sive theatre of the attack, it has been compelled to incur a heavy expense to save itself from threatened destruction. It has openly avowed, and yet avows, its right and purpose to defend itself. All this was known to the last Congress. Not a solitary material fact has been since disclosed. And when before, in a country where the press is free, was it deemed criminal for any body to defend itself? Who invested the Secretary of the Treasury with power to interpose himself between the people, and light, and intelligence? Who gave him the right to dictate what information shall be communicated to the people, and by whom? Whence does he derive his jurisdiction? Who made him censor of the public press? From what new sedition law does he deduce his authority? Is the superintendence of the American press a part of the financial duty of a Secretary of the Treasury? Why did he not lay the whole case before Congress, and invite their revival of the old sedition law? Why anticipate the arrival of their session? Why usurp the authority of the only department of the Government competent to apply a remedy, if there be any power to abridge the freedom of the press? If the Secretary wishes to purify the press, he has a most Herculean duty before him. And when he sallies out on his Quixotic expedition, he had better begin with the Augean stable, the press nearest to him, his organ, as most needing purification.

I have done with the Secretary's reasons. They have been weighed, and found wanting. There was not only no financial motive for his acting—the sole motive which he could officially entertain—but every financial consideration forbade him to act. I proceed now, in the third and last place, to examine the manner in which he has exercised his power over the deposites.

Third. The whole people of the United States derive an interest from the public deposites in the Bank of the United States, as a stockholder in that institution. The bank is enabled, through its branches, to throw capital into those parts of the Union where it is most needed. Thus it distributes and equalizes the advantages accruing from the collection of a large public revenue, and the consequent public deposites. Thus it neutralizes the injustice which would otherwise flow from the people of the West and the interior, paying their full proportion of the public burdens, without deriving any corresponding benefit from the circulation and deposites of the public revenue. The use of the capital of the

foreign—any capital that we can honestly get. We want it to stimulate enterprise, to give activity to business, and to develop the vast resources which the bounty of nature has concentrated in that region. But, by the Secretary's financial arrangements, the twenty-five or thirty millions of the public revenue collected from all the people of the United States, (including those of the West,) will be retained in a few Atlantic ports. Each port will engross the public moneys there collected; and, as that of New York collects about one-half of the public revenue, all the people of the United States will be laid under contribution, not for the sake of the people of the city of New York, but of two or three banks in that city, in which the people of the U. States, collectively, have not a particle of interest; banks, the stock in which is, or may be, held by foreigners.

Three months have elapsed, and the Secretary has not yet found places of deposite for the public moneys, as substitutes for the Bank of the United States. He tells us, in his report of yesterday, that the bank at Charleston, to which he applied to receive them, declined the custody, and that he has yet found no other bank willing to assume it. But he states that the public interest does not in consequence suffer. No! What is done with the public moneys constantly receiving in the important port of Charleston, the largest port (New Orleans excepted) from the Potomac to the Gulf of Mexico? What with the revenue bonds? It appears that he has not yet received the charters from all the banks selected as places of deposite. Can any thing be more improvident than that the Secretary should undertake to contract with banks, without knowing their power and capacity to contract by their charters? That he should venture to deposite the people's money in banks, without a full knowledge of every thing respecting their actual condition? But he has found some banks willing to receive the public deposites, and he has entered into contracts with them. And the very first step he has taken has been in direct violation of an express and positive statute of the United States. By the act of 1st May, 1820, sixth section, it is enacted, "that no contract shall be hereafter made by the Secretary of State, or of *the Treasury*, or of the Department of War, or of the Navy, except under a law authorizing the same, or under an appropriation adequate to its fulfilment; and except also, contracts for the subsistence [illegible] of the army and navy, and ries of those departments." Now, sir, what law authorizes these contracts with the local banks, made by the Secretary *of the Treasury?* The argument, if I understand the argument intended to be employed on the other side, is this: that, by the bank charter, the Secretary is authorized to remove the public deposites, and that includes the power in question. But the act establishing the Treasury Department confides, expressly, the safe keeping of the public moneys of the United States to the Treasurer of the United States, and not to the Secretary; and the Treasurer, not the Secretary, gives a bond for the fidelity with which he shall keep them. The moment, therefore, that they are withdrawn from the Bank of the United States, they are placed, by law, under the charge and responsibility of the Treasurer and his bond, and not of the Secretary, who has given no bond. But let us trace this argument a little further. The power to remove the deposites, says the Secretary, *from* a given place, implies the power to designate the place *to* which they shall be removed. And this *implied* power to designate the place *to* which they shall be removed, *implies* the power to the Secretary of the Treasury to contract with the new banks of deposite. And on this third link in the chain of implications a fourth is constructed, to dispense with the express duties of the Treasurer of the United States, defined in a positive statute; and *yet a fifth*, to repeal a positive statute of Congress, passed four years after the passage of the law containing the parent source of this most extraordinary chain of implications. The exceptions in the act of 1820 prove the inflexibility of the rule which it prescribes. Annual appropriations are made for the clothing and subsistence of the army and navy. These appropriations might have been supposed to contain a power to contract for those articles, notwithstanding the prohibitory clause in that act. But Congress thought otherwise, and therefore expressly provided for the exceptions. It must be admitted that our clerk (as the late Governor Robinson, of Louisiana, one of the purest republicans I have ever known, used to call a Secretary of the Treasury) tramples with very little ceremony upon the duties of the Treasurer, and of the acts of the Congress of the United States, when they come in his way.

These contracts, therefore, between the Secretary of the Treasury and the local banks are mere nullities, and absolutely void, enforcible in no courts of justice

May, 1820; and, secondly, because the Treasurer, and not the Secretary of the Treasury, alone had, if any federal officer possessed, the power to contract with the local banks. And here again we perceive the necessity there was for avoiding the precipitancy with which the Executive acted, and for waiting the meeting of Congress. Congress could have deliberately reviewed the previous legislation, decided upon the expediency of a transfer of the public deposites, and, if deemed proper, could have passed the new laws adapted to the new condition of the Treasury. It could have decided whether the local banks should pay any bonus, or pay any interest, or diffuse the public deposites throughout the United States, so as to secure among all their parts equality of benefits as well as of burdens, and provided for ample guarantees for the safety of the public moneys in their new depositories.

But let us now inquire whether the Secretary of the Treasury has exercised his usurped authority, in the formation of these contracts, with prudence and discretion. Having substituted himself to Congress and to the Treasurer of the United States, he ought at least to show that, in the stipulations of the contracts themselves, he has guarded the public moneys, and provided for the public interest. I will examine the contract with the Girard Bank of Philadelphia, which is presented as a specimen of the contracts with the Atlantic banks. The first stipulation limits the duty of the local bank to receive in deposite, on account of the United States, only the notes of banks convertible into coin "in its *immediate* vicinity," or which it is, "for the time being, in the habit of receiving." Under this stipulation, the Girard Bank, for example, will not be bound to receive the notes of the Louisville bank, although that also be one of the deposite banks, nor the notes of any other bank, not in its immediate vicinity, even if it be a deposite bank. As to the provision that it well receive the notes of banks which, for the time being, it is in the habit of receiving, it is absurd to put such a stipulation in a contract, because, by the power retained to change the habit, for the time being, it is an absolute nullity. Now, sir, how does this contract compare with the charter and practice of the Bank of the United States? That bank receives every where, and credits the Government with the notes, whether is sued by the branches orthe pricipal bank. The amount of all these notes is [illegible]here available to the Government. wanted, and a bankrupt at the places of great expenditure, under this singular arrangement.

With respect to the transfer of moneys from place to place, the local bank requires in this contract that it shall not take place but upon *reasonable* notice. And what reasonable notice is, has been left totally undefined, and of course open to future contest. When hereafter a transfer is ordered, and the bank is unable to make it, there is nothing to do but to allege the unreasonableness of the notice. The local bank agrees to render to the Government all the services now performed by the Bank of the United States, subject, however, to the restriction that they are required "in the vicinity" of the local bank. But the Bank of the United States is under no such restrictions; its services are co-extensive with the United States and their territories.

The local banks agree to submit their books and accounts to the Secretary of the Treasury, or to any agent to be appointed by him, but to be paid by the local banks *pro rata*, as far as such examination *is admissible without a violation of their respective charters;* and how far that may be, the Secretary cannot tell, because he has not yet seen all the charters. He is, however, to appoint the agents of examination, and to fix the salaries which the local banks are to pay. And where does the Secretary find the power to create offices and fix their salaries, without the authority of Congress?

But the most improvident, unprecedented, and extraordinary provision in the contract is that which relates to the security. When, and not until, the deposites in the local bank shall exceed one-half of the capital stock actually paid in, collateral security, satisfactory to the Secretary of the Treasury, is to be given for the safety of the deposites. Why, sir, a freshman, a schoolboy, would not have thus dealt with his father's or guardian's money! Instead of the security *preceding*, it is to *follow* the deposite of the people's money! That is, the local bank gets an amount of their money, equal to one-half of its capital, and then it condescends to give security! Does not the Secretary know that, when he goes for the security, the money may be gone, and that he may be entirely unable to get the one or the other? We have a law, if I mistake not, which forbids the advance of any public money, even to a disbursing agent of the Government, without previous security. Yet, in violation of the spirit of that law, or, at least, of all common sense and common prudence, the Secretary dis-

of unknown banks, and stipulates that, when the amount of the deposite exceeds one-half of their respective capitals, security is to be given!

The best stipulation in the whole contract is the last, which reserves to the Secretary of the Treasury the power of discharging these local banks from the service of the United States whenever he pleases, and the sooner he exercises it, and restores the public deposites to the place of acknowledged safety, from which they have been rashly taken, the better for all parties concerned.

Let us look into the condition of one of these local banks, the nearest to us, and that with respect to which we have the best information. The banks of this District (and among them that of the Metropolis) are required to make annual reports of their condition on the first day of January. The latest official return from the Metropolis bank is of the first of January, 1832. Why it did not make one on the first of last January, along with the other banks, I know not. In point of fact, I am informed, it made none. Here is its account of January, 1832, and I think you will agree that it is a Flemish one. On the debit side stand, capital paid in, five hundred thousand dollars; notes in circulation, 62,855 dollars; due to banks, $20,911 10; individuals on deposite, $74,977 42; dividend and expenses, $17,591 67; and surplus, $8,131 02; making an aggregate of $684,496 31. On the credit side there are, bills and notes discounted, and stock [What sort?] bearing interest $626,011 90; real estate, $18,404 86; notes of other banks on hand, and checks on ditto, $23,213 80; specie—now Mr. President, how much do you imagine? Recollect that this is the bank selected at the seat of Government, where there is necessarily concentrated a vast amount of public money, employed in the expenditure of Government at this place. Recollect that, by another Executive edict, all public officers, charged with the disbursement of the public money here, are required to make their deposites with this Metropolis bank; and how much specie do you suppose it had at the date of its last official return? $10,974 76. Due from other banks, $5,890 99; making in the aggregate, on the credit side, $684,496 31. Upon looking into the items, and casting them up, you will find that this Metropolis bank, on the first day of January, 1832, was liable to an immediate call for $176,335 29, and that the amount which it had on hand ready to

A bank, with a capital of thirty-five millions of dollars, and upwards of ten millions of specie on hand, has been put aside, and a bank, with a capital of half a million, and a little more than ten thousand dollars in specie on hand, has been substituted in its place! How that half million has been raised; whether, in part, or in the whole, by the neutralizing operation of giving stock notes in exchange for certificates of stock, does not appear.

The design of the whole scheme of this Treasury arrangement seems to have been to have united, in one common league, a number of local banks, dispersed throughout the Union, and subject to one central will, with a right of scrutiny instituted by the agents of that will. It is a bad imitation of the New York project of a safety fund. This confederation of banks will probably be combined in sympathy as well as interest, and will be always ready to fly to the succour of the source of their nourishment. As to their supplying a common currency in place of that of the Bank of the United States, the plan is totally destitute of the essential requisite. They are not required to credit each other's paper, unless it be issued in the "*immediate vicinity.*"

We have seen what *is* in this contract. Now let us see what is *not* there. It contains no stipulation for the preservation of the public morals; none for the freedom of elections; none for the purity of the press. All these great interests, after all that has been said against the Bank of the United States, are left to shift and take care of themselves as they can. We have already seen the president of a bank in a neighboring city rushing impetuously to the defence of the Secretary of the Treasury against an editorial article in a newspaper, although "the venom of the shaft was not quite equal to the vigor of the bow." Was he rebuked by the Secretary of the Treasury? Was the bank *discharged* from the public service? Or, are morals, the press, and elections, in no danger of contamination, when a host of banks become literary champions on the side of power and the officers of Government? Is the patriotism of the Secretary only alarmed when the infallibility of high authority is questioned? Will the States silently acquiesce, and see the federal authority insinuating itself into banks of their creation, and subject to their exclusive control?

We have, Mr. President, a most wonderful financier at the head of our Treasury Department. He sits quietly by the

sident, on the one hand, and his solemn duty to the public on the other. Beholds the triumph of conscientious obligation. Contemplates the noble spectacle of an honest man, preferring to surrender an exalted office, with all its honors and emoluments, rather than betray the interests of the people. Witnesses the insulting and contemptuous expulsion of that colleague from office, and then coolly enters the vacated place, without the slightest sympathy or the smallest emotion. He was installed on the 23d of September, and by the 26th, the brief period of three days, he discovers that the Government of the United States had been wrong from its origin; that every one of his predecessors from Hamilton down, including Gallatin, (who, whatever I said of him on a former occasion, and that I do not mean to retract, possessed more practical knowledge of currency, banks, and finance, than any man I have ever met in the public councils,) Dallas and Crawford, had been mistaken about both the expediency and constitutionality of the bank; that every Chief Magistrate prior to him whose patronage he enjoyed, had been wrong; that Congress, the Supreme Court of the United States, and the people of the United States, during the thirty-seven years that they had acquiesced in or recognized the utility of a bank, were all wrong. And, opposing his single opinion to their united judgments, he dismisses the bank, scatters the public money, and undertakes to regulate and purify the public morals, the public press, and popular elections!

If we examine the operations of this modern Turgot in their financial bearing merely, we shall find still less for approbation.

1. He withdraws the public moneys, where, by his own deliberate admission, they were perfectly safe, with a bank of thirty-five millions of capital, and ten millions of specie, and he places them, at great hazard, with banks of comparatively small capital, and but little specie, of which the Metropolis bank is an example.

2. He withdraws them from a bank created by, and over which the Federal Government had ample control, and puts them in other banks, created by different Governments, and over which it has no control.

3. He withdraws them from a bank in which the American people, as a stockholder, were drawing their fair proportion of interest accruing on loans, of which those deposites formed the basis, and puts them where the people of the United States draw no interest.

4. He withdraws them from a bank which the United States may now be liable to refund, and puts them in banks which have paid to the American people no bonus.

5. Depreciates the value of the stock in a bank where the General Government holds seven millions, and advances that of banks in whose stock it does not hold a dollar, and whose aggregate capital does not probably much exceed that very seven millions. And, finally,

6. He dismisses a bank whose paper circulates, in the greatest credit, throughout the Union and in foreign countries, and engages in the public service banks whose paper has but a limited and local circulation in their "immediate vicinities."

These are immediate and inevitable results. How much that large and long standing item of unavailable funds, annually reported to Congress, will be swelled and extended, remains to be developed by time.

And now, Mr. President, what, under all these circumstances, is it our duty to do? Is there a Senator who can hesitate to affirm, in the language of the resolutions, that the President has assumed a dangerous power over the Treasury of the United States, not granted to him by the constitution and the laws; and that the reasons assigned for the act of the Secretary of the Treasury are insufficient and unsatisfactory?

The eyes and the hopes of the American people are anxiously turned to Congress. They feel that they have been deceived and insulted; their confidence abused; their interests betrayed; and their liberties in danger. They see a rapid and alarming concentration of all power in one man's hands. They see that, by the exercise of the positive authority of the Executive, and his negative power exerted over Congress, the will of one man alone prevails, and governs the Republic. The question is no longer what laws will Congress pass, but what laws will the Executive not veto? The President, and not Congress, is addressed for legislative action. We have seen a corporation, charged with the execution of a great national work, dismiss an experienced, faithful, and zealous president, afterwards testify to his ability by a voluntary resolution, and reward his extraordinary services by a large gratuity, and appoint in his place an Executive favorite, totally inexperienced and incompetent, to propitiate the President. We behold the usual incidents of approaching tyranny. The land is filled with spies and informers; and detraction and denunciation are the orders of the day. People, es-

of manly freemen, but in the cautious whispers of trembling slaves. The premonitory symptoms of despotism are upon us; and if Congress do not apply an instantaneous and effective remedy, the fatal collapse will soon come on, and we shall die—ignobly die! base mean and abject slaves—the scorn and contempt of mankind—unpitied, unwept, and unmourned!

[The conclusion of the speech was followed by repeated and loud applause in the galleries, as it had been often interrupted before.]